

The Planning Board of the Town of Cicero held a meeting on **Monday, January 13, 2014 at 6:30 p.m.**, in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Approval of the Minutes from the December 23, 2013 Meeting (**approved**)
- Notes from the Chairman
- Planning Board Temporary Clerk Appointment (**Tonia Mosley appointed**)
- Planning Board Engineer Appointment for 2014 (**Mark Parrish, P.E., O'Brien & Gere appointed**)
- Planning Board Attorney Appointment for 2014 (**Neil Germain, Esquire, Germain & Germain appointed**)
- Establish 2014 Schedule for Planning Board Meetings
- Deputy Chairperson Appointment for 2014 (**Chuck Abbey, PB Member, appointed**)
- Minor Subdivision Preliminary & Final Plan, Public Hearing, Beckley Subdivision, 8500 Snowshoe Trail, 6138 & 6144 Lakeshore Road and Lakeshore Road (Tax Map # 089.-10-35.0), 4 Lots (**to return**)
- Site Plan, Sketch Review, The Meadows, 5917 NYS Route 31, Corner of Lakeshore and NYS Route 31, Proposed Food Service (**to return**)
- Site Plan Modification, Rafferty Construction, 5785 East Circle Drive, Proposed Jimmy John's Restaurant (**approved**)
- Sign: McDonald's 7893 Brewerton Road (**to be rescheduled**)

Board Members Present: Bob Smith (Chairman), Joe Ruscitto, Sharon May (Ad-Hoc Board Member), Pat Honors and Mark Marzullo

Others Present: David Balcer (Deputy Code Enforcement Officer), Mike Becallo (Town Board Member), Neil Germain, (Esquire, Germain & Germain), Richard Hooper (Director, Code Enforcement), Mark Parrish (P.E., O'Brien & Gere), Don Snyder (Zoning Board of Appeals Member), Doug Wickman (P.E., C&S), Jessica Zambrano (Town Supervisor) and Tonia Mosley (Planning Board Clerk)

Absent: Chuck Abbey (PB Member)

Mr. Smith: Welcome to the first regular meeting of 2014 for the Cicero Planning Board. Thank

you for attending. Please note the locations of the three exits for emergencies, two in the back, one here in the front. If you have a cell phone please silence it. If for any reason you can not hear the proceedings please bring it to our attention.

Mrs. May led the Pledge of Allegiance.

Mr. Smith: I would like to recognize a couple of the visitors we have here tonight: Mike Becallo, our new Town Councilman, Don Snyder a member of our ZBA and Jessica Zambrano our Supervisor is with us. Thank you for stopping by.

#### **NOTES FROM THE CHAIRMAN**

Mr. Smith: For Planning Board members, you should expect Tracy Cosilman, the Town Clerk, to be sending out a copy of the comprehensive plan electronically to all the members. Everyone should have received a copy of the most up-to-date Code book.

I was re-appointed at the reorganization meeting to a five year term on the Board, as my term had expired last year. I would like to thank the Town Board for that. I was reappointed to the Chairman's position. Also at the last Town Board meeting they reappointed Sharon May as our Ad-Hoc member and she was pressed into service this evening.

Mrs. May: Thank you.

Mr. Smith: As a reminder to everyone Commissioner Tom Rhoades (P.E., OCWEP) and Nick Capozza the engineer in charge of sewer/waste water systems will be joining us as part of our official meeting on the 27<sup>th</sup>. They are going to do a presentation on where we are at with sewers and capacity. They will do a question and answer session from the Board. It does have a significant effect on Planning.

#### **APPROVAL OF THE PLANNING BOARD MEETING MINUTES FROM DECEMBER 23, 2013**

Mr. Smith: We noted a couple of changes. It should be Ellen Hahn on page three, New York State DEC. We noted the correct spelling of Commissioner Rhoades, P.E. from the Water and

Environment Department on page 7. **Mr. Marzullo made a motion** to approve the December 23, 2013 Planning Board meeting minutes as amended. **Mr. Ruscitto seconded the motion** and Mr. Smith called a vote.

*Ayes: 5      Opposed: 0      Abstained: 0*                      **approved unanimously**

#### **APPOINTMENT OF A TEMPORARY PLANNING BOARD CLERK**

Mr. Smith: I'm going to be making a motion to adopt a resolution appointing Tonia Mosley as temporary Planning Board Clerk for the month of January 2014. The reason for this is the Town Board is looking at how we are going to pay the clerk. The appointment will be temporary until the first. It has to do with how the Town pays full time employees and stuff. So, **I make a motion. Mrs. May seconded the motion** and Mr. Smith called a vote.

*Ayes: 5      Opposed: 0      Abstained: 0*                      **approved unanimously**

The Clerk thanked the Board.

#### **PLANNING BOARD ENGINEER APPOINTMENT FOR 2014**

**Mr. Smith moved** for the adoption of a resolution appointing O'Brien & Gere as Planning Board Engineers for 2014. Mark Parrish will be our representative on a regular basis. There is a \$3500 retainer with O'Brien & Gere and I believe that you have already submitted your agreement. **Mr. Marzullo seconded the motion.** Mr. Smith called a vote.

*Ayes: 5      Opposed: 0      Abstained: 0*                      **approved unanimously**

Mr. Parrish thanked the Board.

#### **PLANNING BOARD ATTORNEY APPOINTMENT FOR 2014**

**Mr. Smith moved** for the adoption of a resolution appointing Germain & Germain LLP Planning Board Attorneys for 2014. That is with a retainer of \$6500 which will be billed monthly and is subject to Germain & Germain executing an agreement with the Town Board, which they are in the process of doing. **Mrs. May seconded the motion.** Mr. Smith called a vote.

*Ayes: 5      Opposed: 0      Abstained: 0*                      **approved unanimously**

Mr. Germain thanked the Board.

**ESTABLISH THE 2014 SCHEDULE FOR PLANNING BOARD MEETINGS**

**Mr. Smith moved** for the adoption of a resolution establishing the following schedule for 2014 Planning Board meetings. All meetings shall take place in the Cicero Town Hall and will begin at 6:30 p.m. unless otherwise advertised. Meeting dates are:

Monday, January 13, 2014

Monday, January 27, 2014

Monday, February 10, 2014

Monday, February 24, 2014

Monday, March 10, 2014

Monday, March 24, 2014

Monday, April 14, 2014

Monday, April 28, 2014

**Wednesday, May 7, 2014**

**Wednesday, May 21, 2014**

Monday, June 9, 2014

Monday, June 23, 2014

Monday, July 14, 2014

Monday, July 28, 2014

Monday, August 11, 2014

Monday, August 25, 2014

Monday, September 8, 2014

Monday, September 22, 2014

**Wednesday, October 1, 2014**

**Wednesday, October 15, 2014**

Monday, November 10, 2014

Monday, November 24, 2014

Monday, December 8, 2014 and

Monday, December 22, 2014.

**Mrs. May seconded the motion.** Mr. Smith called a vote.

*Ayes: 5    Opposed: 0    Abstained: 0*

**approved unanimously**

**APPOINTMENT OF DEPUTY CHAIRPERSON FOR 2014**

**Mr. Smith moved** for the adoption of a resolution appointing Chuck Abbey as Deputy Chairperson for the Planning Board for 2014. **Mrs. May seconded the motion** and Mr. Smith called a vote.

Ayes: 5      Opposed: 0      Abstained: 0      **approved unanimously**

**MINOR SUBDIVISION, PRELIMINARY AND FINAL PLAN, PUBLIC HEARING  
BECKLEY SUBDIVISION, 8500 SNOWSHOE TRAIL, 6138 LAKESHORE ROAD, 6144 LAKESHORE  
ROAD AND LAKESHORE ROAD TAX MAP # 089.-10-35.0, 4 LOTS, RYAN J. BECKLEY**

Representative: Ryan J. Beckley

Mr. Smith: We would like to open the public hearing. *(The public hearing opened at 6:43 p.m.)*  
Mr. Beckley you are creating 4 lots. Is that correct?

Mr. Beckley gave details from the plan shown on the screen. This is Snowshoe Trail. My current residence is over here. This is going to be the driveway into this lot right here.

Mr. Smith: And you are creating 4 lots?

Mr. Beckley: There is going to be 1, 2, 3, 4 lots. I don't think that I am really creating four lots. I am really creating one additional lot.

Mr. Germain: I think that he is going to end up with four total lots when the re-configuration is over. It is currently three?

Mr. Beckley: It is currently three. When it is done it will be four.

Mr. Smith: And the purpose?

Mr. Beckley: In the short term of two to three years to build a garage for personal storage. In eight or nine years possibly, if I can talk my wife into it, I'd like to build a house out there. It is

just one house right now.

Mr. Smith: And that is zoned?

Mr. Beckley: Agricultural (AG)

Mr. Smith: You are not asking for any zone changes?

Mr. Beckley: No

Mr. Smith: What I would normally like to do is ask if anyone has any questions regarding the subdivision, before we vote for or against. Does anyone have any questions for the applicant regarding the subdivision? (There was no response.) Would anyone like to speak for the subdivision? (There was no response.) Would anyone like to speak against the subdivision? (There was no response.) There being no one speaking for or against, **I move** to close the public hearing. **Mr. Marzullo seconded the motion.** Mr. Smith called a vote.

*Ayes: 5      Opposed: 0      Abstained: 0                      approved unanimously*

*(The public hearing was closed at 6:44 p.m.)*

Mr. Beckley: Thank you

Mr. Germain: At some point in the future the subdivision will come up for a vote as to approval.

**SITE PLAN, SKETCH REVIEW, THE MEADOWS  
5917 NEW YORK STATE ROUTE 31, CORNER OF LAKESHORE AND NEW YORK STATE ROUTE 31  
PROPOSED FOOD SERVICE, JOE DEL BIONDO**

Representatives: Joe Del Biondo, The Meadows representative  
Jeremy Davidheiser, QPK Design  
Marla Cohen, Owner

Mr. Del Biondo introduced himself and his peers. This is the old Dunkin Donut site. We are

looking to put in a food service/retail establishment, a franchise. Essentially the building will remain unchanged from its present form, including all of the interior partitions and the exterior of the building. With regards to the exterior of the building, that also encompasses the site and the drive through window which we would re-activate.

To the left is the existing plan. You see the drive through window and the front entrance of the building. Again with the new plan nothing changes. This represents an equipment layout, the drive through window, the front entrance. The only interior modification in addition to ceilings, lights and general aesthetics is we will be providing a new wall inside. We are proposing a walk up window at this solid front window. It would be a slide window, very similar to the drive through.

On the left is the existing digital photography of signage on the front of the building, the sign pole mounting and existing signage in the rear of the building. We want to reuse the existing signage in so far as the frame is concerned with new acrylic. The pole mounted sign out front is a double sided sign. Again we would get a new acrylic with the Meadows name. On the bottom panel we are proposing a regular LED scrolling sign. Again using the existing frame on the back of the building, there would be another sign and a menu board.

The two pictures on the right were something that we were considering as an option for a different color scheme. After reviewing it with everyone involved including the franchisor, it seems as if this yellow scheme is what we are going to propose solely. We tried to tie it into the CNS colors at the high school, but it does not seem to be as well received as the yellow scheme.

In general this is our site plan. We show the existing building. Parking is to remain the same. The drive through lane, traffic flow and ingress/egress curb cuts are all to remain the same. We do and have shown at this location a small ornamental gate to protect the pedestrians as they go up to the walk up window. Additionally in an effort to be sustainable and to offer a better aesthetics of the site as it is presented to the Town of Cicero in general---the entire site is asphalt, impervious material. We are proposing to remove this front asphalt triangle where the sign is and put in green grass, green space. Likewise back here in the back corner there are two parking spaces that are almost unusable with regard to where the dumpster corral is. The dumpster corral will stay. We will be breaking up that asphalt and putting in green space.

Lastly, cars would more or less park here to get in and out of the store quickly. In an effort to help the circular traffic pattern around and to keep the drive through one lane, again we are proposing to remove this asphalt---all within the building owner's property line---and isolate that with grass as well, to prevent parking there. That should alleviate blind spots as people leave here heading east or west bound on Route 31--- if there are no cars stacked here.

Essentially that is the presentation that I have if there are any questions for me. We are here to get site plan approval. Mr. Davidheiser is here if you have site specific questions.

Mr. Smith: This is an approved use. You are removing a couple of lights from the very top of the peaks that no longer comply?

Mr. Del Biondo: Correct. They are actually in-operable.

Mr. Smith: Mr. Hooper, Mr. Procopio and I visited the site. We asked for the pavement to be removed. For one reason, that helps us with stormwater. The larger reason is that area along 31, after speaking with Chief Snell, has a lot of accidents because vehicles especially large trucks would park there. If it is in the morning you can not get back out here onto Lakeshore Road going to the light to go west on Route 31. They could not see anything if a vehicle parks there. We appreciate the landlord taking that pavement out.

What are you doing to protect the people at the walk up window?

Mr. Del Biondo: There is an ornamental gate here that isolates the sidewalk from the actual drive through lane. The detail in the upper right hand corner of this page shows the fence.

Mr. Davidheiser: So basically a section of decorative aluminum fence will keep people from walking into the drive through. It encourages stacking to happen.

Mr. Smith: Mr. Parrish do you have any comments at this point?

Mr. Parrish: No, not at this time. We will do our review and get a letter out to them.

Mr. Smith: I know that you do a review, but is there anything that we should be discussing with

them at this point?

Mr. Parrish: No, not at this point.

Mr. Smith: Mr. Germain?

Mr. Germain: No, it is pretty straight forward. It is an approved use.

Mr. Smith asked Board members for their comments.

Mr. Ruscitto: I like the idea of the fence. You said fence and gate?

Mr. Davidheiser: It is not a gate, Mr. Delbiondo misspoke.

Mr. Ruscitto: I am glad that you are putting it there. I was wondering if it could come out a little further into the driveway. People always try to take short cuts. I would hate to see someone step right out into a car coming around the corner. Is that walkway six feet?

Mr. Davidheiser: It is. It is curved too, so it is raised. So if you were to extend the fence into the parking stall it would be awkward stepping down. Not to mention that there is actually a parking stall right in front of it too.

This is a parking stall. This is striped right now. I would worry if we extended this fence straight out because you might encourage cars clipping it. I would think that with the fence and the curve right here, plus the fact that there is a bollard on the corner and bollards over here, I think that at least gives a car coming this way some warning. I don't think that people are going to stack out here. They are going to have to stack in this area.

Mr. Smith: Is there any possibility of putting maybe one those concrete things in the triangle, like a bollard?

Mr. Honors: In my opinion, I think that is something for a car to hit.

Mr. Del Biondo: One thing to keep in mind is the hours of operation for the drive through

window. It is open whenever the store is open. We truly expect that will be the lion's share of the business—between the drive through window and the walk up window. However, being a frozen dessert which is predominately the food that we would serve at this establishment and a franchise, the desire is to have a walk up window at each store. We expect to see business related to that.

Mr. Smith: There is about 30-40 of these already?

Mr. Del Biondo: Yes. I think that they just eclipsed 20 of these, predominately in Pennsylvania; reaching as far south as Florida. One opened up in South Carolina and two in New Jersey. We will be the first store in the entire state of New York for the Meadows.

Mr. Smith: They do have a website, if anyone would like to see the business. All of their stores are on it. It is a nice looking operation that has been around for quite a while.

Mr. Del Biondo: Including our store, they are projecting to open up eight more in 2014.

Mrs. May: Driving up to the drive-in window once you pull away from there you make a left to go around the back of the building or someone will try to make a right turn to go west down Route 31.

Mr. Davidheiser clarified. The drive through window is here. When you exit you are going to be going this way.

Mrs. May: Still to go around that way to the drive-in window, if someone is stacked in this opposite side of the building along the south side of the building, what provisions have you made for someone to pull out of the line that has an emergency?

Mr. Davidheiser: There is an ingress and egress curb cut right here, both in and out. The most cars that you would stack here is two. So even if you are second in line before you hit the end of this proposed new curb, you can immediately take a right out of here and out onto Route 31 in either direction.

Mr. Smith: Chief Snell is looking at the records. The feeling was most of our accidents occurred

right here. Most of those accidents were because people parked in this area. For the line of sight, we have to get people to stop parking in that area. It is a tough site. That should make it safer. Those were the Chief's comments also. It is the best that we can do.

Mr. Marzullo: What does the menu consist of?

Mr. Del Biondo: Predominately it is frozen custard, which is something new not only to Cicero but really the area. We do have non-fat and sugar-free frozen yogurt. And we have Italian ice which is more towards the gelato.

Mr. Marzullo: What are the hours of operation?

Mr. Del Biondo: The hours of operation for the custard stand are 11 a.m. until 8 p.m. in what I would call the off season—which we are in now. The store will be open all year round. During the months of April through October it will be 11 a.m. through 10 p.m. As a supplement to the custard/frozen dessert business in Central New York we are looking to open up coffee sales only through the drive through from 5 a.m. until 11 each morning, Monday through Friday.

Mr. Smith: You can't get coffee later in the day?

Mr. Del Biondo: Yes, but it will just be coffee sales in the morning at the drive through.

Mr. Marzullo: What is the prep time for an average order? I assume it is relatively quick.

Mr. Del Biondo: Relatively quick. The best way to explain this is it is hard ice cream served soft if you will. Although it does not come right out of the machine, the frozen yogurt comes right out of the machine. The custard goes through a custard machine and into a dipping cabinet. So it is actually served hard—scooped out. So for a response time it is within a minute, even when you are talking about the milk shakes which are comparable to the McFlurry type of thing. You use the same custard, flavor it with the flavor, put it in a mixer and out it goes.

Mr. Smith: Mr. Honors?

Mr. Honors: I don't have anything at this time.

Mr. Smith: You understand on your electronic board that there are some rules and regulations. You can get those from the Codes Office, but it can not change message less then every 15 seconds if I am not mistaken. No flashing and no disturbance to traffic. We ask everyone to agree that we can put Amber Alerts up if the Chief of Police should contact you and ask. We do that as part of all of the signs in the Town.

Mr. Del Biondo: Without question that is fine.

Mr. Smith: That brings up a point. Have we ever established, so that the Chief knows, that all of the signs that we have approved--he should actually have a list of contacts and phone numbers. You would not have any issues at all?

Mr. Del Biondo: Not at all.

Mr. Smith: It would be great to see that lit up again and opened. At this point the next step is Mr. Parrish will get out a letter. We will send this on to the County, because there is a State highway on one side and a County highway on the other. You will probably need work permits to take out that asphalt, correct Mr. Parrish?

Mr. Parrish: What they are showing is within the limits of property. They are not extending beyond that.

Mr. Smith: Okay. We have to get rid of some of the asphalt there. And you are going to clean up the landscaping that is there?

Mr. Del Biondo: Yes that will all be cleaned up as soon as spring shows up.

Mr. Smith: Can we send that down to the County? When should that be back?

The Clerk noted the next County meeting is January 29<sup>th</sup>. The application would need to be submitted by the 17<sup>th</sup>.

Mr. Smith: Mr. Parrish will you have any problems having your comments out by the first meeting in February?

Mr. Parrish: No, not at all.

Mr. Smith: Would anyone like to schedule a public hearing on this before we make a determination? There are not a lot of residences around it.

Board Members responded no.

Mr. Honors: It is an approved use and an improvement to that corner.

Mr. Smith: So we will set this down for a determination for the first meeting in February. We will have the County's referral back by then. Thank you.

Mr. Del Biondo and Mr. Davidheiser thanked the Board.

**SITE PLAN MODIFICATION, RAFFERTY CONSTRUCTION, INC., 5785 EAST CIRCLE DRIVE  
PROPOSED JIMMY JOHN'S RESTAURANT, IANUZI & ROMANS**

Representative: Hal Romans, Surveyor and Planner, Ianuzi & Romans

Mr. Smith: Just some back ground on this—during construction they have run into a little bit of difficulty. When they finally got the area around the top of the building off, it turns out that the joists stick out right from the side of the building. They are unhappy about that and will not be able to put brick around the top because the roof is part of it. Requiring them to do that would be a significant hardship on the applicant.

What they have proposed to do is to go to a metal, the same as it was, but it is going to be from a factory. The material is not painted, it has a baked on finish. They would make it black. They will have to mount the approved signs onto that.

However, because we did discuss it as a Board—we discussed putting brick all the way to the top—I wanted to bring it back so that everyone was aware of the change. Mr. Germain has prepared a resolution. To me it actually looks better.

Mr. Germain: The only issue here from that perspective was the original approval on this project has specific language in it about the brick and about the lighting. The Board had those things as contingencies to the approval. So to clean up they would present those issues that are going to be a deviation and they are going to ask for approval, just a modification approval, to include the changes that they encountered during the construction process.

Mr. Smith: Everything else is exactly the same. The Codes Office does have that.

Mr. Romans introduced himself. This picture shows what will be there. It gives the site a classier look than the straight brick that was going to go up. As noted by the Chairman, the steel comes right from the manufacturer. It has a baked on finish. It is not anything that will need to be painted or anything like that.

Mr. Smith: It would be a significant hardship to make the applicant rip the roof off of the building and do all of that. This picture should be marked as part of the file.

Mr. Germain: You are going to ask that it be marked as the new elevation or modified elevation. You would **move for the adoption of a resolution** approving the site plan modification application known as Rafferty Construction Inc., 5785 East Circle Drive for a proposed Jimmy John's Restaurant. This approval or modification is contingent on the revised elevation as presented by the applicant to the Planning Board. This modified application shall be incorporated by reference into the site plan and the Board's approval thereof. **Mr. Smith made a motion** as stated by Mr. Germain above. **Mrs. May seconded the motion.** Mr. Smith called a vote.

*Ayes: 5      Opposed: 0      Abstained: 0*                      **approved unanimously**

Mr. Romans: Thank you very much.

**ELECTRONIC SIGNAGE, MCDONALD'S, 7893 BREWERTON ROAD**

No representatives.

Mr. Smith: Is there anyone here representing McDonald's. They received notice a little late. Should we just table it?

Mr. Germain: You don't have to table it. You could just bring it up at the next meeting. You can just reschedule.

Mr. Smith: We will move it to the next agenda. Make sure we give them a call. Does anyone have any other information, any comments? Our next regularly scheduled meeting will be the 27<sup>th</sup> starting at 6:30 p.m.

**Mrs. May made a motion to adjourn. Mr. Smith 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 7:15 P.M.

Submitted by,  
Tonia Mosley, Planning Board Clerk