

The Planning Board of the Town of Cicero held a meeting on **Monday, June 10, 2013** at **7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Notes from the Chairman
- Approval of the 5/29/13 Planning Board meeting minutes (**approved**)
- Site Plan, Proposed Bait, Tackle and Ice Cream Shop, 6279 Lakeshore Road (**approved**)
- Site Plan, Cicero Dumpster Service, Proposed Dumpster Service, 6188 South Bay Road (**denied**)
- Electronic Sign Permit Application, Chandler Automotive, 6745 Route 31 (**tabled**)

Board Members Present: Bob Smith (Chairman), Joe Ruscitto, Chuck Abbey, Pat Honors and Mark Marzullo

Others Present: Neil Germain (Esquire, Germain & Germain), Mark Parrish (P.E., O'Brien & Gere), Steve Procopio (Code Enforcement Officer), Jessica Zambrano (Town Board Member) and Tonia Mosley (Planning Board Clerk)

Mr. Smith opened the meeting by noting the three emergency exits in the room. He noted it is the Board's intention that all present can hear the proceedings. He also asked that cell phones be silenced.

Mr. Ruscitto led the Pledge of Allegiance.

NOTES FROM THE CHAIRMAN

Mr. Smith explained that the Town Board continues to move forward with some of the zoning changes we have discussed over the years. Cut and fill was discussed. They are also working on site plan enforcement. Planning Board members should get their thoughts/comments to the Town Board as soon as possible. The Town Board will be scheduling a public hearing on these topics shortly.

APPROVAL OF THE PLANNING BOARD MEETING MINUTES FROM 5/29/2013

Mr. Marzullo made a motion to approve the Planning Board meeting minutes from May 29,

2013. **Mr. Abbey seconded the motion.** Chairman Smith asked for a vote.

*Ayes: 5 Nays: 0 Abstained: 0 **Approved unanimously.***

**SITE PLAN, PROPOSED BAIT, TACKLE AND ICE CREAM SHOP
6972 LAKESHORE ROAD, BRIAN HAMMOND**

(SEE ATTACHMENT A: OBG LETTER DATED 6/6/2013, HAMMOND'S BAIT, TACKLE & ICE CREAM SHOP)

Representative: Judy Boyke

Mrs. Boyke introduced herself noting this plan has been on the table since April 4, 2012.

Mr. Procopio added the site was granted a zone change by the Town Board. A simple subdivision application was also submitted.

Mrs. Boyke noted the subdivision application was taken care of. It will be recorded soon and copies will be submitted to the Town. There is no intent for outside storage and/or dumpsters.

We look forward to the Planning Board's approval.

Mr. Ruscitto made a motion regarding SEQR. He read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Mr. Smith seconded the motion** and asked for a vote.

*Ayes: 5 Nays: 0 Abstained: 0 **Approved unanimously.***

Mr. Germain read the following approval: **Move** for the adoption of a resolution approving the site plan application of Brian Hammond's proposed bait, tackle and ice cream shop last dated April 23, 2012. **Mr. Smith made the motion** as stated by Mr. Germain. **Mr. Marzullo seconded the motion.** Chairman Smith asked for a vote.

*Ayes: 5 Nays: 0 Abstained: 0 **Approved unanimously.***

Mrs. Boyke thanked the Board, inviting them to stop by the shop.

SITE PLAN, CICERO DUMPSTER SERVICE, PROPOSED DUMPSTER SERVICE
6188 SOUTH BAY ROAD, AMRIK SHERGILL
(SEE ATTACHMENT B: OBG LETTER DATED 6/6/13, CICERO DUMPSTER SERVICE)

Representative: Amrik Shergill

Mr. Shergill introduced himself.

Chairman Smith asked if there was any new information on this proposal. Neil, can you speak to the easement issue?

Mr. Germain responded yes. The property is encumbered by a Niagara Mohawk easement that almost encumbers the entire 150' of frontage on the site. It is a direct conflict with the proposed use. So, we requested that the applicant provide something from Niagara Mohawk to indicate that the proposed use was acceptable. That could have been in the form of an amendment to the easement, or an abandonment of the easement.

I have communicated to the applicant, or the applicant's representative via email, that Niagara Mohawk has substantial rights to the property, including rights to build, operate, rebuild or relocate at its pleasure electrical facilities within the easement area. This would include most of, if not all of, the proposed area of the site plan.

Mr. Smith: Have you obtained that information?

Mr. Shergill: No, they don't want to give me permission. I spoke with the gentleman. He said yes I could do my business, but they don't want to give me permission.

Mr. Smith: Unfortunately, we have to have those kinds of things. That is why we requested them. However, the use continues. Do you have any other explanations?

Mr. Shergill: I spoke with a few people. Someone at a 1-800 number said as long as I stayed 10 feet away from the electrical cable, I can park my dumpsters. Another person I called told me that I can do my business but they don't want to give me permission. I mentioned to him other

properties doing businesses. My dumpsters are smaller than tractor trailer businesses. There are fork lifts that go higher than my dumpsters. He said that he understood. He said that I could do my business, but he did not want to give me permission.

Mr. Germain: Unfortunately, no oral permission or oral modification to the easement will suffice here because the underlying easement is still in writing and still grants substantial rights to Niagara Mohawk. The only way to change those rights to make them consistent with the proposed use would be to amend the easement---which is a written instrument---or abandon it, which would have to be in writing. Niagara Mohawk and their successors still have rights to use that property in that fashion.

Mr. Smith: Bottom line is, at our last hearing we said that we would have to have some sort of documentation that is not available. Is that correct?

Mr. Germain: You are correct. It is not available as it has been presented. The applicant has said that they will not give it to him.

Mr. Smith: And that does not fall to the Planning Board. That is between the applicant and Niagara Mohawk.

Mr. Germain: It would be incumbent upon the property owner or the applicant in this case, to address the situation with Niagara Mohawk. In fact, the Town would not have the right to step in because the Town is not a party to this easement. The only people that can do this are the current property owner and Niagara Mohawk.

Before the Planning Board can approve this you would need to know that the use is consistent and that the applicant can do what is on the site plan given the current condition of the property which is subject to very broad easement rights.

Mr. Smith: Do you have anything that you would like to add in support of your application?

Mr. Shergill: If the Board wishes, I do not need the entrance on South Bay Road.

When I spoke with the gentleman from Niagara Mohawk, I asked about putting 50 used cars on

the property. He said yes he could give me permission for a 20 to 50 used car lot. I asked him what the difference was between cars and dumpsters. He said the dumpsters go higher. I said that the dumpsters don't go more than 13 feet. Trucks are higher, fork lifts go even higher.

Mr. Smith: I understand. That brings up another issue. Are you selling used cars on the adjacent property?

Mr. Shergill: Yes.

Mr. Procopio: He received, I believe in 2003 or 2004, the ability to sell used cars at the carwash as part of that site plan, but not on this parcel for the proposed dumpster service.

Chairman Smith asked for comments.

Mr. Parrish: There were some items that I requested in my letter. An amended plan was provided which addresses most my comments. Some of the ones that were not addressed are what you are discussing now, essentially easement issues. The rest were addressed.

Mr. Ruscitto: If I understand correctly, there is nothing in writing from NIMO that allows you to do this---only verbal.

Mr. Shergill: Yes.

Mr. Ruscitto: There is a liability involved.

Mr. Smith: That is an issue. We have requested it. Mr. Abbey?

Mr. Abbey: I have the same comment. We have to resolve the easement issue.

Mr. Marzullo: Obviously we have the issue with Niagara Mohawk, but I have other issues as well. I don't know if they are worth getting into.

Mr. Honors: We requested the information. I can see your frustration because I don't think that you are going to get anything from National Grid. Unfortunately that is the answer you got

from them, but it's understandable.

Mr. Smith made a motion regarding SEQR. He read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Mr. Honors seconded the motion.** The Chairman asked for a roll call vote.

Mr. Ruscitto:	Nay
Mr. Abbey:	Yes
Mr. Honors:	Yes
Mr. Marzullo:	Yes
Mr. Smith:	Yes

Motion approved.

Mr. Smith: Neil can you craft a motion to deny the application?

Mr. German: You would **move** for the adoption of a resolution **disapproving** the site plan application known as Cicero Dumpster Service. The proposed dumpster service was originally dated 1/30/2013. **Mr. Marzullo made the motion** as presented by Mr. Germain. **Mr. Honors seconded the motion.** The Chairman asked for a vote.

*Ayes: 5 Nays: 0 Abstained: 0 **Approved unanimously.***

Mr. Smith: The motion carries unanimously, the application is denied. I would also suggest to Steve that we move forward with---this is an improper use.

**ELECTRONIC SIGN APPLICATION: CHANDLER AUTOMOTIVE
6745 ROUTE 31**

Representative: Ken Chandler

Mr. Smith noted they apparently want to take their existing sign and modify it with an electronic sign. It is on the same sign base correct?

Mr. Chandler: Correct.

Mr. Smith: Can you to quickly cover your application and tell the Board what you are seeking?

Mr. Chandler: We would like to update our sign by adding an electronic one. I don't actually have the sign application. Our sign people submitted it.

Mr. Smith: I think that all of the Board members have it. It is a digital message board, two sided. \$22,000 is the estimated value of the sign. It is permanent. It is free standing. It is electrified. The sign is 87" by 53"; height is 13 feet. It would use the same base and be located at 6745 Route 31 which is property owned by Roger Chandler. The adjacent property owner is Northern Pines Golf Course.

We do have some requirements that we put into place. The first one is would you agree to put up Amber Alerts? If the Police Department requests it and they can put it up we ask that our electronic sign people do so. They have all agreed.

Mr. Chandler: Yes

Mr. Smith: The next is we have traditionally asked that the sign's message not change less than every 15 seconds. We do not want to cause a distraction for traffic. Would you be prepared to agree to that?

Mr. Chandler: Yes

Mr. Smith: Any comments from Codes?

Mr. Procopio: I hope that when these applications come in that it helps the need for temporary signage that gets put up without approvals.

Mr. Smith: We have had an issue with temporary signs at this site. Neil, if we do an approval I want to include that the applicant needs to comply with their signage. We are hoping that this will supply your signage needs. But, if you need temporary signs you need to apply at the Zoning Office.

We are trying to get signage under control within the Town. Do you agree to stay in compliance with the Town's sign laws?

Mr. Chandler: Yes

Mr. Marzullo: The sign notes a highway boundary. Is that in the easement?

Mr. Parrish: Yes

Mr. Marzullo: Is there a variance for the sign?

Mr. Procopio: There's no variance that I know of. It will take some research to find out if the road boundary has changed over the years. It's a possibility.

Mr. Germain: It might still be considered an expansion of an existing use, if we are talking about whether or not it is grandfathered in or something along those lines.

Mr. Marzullo: The concern is it looks like the sign is over the easement. Do we have the site plan?

Mr. Germain: You might want to consider tabling this until we can make an adequate determination.

Mr. Marzullo: It is really a non-complying sign. If that is the case we really can't approve it.

Mr. Parrish: Based on the information that has been provided it is clearly shown on the highway boundary. It is supposed to have a 20' setback to comply with code requirements.

Mr. Chandler: 20 feet from where?

Mr. Parrish responded from the highway boundary.

Mr. Chandler: What is the highway boundary?

Mr. Parrish: It is the road right-of-way line, or the highway boundary line. According to this it is 49.75 feet from the centerline of the road. If you were to measure from the centerline of the road, I'm not suggesting that you do that; you would need to be back 69.75 feet to comply with code requirements.

At the current location, that would put them into the parking lot. They would have to move it into the greenspace area on either side of the drive. So, they do have an area where it makes sense to move the sign to---in order to comply with the setback requirements.

Mr. Germain: The applicant could amend the application if he wanted to move the position of the sign to an acceptable location. Or, you could table this to give him time to further evaluate what he wants to do with the application.

Mr. Chandler: If it needs to be moved, I will move it, if that gets the approval faster.

Mr. Smith: Can we approve it contingent upon them moving the sign?

Mr. Germain: The Board would have to actually see on the application where it is going to be.

Mr. Marzullo: Could they get a variance?

Mr. Germain: I think the easier move for the applicant would be to move the sign.

Mr. Smith: If they could get it together we have another meeting in two weeks. We could consider the application then. I think that's reasonable.

More discussion occurred.

Mr. Smith made a motion to table the discussion. **Mr. Marzullo seconded the motion.** Mr. Smith asked for a vote.

*Ayes: 5 Nays: 0 Abstained: 0 **Approved unanimously.***

Mr. Marzullo made a motion to adjourn. **Mr. Abbey seconded the motion.** The motion was **approved unanimously.**

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:30 P.M.

Submitted by:
Tonia Mosley, Planning Board Clerk

ATTACHMENT A: PAGE 1

June 6, 2013

Planning Board

Town of Cicero
8236 Brewerton Road
Cicero, New York 13039-1517
Attention: Robert Smith, Chairman

RE: Hammond's Bait, Tackle, & Ice Cream Shop Site Plan Review
FILE: 0101/25439.426

Dear Board Members:

We have reviewed the following materials in regard to the above referenced project for compliance with Town Code requirements relative to Site Plans and effect on Town utilities and roads:

- 1) Existing Conditions Plan dated April 3, 2012 last revised April 23, 2012
- 2) Preliminary Layout Plan dated April 3, 2012 last revised April 23, 2012.

CHA prepared the above items.

The 0.69-acre site, which is comprised of two tax parcels, is located on the southeast corner of the intersection of Cicero Center Road and Lakeshore Road. The site contains an approximately 660 square foot building on the north side of the site that is surrounded by a gravel area and concrete pads and the south side of the site is generally lawn. It is proposed to utilize the building for a bait and tackle store along with the sale of ice cream and make associated improvements to the site access, parking, signage, and other site features. The site is zoned NC, Neighborhood Commercial. Our comments on the Site Plan are as follows:

- 1) The site has frontage on Cicero Center Road, which is a County highway and Lakeshore Road, which is a Town highway. Access to the site is proposed to be from an entrance onto Lakeshore Road with a gravel parking area located in the northeast corner of the site. The Board should review the access, number parking spaces, and site circulation with the Applicant. The following are comments for the Board to consider on these issues:
 - a) The proposed parking area will not accommodate vehicles with trailers that may utilize the site to purchase bait and tackle.
 - b) Minimal area is provided for patrons to queue between the walk-up ice cream window and the driveway to the parking area.
 - c) The gravel surface does not lend itself to maintenance of the proposed parking lot striping. It is recommended that an apron at least 20-feet in length be paved adjacent to the entrance onto Lakeshore Road.
- 2) As the project results in the disturbance of less than 1-acre of land a NYSDEC SPDES Permit for Stormwater Discharges from Construction Activities is not required for the project. Stormwater runoff from the site sheet drains to adjacent properties and drainage facilities along Cicero Center and Lakeshore Roads. A note on the Plan indicates existing drainage pattern will be maintained under proposed conditions.
- 3) The site is located within the Lakeshore Sewer District. Sanitary sewer service can be provided by an 8-inch Town sanitary sewer located along Cicero Center Road. The sanitary sewer facilities should be shown on the Plan. As the building was recently constructed and has not been occupied it should be confirmed that the building is connected to the sanitary sewer system and that no additional modifications to the sanitary sewer service are required.

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- 4) The site is located within the Cicero Oneida Lake Water District. Water service can be provided by a water main located along either Cicero Center Road or Lakeshore Road. The water facilities should be shown on the Plan. As the building was recently constructed and has not been occupied it should be confirmed that the building is connected to the water system and that no additional modifications to the water service are required. The Onondaga County Water Authority should be contacted relative to provision of the water service.
- 5) The Board should review the landscaping, lighting, signage and architectural elevations with the Applicant. The following are comments regarding these and other issues:
 - a) Lighting is proposed to consist of two (2) wall packs located on the north and south sides of the building along with decorative light fixtures on the building. It appears the proposed wall pack provides only a partial cut off and it is recommended a full cut off fixture be provided.
 - b) Signage is to proposed to consist of a 28 square feet building mounted sign on the north side of the building and a 12 square feet building mounted sign on the east side of the building. For the Board's information the frontage of the building is approximately 29 feet.
 - c) It should be confirmed that no outside storage or dumpsters are to be provided on the site as none are shown on the Plan.
 - d) A simple subdivision should be completed to combine the parcels into a single lot.
- 6) The site does not contain a State Wetland as identified on the New York State Freshwater Wetland Map or a Federal Wetland as identified on the National Wetland Inventory Map.
- 7) The site is not located within a 100-year floodplain as identified on the 1994 FEMA Flood Insurance Rate Maps.

If you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.



Mark C. Parrish, P.E.
Managing Engineer

ATTACHMENT B: PAGE 1

June 6, 2013

Planning Board

Town of Cicero
8236 Brewerton Road
Cicero, New York 13039
Attention: Robert Smith, Chairman

RE: Cicero Dumpster Service Site Plan Review
FILE: 0101/25439.444

Dear Board Members:

We have reviewed the Proposed Site Plan dated January 30, 2013 prepared by CADD Systems Incorporated Drafting and Design in regard to the above referenced project for compliance with Town Code requirements relative to Site Plans and effect on Town utilities and roads. The 0.725-acre site is located approximately 400 feet south of the intersection of South Bay and Thompson Roads. The site is a gravel area being utilized for roll off dumpster storage, which is the subject of the Site Plan Application. The site is zoned IN-Industrial. Our comments are as follows:

- 1) The site is located within the Cicero Sewer District. An 8-inch Town sanitary sewer is located along South Bay Road. Sanitary sewer service is not required for the site.
- 2) Stormwater runoff from the site generally sheet drains to adjacent properties and swales located along South Bay and Thompson Roads. As less than 1-acre of land is to be disturbed a NYSDEC SPDES Permit for Stormwater Discharges from Construction Activities is not required for the project. A note should be placed on the Plan indicating existing grades and drainage patterns are to be maintained. The Board may wish to discuss the cleaning of the roll-offs with the Applicant to confirm stormwater runoff will not be contaminated.
- 3) The site has frontage on South Bay and Thompson Roads, which are under the jurisdiction of the Onondaga County Department of Transportation (OCDOT). Access to the site is proposed from a driveway onto South Bay Road. Information should be provided indicating the OCDOT has approved the driveway. Also, it is recommended that a paved apron at least 20-feet in length be provided at the entrance. An interconnection to the property located north of the site is also provided. It should be confirmed an easement agreement is in place for the interconnection. The surface of the storage area is proposed to generally be gravel.
- 4) The site is within the Gillette Road Water District. Water mains are located along South Bay and Thompson Roads. Water service is not required the site.
- 5) The Board should review the landscaping, lighting, signage and architectural elevations with the Developer. The following are some comments regarding these and other miscellaneous issues:
 - a) The Plan notes that no lighting is proposed.

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- b) The Plan notes that no additional signage is proposed other than a phone number displayed on the side of the dumpsters.
 - c) The entire site is encumbered by a National Grid easement for utility lines that cross the site. Information should be provided indicating the easement allows for the proposed use.
 - d) The Site Plan should be signed by a licensed architect, landscape architect, engineer or land surveyor.
 - e) The zoning of the site and adjacent properties should be noted on the Plan.
- 6) The site does not contain a State Wetland as identified on the New York State Freshwater Wetland Map or a Federal Wetland as identified on the National Wetland Inventory Map.
- 7) The site is not located within a 100-year floodplain as identified on the 1994 FEMA Flood Insurance Rate Maps.

Please do not hesitate to contact the undersigned if you have any questions or comments.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.



Mark C. Parrish, P.E.
Managing Engineer