

**MINUTES
LEWIS COUNTY PLANNING BOARD
October 15, 2020**

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in the conference room on the 2nd floor at the Lewis County Court House, Lowville, New York. Roll call was requested by Mr. Petersen.
- (2) **Roll Call:** Board Members Present: Tim Petersen, Eric Virkler, John Lehman, and Jerry King. Staff Present: Casandra Buell, Director of Planning. Public Present: Nick Altmire, LinkingLewisCounty.com.
- (3) **Reading and Approval of Minutes:** The draft September 17, 2020 meeting minutes were received. Mr. Lehman motioned to approve the minutes; Mr. Virkler seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:** None
- (5) **Report of Officers:** None
- (6) **Report of Special Committees:**

239-M Review

Ms. Buell read the following review:

TOWN OF WEST TURIN TOWN BOARD

Proposed local law to provide regulations for installation of driveways and openings onto a Town Road.

Town of West Turin – Applicant

The General Municipal Referral Form was submitted by Town Attorney Joseph W. Russell on behalf of the Town of West Turin.

In summary, the purpose of the Driveway Installation Law is to prevent the improper construction of private driveways intersecting town highways as they may be hazardous to the public and pose unnecessary expenses to the town. Subsequently, the installation of driveways according to the specific standards as monitored by the Town of West Turin Highway Superintendent will be in the best interest of the health, safety and welfare of the citizens and property of the town.

Section 5 of the proposed law requires that a driveway installation permit shall be applied for coincidentally with a zoning permit. It is recommended that the term “coincidentally” is replaced with “concurrently”. To prevent communication interference between the zoning enforcement officer and highway superintendent, it is suggested that the application for a driveway permit shall be made in duplicate on forms supplied by the Town Highway Superintendent. One duplicate original shall be filed with the Code Enforcement Officer and the other with the Superintendent of Highways.

While the purpose of this law states that the installation of driveways will be monitored based on specific standards, those standards are not defined in the Town of West Turin Zoning Law nor are they identified in the proposed action. In order to provide clear guidance of the Town Highways Superintendent's expectations, these standards should be identified within this local law. Suggested standard inclusions should include width requirements, vertical clearance, horizontal clearance, acceptable surfaces based on use and/or location, driveway entrance locations in relation to nearby road intersections and/or existing driveways, and drainage requirements.

In review of the documents provided, it appears that the proposed Driveway Installation Law will comprehensively define the permit/application procedure to be set by the Town of West Turin; however, specific standards should be added to the proposed action prior to adoption.

Recommendation: Approve with the following conditions

1. Within Section 5 (A), it is recommended that the term "coincidentally" is replaced with "concurrently", if that is in fact the intention.
2. Addition to Section 5 (A) to include: The application for a driveway permit shall be made in duplicate on forms supplied by the Town Highway Superintendent. One duplicate original shall be filed with the Code Enforcement Officer and the other with the Superintendent of Highways.
3. In order to provide clear guidance of the Town Highways Superintendent's expectations to applicants, these standards should be identified within this local law. Suggested standard inclusions include width requirements, vertical clearance, horizontal clearance, acceptable surfaces based on use and/or location, driveway entrance locations in relation to nearby road intersections and/or existing driveways, and drainage requirements.

Mr. King inquired on whether this town and others typically follow NYS DOT policies. Ms. Buell mentioned that she believes most towns do not have driveway regulations in place to enforce. Mr. Lehman mentioned that, in his experience, it is important to have these policies established so that there are no questions regarding the expectations.

With no further questions or comments, Mr. Virkler made a motion to approve the application with the above recommendations; Mr. Petersen seconded the motion, which carried unanimously.

Ms. Buell then read the following review:

TOWN OF WEST TURIN TOWN BOARD

Proposed local law to amend the Town of West Turin Zoning Law to include seasonal use designation of dwellings, standards for solar electric energy systems, and to alter standards for placement of storage containers.

Town of West Turin – Applicant

The General Municipal Referral Form was submitted by Town Attorney Joseph W. Russell on behalf of the Town of West Turin.

The proposed local law will amend the 2003 version of the Town of West Turin Zoning Law. According to the submitted draft, the amended zoning law was adopted by the Town Board on August 4, 2020; however, it should be noted that in order to comply with GML 239-m, County Planning Board review is required prior to adoption.

While there were no changes proposed for Article 3 Section 305 (Signs), it should be noted that the content of signs should not be regulated through zoning laws and it is possible that Section 305 (3) is unconstitutional. A similar example of sign regulations which have been found to interfere with free speech was *National Advertising Co. v. Town of Babylon* where the Second Circuit Court of Appeals declared unconstitutional the Town of Islip sign ordinance which only permitted signs on business premises to display information concerning the name of the business or the goods and services offered. That said, it is highly suggested that the Town of West Turin revise Section 305 as it could be subject to strict scrutiny by the courts.

Formatting Revisions:

- The chart in Section 240 should be corrected to properly illustrate the lot frontage and setback metrics in feet. Currently, many of the requirements show an unidentifiable image instead of a measurement.
- Article 5
 - Section 510 (3): remove “.” After design and replace with “,”
 - Section 530: Add paragraph space between 4 & 5

In review of the documents provided, it appears that the proposed Town of West Turin Zoning Law amendments will provide adequate guidance for those looking to have principal access to a minimally maintained roads, install solar facilities, and utilize storage vehicles; however, it would be beneficial to have specific standards for driveways/openings on Town roads added to Article 3 of the proposed action prior to adoption.

Recommendation: Approve with the following conditions

1. The following formatting errors were found within the proposed amendments:
 - The chart in Section 240 should be corrected to properly illustrate the lot frontage and setback metrics in feet. Currently, many of the requirements show an unidentifiable image instead of a measurement.
 - Article 5
 - Section 510 (3): remove “.” After design and replace with “,”
 - Section 530: Add paragraph space between 4 & 5
2. It would be beneficial to have specific standards for driveways/openings on Town roads added to Article 3 of the proposed action prior to adoption.
3. While there were no proposed amendments to Article 3 Section 305 of the Town of West Turin Zoning Law, it is highly suggested that Section 305 (3) be revised as content of signs should not be regulated through zoning laws and it is possible that the current regulation is unconstitutional.

The board began an open discussion on the decommissioning plan and abandonment details listed in Sections 550 and 560. Mr. Petersen was concerned about the burden placed on the landowner and whether it was appropriate. Ms. Buell mentioned that while this local law will require a decommissioning plan and abandonment requirements, the decommissioning details should be agreed to by the landowner and developer in the lease agreement. With no further discussion, Mr. Lehman made a motion to approve with the above conditions, Mr. Virkler seconded the motion which carried unanimously.

Ms. Buell then read the following review:

TOWN OF NEW BREMEN TOWN BOARD

Site Plan Review to reopen an existing structure as a bar and grill located at 7575 Snell Road (County Route 37) in the Town of New Bremen.

Tax Map Parcel #179.00-04-14.200

Pond Effects Bar & Grill/Lori & Randall Turck – Applicant

The applicant proposes to reopen the previously existing Pond Effects Bar & Grill. While the applicant is proposing to use the property for the same use; however, according to Article III § 330 of the Town of New Bremen Site Plan Review Law, *any use that would otherwise be subject to this law, which has been discontinued for a period of two (2) years or more, shall be subject to review pursuant to the terms of this law before such use is resumed.*

The applicant provided the following Project Documentation: 1) SEQR Short Environmental Assessment Form; 2) Site Plan; 3) Agricultural Data Statement; and 4) Plot Diagram.

- *Compatibility with Adjacent Uses:*

The proposed project complies with the intent of Article III of the Town of New Bremen Site Plan Review Zoning applicability.

According to the submitted Agricultural Data Statement, the proposed use will be located within 250 feet of an Agricultural District containing one (1) active farm operation. The farmland is located across County Route 37 from the proposed action. It should be noted that the site contains an existing 22,181 sq ft. bar/restaurant facility; therefore, the use is already established in the area. According to the application, there will be no changes to the site or building.

The proposed project is located along County Route 37. This area contains mixed use including but not limited to commercial, residential and agricultural. The front, side, and rear setback criteria for the proposed project meet or exceed the requirements as identified in the Town of New Bremen Zoning Standards.

- *Traffic Generation and Effect:*

According to the submitted SEAF, the applicant has determined that the proposed action will not result in a substantial increase in traffic above present levels. The existing driveway/parking lot will be used for egress/ingress.

- *Protection of Community Character:*

The bar & grill operation will easily blend into the community's rural nature without creating any adverse conditions. There should be no adverse impacts as a result of this action. The Town of New Bremen as the Lead Agency acknowledged the project will not have a significant adverse impact to the environment as indicated in Part 3 of the SEAF dated 9/14/2020.

- *Signage:*

No additional signage has been proposed by the applicant. It is assumed that the signage on the existing building will continue to be used.

- *Drainage:*
There are no currently known drainage issues identified with this project. The applicant provided no pavement plan or indication of paving. As outlined in the SEQR, the applicant indicated there may be no or small impact regarding erosion.
- *Parking:*
The existing gravel parking lot will be used and appears to comply with Article V, Subsection 510(c) requirements.
- *Community Facilities:*
According to the submitted SEAF, the applicant has noted that existing utilities will be utilized and there will be no increase in demand.
- *Lighting:*
The applicant is not proposing any new lighting for the subject property.
- *Landscaping and Screening:*
The applicant is not proposing any new landscaping for the subject property. To comply with Article V, Section 510 (d) the applicant should plant a 20' wide buffer strip of evergreens on the residential and roadway property lines; however, given the time of year, it would be realistic to provide the applicant with a 6 month post-opening grace period to accommodate this regulation.

Recommendation: TBD by the County Planning Board (see note below)

Note: Due to the shared capacity of the Director of Planning as a Town of New Bremen Board member and referral review entity, to avoid ethical issues, a recommendation will be made solely by the County Planning Board based on the summary above.

Mr. Virkler mentioned that compliance with Article V, Section 510 (d) is necessary; however, a buffer along the roadway property line would not be justifiable in this particular case. Other board members agreed. Mr. Lehman made the following motion:

Recommendation: Approve with Conditions

1. To comply with Article V, Section 510 (d) the applicant should plant a 20' wide buffer strip of evergreens on the residential property lines; however, given the time of year, it would be realistic to provide the applicant with a 6 month post-opening grace period to accommodate this regulation.
2. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.

Mr. Virkler seconded this motion, which carried unanimously.

Ms. Buell then read the final review for the board:

TOWN OF MARTINSBURG PLANNING BOARD

Special Use Permit to open a small used car lot located at 5807 State Route 12 in the Town of Martinsburg.

Tax Map Number 259.00-02-12.000

VNR Sales/Vincent Ross – Applicant

The applicant provided the following Project Documentation: 1) SEQR Short Environmental Assessment Form (SEAF); 2) Agricultural Statement; and 3) Preliminary Site Plan.

- *Compatibility with Adjacent Uses:*

The zoning for this area is identified as RR (Rural Residential) and the proposed action is located on a parcel within Ag District 6. Existing land uses occurring on, adjoining and near the proposed action include rural, commercial and agriculture. According to the submitted Agricultural Data Statement, there is 1 farming operation within 250 feet of the 1.739-acre property.

The proposed facility complies with the intent of Article IV, § 240-14 of the Town of Martinsburg allowed uses and, assuming this is a nonconforming structure, Article IV § 240-15. It should be noted that the established nonconforming structures do not meet the current state roadway setback of 75 feet; however, according to Article VIII § 240-61, they are permitted but cannot be changed so as to increase its nonconformity.

- *Traffic Generation and Effect:*

According to the submitted SEAF, the applicant has determined that the proposed action will not result in a substantial increase in traffic above present levels. While the nonconforming buildings are located less than 75 feet from the NYS Route 12 centerline, to comply with Article IV § 240-15, all unregistered vehicles parked on this lot should be located at the minimum road and side setback requirements.

The proposed project will use an existing gravel driveway with egress/ingress located on NYS Rt. 12. NYS DOT does not have a commercial driveway access permit on file for this property and has expressed concerns about the access dimensions. To comply with NYSDOT regulations, the applicant should apply for a NYSDOT Commercial Driveway Access Permit through the Watertown, NY office.

- *Protection of Community Character:*

As noted on page 2, Part 1 of the submitted SEAF and page 12, the applicant has identified that the proposed action is not located in nor does it adjoin a state listed Critical Environmental Area and, is consistent with the predominant character of the existing built or natural landscape. While the submitted SEAF noted that the proposed action is not located in an archeological sensitive area, the EAF Mapper noted that it was. As part of this review, SHPO was contacted to consult on this project and found that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. According to Part 3 of the SEAF, the Town of Martinsburg Planning Board (Lead Agency) has determined that the proposed action will have little to no impairment on the character or quality of the existing community and has issued a Negative Declaration on the proposed action (dated September 15, 2020).

- *Signage:*
No signage is proposed by the applicant in the submitted application; however, according to a conversation with the applicant, the existing sign mounted on the building (approx. 2'x3') will be replaced with a new sign.
- *Drainage:*
According to page 2, Part 1 of the submitted SEAF, the proposed project site does not contain wetlands nor is it located within the 100-year flood plain. The proposed action will not create storm water discharge from point or non-point sources. Additionally, according to the submitted SEAF, there will be less than 1 acre of ground disturbance.
- *Parking:*
According to the submitted site plan, it appears that the existing parking area will be used to showcase four (4) vehicles for retail sale. The existing parking facing NYS Rt. 12 encroaches on the vehicle right-of-way and, in order to comply with Article V § 240-24, adequate off-street parking should be relocated 75' from the NYS centerline on the southern side of the building. Parking should also comply with the 25' side yard setback and, being that the proposed action site borders a County Road, the 60' centerline setback from Glendale Road (County Route 32).
- *Community Facilities:*
According to the submitted SEAF, the proposed action will connect to the existing water supply and wastewater utilities.
- *Lighting:*
Outdoor lighting details were not included in the submission; however, after a brief conversation with the applicant, it should be noted that existing lighting will be used. After reviewing GIS images of the site, it appears that there is an existing outdoor light located above/between the garage doors on the building facing NYS Route 12.
- *Landscaping and Screening:*
The applicant has not submitted plans for landscaping or screening. To comply with Article VII §240-47 (F), it is suggested that the applicant provides suitable screening along the north and western lot lines to protect the visual character of the area and to minimize negative impacts on the adjacent properties.

Recommendation: Approve with the following conditions

1. While the nonconforming buildings are located less than 75 feet from the NYS Route 12 centerline, to comply with Article IV § 240-15, all unregistered vehicles parked on this lot should be located at the minimum road and side setback requirements.
2. The existing parking facing NYS Route 12 encroaches on the vehicle right-of-way and, in order to comply with Article V § 240-24, adequate off-street parking should be relocated 75' from the NYS centerline on the southern side of the building. Parking should also comply with the 25' side yard setback and, being that the proposed action site borders a County Road, the 60' centerline setback from Glendale Road (County Route 32).
3. To comply with NYSDOT regulations, the applicant should apply for a NYSDOT Commercial Driveway Access Permit through the Watertown, NY office.
4. To comply with Article VII §240-47 (F), it is suggested that the applicant provides suitable screening along the north and western lot lines to protect the visual character of the area and to minimize negative impacts on the adjacent properties.

5. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.

Mr. Petersen suggested that, within the first recommendation, “should” should be replaced with “must” in order to ensure compliance and safety. Mr. Lehman also suggested to remove “unregistered” from the first recommendation as vehicle for sale will technically be registered to the business and the purpose of the condition is to ensure that the vehicles for sale comply with the 75’ centerline setback. The board agreed with both revisions. An open discussion initiated regarding the number of vehicles allowed on the lot and a possible junkyard violation. It was decided that the fifth condition would prevent a county junkyard violation and the applicant can showcase as many vehicles as the setbacks would allow as listed in recommendations one and two. Mr. Lehman made a motion for the following:

Recommendation: Approve with the following conditions

1. While the nonconforming buildings are located less than 75 feet from the NYS Route 12 centerline, to comply with Article IV § 240-15, all vehicles parked on this lot must be located at the minimum road and side setback requirements.
2. The existing parking facing NYS Route 12 encroaches on the vehicle right-of-way and, in order to comply with Article V § 240-24, adequate off-street parking should be relocated 75’ from the NYS centerline on the southern side of the building. Parking should also comply with the 25’ side yard setback and, being that the proposed action site borders a County Road, the 60’ centerline setback from Glendale Road (County Route 32).
3. To comply with NYSDOT regulations, the applicant should apply for a NYSDOT Commercial Driveway Access Permit through the Watertown, NY office.
4. To comply with Article VII §240-47 (F), it is suggested that the applicant provides suitable screening along the north and western lot lines to protect the visual character of the area and to minimize negative impacts on the adjacent properties.
5. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.

Mr. Petersen seconded the motion, which carrier unanimously.

(7) **Report of County Planner:** None

- (8) **Unfinished Business:** Ms. Buell made mention that it appears that the Dollar General project in the Village of Copenhagen has begun and the Tractor Supply Company project in the Town of Denmark is progressing quickly.

(9) **New Business:**

▪ Housekeeping

Ms. Buell notified the board of Mr. Petersen and Mr. Rosiczkowski’s term expirations on December 31, 2020. Mr. Petersen has expressed interest in serving another term; however, Mr. Rosiczkowski would not like to be reappointed. Ms. Buell is working with Cassandra Moser to market the vacancy. Additionally, Mr. Virkler suggested that we discontinue paper copies of meeting documents. After a brief discussion, it was decided that any board member who would like to have printed documents at each meeting would notify Sue ahead of time. In place of the paper copies, board members will bring tablets or laptops with them to each meeting and Ms. Buell will have the reviews available to members to refer to on the conference room’s monitor.

- 4 Hour Annual Training Requirement

Ms. Buell reminded the Board members to send her copies of their training certificates. To-date, she has received all 4 hours required from Mr. Lehman and 1.5 hours from Mr. Virkler. Ms. Buell also mentioned that they have set a date for the Land Use Training Workshop: November 16th. She will send out the information in the next few days.

- (10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Virkler, seconded by Mr. King, which carried unanimously. Mr. Petersen adjourned the meeting at 3:15 PM.

Respectfully submitted,



Casandra Buell

Director of Planning