

The Town of Cicero Planning Board held a meeting on **Wednesday, July 21, 2008** at **7:00 p.m.**, in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Approval of the minutes from the July 2, 2008 meeting (**Approved**)
- Site Plan, Syracuse Federal Credit Union, 6091 Route 31, Proposed Credit Union, Roy Stanley, Inc. (**To return to Planning Board**)
- Preliminary Subdivision Plan and Public Hearing, Mattoon Subdivision, 5216 Orangeport Road, 3 Lots, M. Mark Grobosky (**To return, public hearing left open.**)
- Informal Discussion: Windmill Ordinance

PRESENT:

Patrick Leone, Chairman  
Richard Cushman, Board Member  
William Purdy, Board Member  
Scott Rowe, Board Member  
Sharon May, Board Member  
Jason Mott, Board Member  
Robert Smith, Board Member  
Heather Cole, Esquire, Wladis Law Firm  
Vern Conway, Town Board Liaison  
Wayne Dean, Director, Planning & Dev.  
Mark Parrish, P.E., O'Brien & Gere  
Tonia Mosley, Clerk

ABSENT:

Scott Harris, Ad Hoc Board Member

The meeting was opened with the Pledge of Allegiance.

Mr. Leone noted the three fire exits and that there was one formal public hearing tonight. He noted the importance of public input and encouraged those in attendance who wished to speak about an agenda item to do so by raising their hand and being recognized by the Chairman. Please use the microphone in the front. It is this Board's intent to be heard. Please raise your hand if you can not hear the proceedings.

**APPROVAL OF THE MINUTES FROM JULY 2, 2008**

**Mr. Smith made a motion** to accept the Planning Board minutes from July 2, 2008.  
**Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Abstain
Mr. Purdy:	Yes
Mr. Rowe:	Yes

Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

**SITE PLAN, SYRACUSE FEDERAL CREDIT UNION  
6091 ROUTE 31, PROPOSED CREDIT UNION, ROY STANLEY, INC.**

Representatives: Mark Kroneck, Roy Stanley, Inc., Mark Weiss, Landscape Architect

Mr. Parrish noted a copy of his engineering report would be available to the applicant after tonight's meeting.

Mr. Leone explained that the Board is not in a position to approve the site plan tonight. We still need to hear from the County Planning Board. Please bring the Board up to speed on your architectural drawings, how far you have gotten along with the DOT relative to your driveway permits, etc.

Mr. Weiss reminded the Board that the project has an existing building that would be renovated with parking, etc. The existing curb cut does not meet DOT standards so we will increase the radius by moving the shoulder 50 feet in front of the curb cut and 10 feet beyond the curb cut. I have been in contact with Mark Grainer and we are working with his office. He emailed us about the sidewalk. Mr. Dean suggested that we put it on our property. If it is on our property we would have to give an easement to the State.

Mr. Leone read part of the letter from the State. The Department is encouraged by the introduction of a sidewalk. Please insure that the sidewalk is contained within a public right-of-way, but not necessarily to the DOT's right-of-way. This could occur by a donation from the developer to the DOT.

Mr. Parrish, Ms. Cole and Mr. Dean questioned why it had to be within a public right-of-way.

Mr. Leone responded it might be a legal issue. Who maintains the sidewalk? Can the developer stop the public from using it because it is on private property?

Mr. Smith suggested it might be in case the state wanted to work on the road and wanted to put a sidewalk all the way down. It would line up.

Mr. Leone: I would say that the State is going to want an easement as much as the Town. We will follow the advice of Counsel to determine what works for us. We want the easement but we do not want to maintain it.

Mr. Cushman noted just because it is located where it is on the plan it does not mean that it can not be moved.

Mr. Weiss assumed that it would be put in the highway's right-of-way.

Mr. Leone noted the Board's desire to have a sidewalk. We send the developer away with the idea that we want it to be maintained by them. We have never sent them away with the idea that it had to be on their property to be maintained. We will have a sidewalk ordinance in this Town someday.

Mr. Conway noted that Mr. Dean has a sidewalk ordinance started that we will bring to the Town Board I believe on the 28<sup>th</sup>. It would be on the developer's property not in the State's right-of-way.

More discussion occurred.

Mr. Weiss was concerned about the location of a utility pole. He was not sure that they could miss it.

Mr. Dean noted that is the problem we are going to have if we put the sidewalk in the right-of-way. The utility poles are within about a foot of the right-of-way.

More discussion occurred regarding the legal aspects of sidewalk maintenance.

Mr. Weiss continued. We have removed the pavement here to use for parking and the pavement here for landscaping. There is an ATM walk up here. The four parking spaces here are for ATM use only. Employees park back here. We cut out the pavement here to get the space needed for handicap parking. There is a ramp here for the two level building, with on grade access to the lower level here. The enclosed dumpster is here. Over here is the generator and AC unit which are also enclosed. The generator is for backup when power goes down.

Mr. Leone asked about the property next door.

Mr. Dean noted it was a residence where they are putting on an addition.

Mr. Leone asked if there was any fencing for the residence next door to deter headlights. Can we think about some sort of buffering in that area? The ATM would be a 24 hour service. It could be done with berms and shrubbery or berms, shrubbery and some kind of fence. I would feel differently if it was a commercial operation next door.

Mr. Weiss noted the property on the other side contained a fence that went all the way

back.

Mr. Kroneck gave the hours of operation as Monday through Friday from nine until five and Saturdays from nine until one.

Mr. Smith asked if the generator was tested regularly.

Mr. Kroneck responded probably once a week. That could be set up at any time.

Mr. Weiss provided photometrics to the Board which adheres to ATM requirements. He agreed with Mr. Leone that it was a safety issue.

Mr. Leone asked for architectural features and color schemes.

Architectural features were displayed. Mr. Weiss explained the brown and tan color scheme with masonry block. Mr. Kroneck noted lighting would be under the canopy. The sign on the building is illuminated. It is the sign that would be moved from the existing location and modified. There is no sign at the road side or on the sides of the building.

Mr. Smith asked if the color palette could be included as part of the site plan somewhere.

Mr. Purdy noted the swamp grass which extends out by the willow tree behind the raised leach bed. This drainage problem is along the fence next door. There is still water lying there.

Mr. Parrish added the wetland map does not show any wetland areas.

Mr. Leone wondered if the septic system was working correctly.

Mr. Kroneck noted the septic system was approved in 2001 with the addition and the number of fixtures within the structure. We are not making any changes to plumbing fixtures. The usage will be the same for the existing septic system. For some reason that never received a final inspection which the current owner is in the process of doing. They have asked the County to come back out. They have to do a little more grading, add topsoil, etc. That should take care of the drainage.

Mr. Leone: It sounds to me like they are going to work through this and that they are going to modify the leach field.

More discussion occurred.

Mr. Weiss reviewed the photometric plan for light fixtures. We have small short poles.

Mr. Leone warned the applicant of the Board's concern for light scatter.

Mr. Parrish noted there is some trespass particularly to the landscaping lot. The poles are basically along the property line with scatter 20 to 30 feet in. You also have a little bit of trespass onto the road right-of-way.

Mr. Leone noted a little scatter onto the road right-of-way was not a bad thing, but we have tried to eliminate scatter onto neighboring properties. It is going onto a driveway area in the landscaping place.

Mr. Parrish added that whole area is basically driveway and storage space.

Mr. Smith: It is a commercial piece and will stay a commercial piece.

Mr. Leone asked about the residential property. If a fence goes up will it stop some of the scatter?

Mr. Parrish: No, you are looking at a 15' pole. But it might impact the lighting coming from the ATM.

Mr. Leone: You could have some control with timed lighting. You could have the lights go off at seven or eight because there is no one back there.

Mr. Weiss noted they need to have some lighting in the back, but we can control lighting along the property line.

More discussion occurred regarding moving the poles, changing the type of pole, changing the type of light, etc.

Mrs. May suggested getting a signed letter from the adjacent property owner stating that they would not mind the lighting.

Mr. Leone noted the need for signage details.

Mr. Smith asked if there was a porch over the ATM. It looks flush. The one on the screen looks nicer than the one on the plan.

Mr. Weiss and Mr. Kroneck noted that has been bounced back and forth.

Mr. Smith: Please include that as part of your site plan.

Mr. Parrish: I will be getting together a list of comments based upon what has been discussed tonight along with what we did previously. I have not conducted a site visit but will stop by and look at some of the drainage, potential wetland issues, etc. and get comments to them so that they can be addressed.

Mr. Leone: We need to resolve where the sidewalks are going to go relative to the DOT's request. The County might suggest that they need some sort of traffic information but if they needed it I would have thought that Mark Grainer would have asked for it by now. Storm water issues are not an issue based upon the amount of work you are doing—paving, anything like that?

Mr. Parrish: Based upon what I have seen on the plans, no. But I will go out and conduct a site visit to clarify.

Mr. Leone: We talked about lighting in detail. We saw a landscaping plan. There will be a green area in front with arborvitaes, bushes and trees. You will take care of sewers and septic with the County, our engineer and the code officer. We are suggesting that they are not disturbing any wetlands?

Mr. Parrish: Again, I will look at that but I doubt it.

Mr. Leone: I think this Board thinks you have a nice project. We believe it is a nice site for your project. We will wait for the County's response and take it to the next level.

Mr. Weiss: The Board does not give approval until the highway work permit is in hand?

Mr. Leone: We can give contingent site plan approval where you are required to get your permits from the appropriate agencies.

**PRELIMINARY SUBDIVISION PLAN AND PUBLIC HEARING  
MATTOON SUBDIVISION, 5216 ORANGEPORT ROAD  
M. MARK GROBOSKY**

Representative: Rob Mattoon, owner of the property.

Mr. Mattoon noted we had the surveyor re-draft the layout. The engineer was out to do the perk tests, etc. for the Health Department.

Mr. Leone stated we had to have you come in because there is a public hearing. But we are not in a position to make a decision because we have not heard back from the County. We also need the approval of the County Health Department for your septic system. That is contingent on getting your building permit. We thought that it was best that you come

in to show the Board where you are today and to open the public hearing for comments. We will keep the public hearing open. Can you show us how the lot configuration is broken down, show us each individual parcel, where you house layout is and where the septic would go?

Mr. Mattoon showed the Board the power line easement, the access to the property, the current residence (which is Lot 1) and the location of Lot 2.

Mr. Leone noted we asked them to show a house on the property with the required setbacks and septic system. There are no wetlands on the site. They are giving easement access to these lots. Heather you will deal with those?

Ms. Cole: I have spoken with your attorney. I will call her again to make sure that we are on the same page. I will fax her descriptions over to Mark to make sure he has seen them. I may ask her for a couple of tweaks but that is nothing.

Mr. Dean noted we just received the descriptions in our office today.

Mr. Leone: We have power lines here. I don't think that it typically is a request from the Board but I believe NIMO requires that a house be set back a certain distance from high voltage lines.

Mr. Smith clarified that the New York Power Authority requested it. What was it?

Mr. Parrish: I think it was 70 or 75 feet. This would be for Lots 2 and 3, not for the existing lot. The house locations shown for Lots 2 and 3 are well beyond the 70-75 feet.

Mr. Mattoon: There was a question about Lot 3 with the easement and if we were still over the acre excluding the easement. We are. We noted that on the plan.

Mr. Parrish: Excluded from the area count are easements for detention and easements for utilities that do not serve the subdivision. This plan needs to better define the limits for the easement because the descriptions just say as shown on the plan. The plan does not show the utility easement. They have also showed the approximate location of the water line that serves the existing house. That crosses Lot 2. Either that needs to be re-located or you need an easement across Lot 2 for the water line. We are also still looking for more information on the disturbed area for this project so that we can find out whether or not it is below the acre threshold.

Mr. Mattoon: I just calculated that this morning and can email that to you. We are right around 35,000 square feet.

Mr. Parrish: That should be under the acre threshold. We would not need the SPEDES permit.

Mr. Mattoon: That includes the existing house and exiting driveway, correct? Or, would it just be the two additional?

Mr. Parrish: I would say at this point it would have to be the two additional.

Mr. Mattoon: Then it would not even be 20,000.

Mr. Parrish: Okay, that is fine. I will try to get some comments to you in writing so that you know what you need to do to move forward.

***Mr. Leone opened the meeting up for public comment at 7:46 p.m.*** Is there anyone here to speak in favor of the project? (There was no response.) Is anyone opposed to the project? (There was no response.) **Since we do not have a County response, I make a motion** to leave the public hearing open. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

Mr. Leone noted that will not have to be re-advertised. I anticipate a formal response from the County.

## **INFORMAL DISCUSSION**

### **WINDMILL ORDINANCE**

Mr. Leone: Wayne, Mark, Heather and I have worked diligently on trying to get something before the Town Board as windmill requests come in. We all had an opportunity to exercise discretion on the Paul Delima project. To a large degree this follows those comments. We tried to clarify as much as possible a couple of sticking points for example, whether the windmill should fall on a building or not, how many units could be on one parcel, how many parcels could a unit serve and what districts the parcels could fall in. We have excluded Residential districts and allowed Agricultural districts. We have excluded ornamental windmills from the regulations all together that

are six feet or lower. We have allowed agricultural windmills used for pumping based upon the height of the buildings allowed in an AG district, which is 35 feet. We have taken the position that windmill heights include blade heights and can not be any higher than the height allowed in that district. In most Industrial districts or Commercial districts the maximum windmill height would be 60 feet. The windmill classification itself is written so that it does not allow large windmill farm sites to be developed. In most cases it allows only one windmill per lot or per property. There are some exceptions that are allowed by the Planning Board as new windmill information develops. We debated what the size of the windmill should be. For example in the Paul Delima case, we allowed up to a 100 kilowatt hour unit. That is a fairly large system if Paul Delima is only using a 10 kilowatt system. I suggested that maybe we lower that 100 to 50, but that is not the way that it is written here.

Ms. Cole noted it would be difficult to get a system that large given the restraints of the district. This will have to go before the Town Board for approval. It will also get forwarded to the County for comments. That 100 may very well be lowered to 75 or 50.

Mr. Leone: We are using the definition that shows up more often in other Towns and districts with their windmill ordinances. They are often referred to at the 100 level. 100 or less is considered small.

Mr. Smith: When you say that they can be put in Agricultural districts, will there be any lot size restrictions?

Ms. Cole: Yes, two acres or more.

Mr. Leone: And it still has to meet all of the setbacks for drop zones.

Ms. Cole: They are also allowed in Neighborhood Commercial but remember that the height is lower. It is only 35 feet.

Mr. Parrish: Wayne also noted that the windmill is to be considered an accessory use. It can not be the primary use of the property. You should already have some sort of commercial operation on the site and the windmill would go along with that. It should be within the nature or character of the area.

Mr. Rowe: What about that new development on South Bay? That is Neighborhood Commercial on the end. A windmill could be put there?

Mr. Parrish: Yes, if they meet all of the requirements for example setbacks, etc. Those lots are relatively small. I do not think that they are much more than 100 feet wide. You also have the 35' height restriction.

Ms. Cole: The confines of the lot itself may prohibit it, in certain situations.

Mr. Rowe: Does this say that the wires from the windmill have to be above ground, not below ground?

Ms. Cole: They have to be below ground.

Mr. Dean: You are talking about the power lines. The guide wires are different.

Mr. Parrish: There maybe some discussion of setbacks from above ground wires—not crossing guide wires, etc.

Mr. Leone: The ordinance starts to get into where fencing is required, non-climbing, the colors, etc. It gives the Planning Board and out. As technology changes it gives the Planning Board some latitude. I understand that for residential places they are coming up with a vent remover in the peak of a house where the blades just go around. If you have the right setting that maybe a perfectly fine point. If that works and it is unobtrusive, I think this Board should have the right to consider it. If, the Town Board gives it to us.

Mr. Cushman: Are there any other such ordinances in neighboring Towns or Central New York that we can review and compare?

Ms. Cole: The problem that I ran into is that the places that have windmill ordinances are places where the windmills are really intense. It was impossible to whittle down those ordinances to get what we needed. We almost had to start over. I looked at the Uniform Code book website, nothing in Onondaga County but in New York State in general. I think that Wayne and Pat are correct in suggesting that we limit ours to small windmills. I don't really think that there is a market for or location for windmill type farms in our area.

Mr. Leone: That would require a special application or a special variance. I don't think that we want to necessarily see our landscape dotted with these things in some rural setting where all you are looking at are huge 100' high windmills. I don't think that is what we envisioned here. But, we certainly want to give people an ability to use the latest technology to service an industrial operation. A windmill farm is a generator. That is something completely different. There are some rights to do that under the utility corridor. We can consider it if the Board so allows.

Mrs. May: Did you look at different designs of windmills?

Ms. Cole: We do not specifically talk about what form your windmill has to take. We allowed for flexibility to consider new technologies and to allow you to waive what ever

provisions of this code might prohibit something because a change in technology has made it a more viable option. It gives you some discretion to move with the times without having to amend your ordinance every six months.

If something like that is distracting and the Board feels that is a visual blight and not something that it wants to consider, you are required under this ordinance to look at things from an aesthetic perspective.

Mr. Smith: I have a question on the residential. We are on the cusp of having some residential stuff like that. Are we setting ourselves up as a Planning Board that if that technology comes along, every homeowner that wants to use it would have to come in here?

Ms. Cole: For right now, yes.

Mr. Leone agreed. If a subdivision was being built as brand new and they came to the Planning Board saying that we want to put a windmill system in to service for example 10 houses and those people were buying that system in the middle of their home station--I think this Planning Board would look at that, look at its setbacks, make sure of its visual indications and say this could work. But, to have every resident walk in saying that they want to put a windmill on their property on a 7500 or 10,000 square foot lot I think that we have to be aware that not every homeowner wants to have a windmill next to their house.

Mr. Smith: They are being incorporated right into the design of the house now.

Mr. Leone: That is totally different. As I have said, there are windmills that are designed to go into the peak of the house. If that comes forward that is a lot different. That is not necessarily what we are seeing today. We are trying to tackle the windmills that we know of as windmills. If they advance the technology this Planning Board has the right by the way this law is written, to waive, under new technology, and allow those things to be put in.

Mr. Dean: If that did become the wave of the future and you were getting bomb-barded with may of these, you could make an amendment.

Mr. Leone: Let's get the regulations in place and let the dust fall where it may. My biggest concern is how we define small. I would send a message to the Town Board to decide how small is defined. If a 10 kilowatt system can run Paul Delima, a 100 kilowatt system is huge.

Mr. Rowe asked for clarification on windmills as a secondary use.

Mr. Parrish: You can not buy a parcel and put up a windmill on that parcel with nothing else on it.

Mr. Leone: And that windmill should be providing power back to you. If someone wanted to design it for twice the capacity that it was used for their house but, they wanted to sell 90 kilowatts back to NIMO—that does not make sense. It has to be need based. If we are not careful about the size this is what could happen. It should be need based realizing that there could be some extra that would go back to NIMO. You should not be able to use 10% and sell 90% back to NIMO.

Mr. Conway noted that NIMO will only take a certain percentage back. The windmill owner can not sell 90%.

Mr. Leone: That language exists but is not included in the ordinance. We did discuss it.

Mr. Conway and Mr. Dean agreed. Mr. Dean noted we talked about keeping it a percentage of their annual bill.

Mr. Smith disagreed. If the technology improves and at certain times of the day you can sell your power back---I don't think that we should tell people that they can not sell their power back.

Mr. Parrish: Accessory use in zoning terms which are the terms that are being used here—for example let's say I have a gas station and the gas station is my primary use. Plus I have a car wash on the back. The car wash is an accessory use because it could be on a separate parcel in and of itself.

If I have a gas station and I want to put a windmill on it, the windmill is an accessory use for the gas station.

If I have a blank piece of land and I put a windmill on it, that becomes the primary use and therefore you can not put it on a blank piece of land.

Mr. Leone: When is it excessive? When do you draw the line at a 100 kilowatt size window? If we can not maybe we need to limit the size of a windmill we are calling small.

Mr. Cushman: If I am a smart businessman or homeowner, I am going to build it big enough so that I have some excess to sell back.

Mr. Dean: But the key is that we want to keep them as small a possible. We don't want big ones just because you can have one.

Mr. Smith: How is that enforced? Is Wayne going to go out and if someone is only supposed to have only 110% is he going to tell them they sold 112%?

Mr. Leone: It is based upon their need and use. What is their demand currently? You are back to someone overbuilding when it could be small.

Mr. Purdy asked for the different dimensions of the output that you would get.

Mr. Parrish: We did get some information on that from the Paul Delima project. We could probably get that information to you. On a global basis we have set the limits on these windmills by saying that they can only be 60 feet high. I think what the Chairman is trying to get at is having these more on line with the performance of the site. In other words if they are only going to use 10 kilowatts he does not want to see a 30 kilowatt facility going in because a 10 kilowatt facility might only be 40' high with a smaller window where the 30 kilowatt facility might be larger and bigger.

Mr. Smith: I understand regulating the size but not the output.

More discussion occurred.

Ms. Cole: Here is what I suggest. It is on the Town Board's agenda on Monday to set a public hearing. If any of you have any comments, thoughts, input, etc., please email me or stop by and let Bonnie Smith know. She can get it to me that way. That way by the time the public hearing comes around the Town Board can be aware of it. I am hoping to have a final draft by the Town Board's August meeting and that the County Planning Board will have responded so that the Town can hold a public hearing and act upon it because the current moratorium on windmills expires in early September.

More discussion occurred.

**Mr. Mott made a motion to adjourn. Mrs. May 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 8:17 P.M.

Dated July 30, 2008

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Tonia Mosley, Clerk

