



The Planning Board of the Town of Cicero held a meeting on **Monday, May 23, 2016** at **6:30 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- ❖ Pledge of Allegiance
- ❖ Approval of Minutes from the May 9, 2016 Meeting (**Approved**)
- ❖ Site Plan, Peter N. Talev, 8033 Brewerton Road, Proposed additional parking and drive, Ianuzi & Romans (**To Return**)
- ❖ Major Subdivision Final Plan, T&L Companies, LLC, Cicero Center Road (Tax Map No. 080.1-14-03.2), 12 Lots, Tom Woznica/Ianuzi & Romans (**Approved**)
- ❖ Site Plan, Mid Country Properties, LLC, 9206 Brewerton Road, Proposed building and additional parking, Ianuzi & Romans (**To Return**)
- ❖ Site Plan, Sketch Review, Approach Associates, Stewart Drive West (Tax Map No. 057.-02-29.3), Proposed building, C&S Engineers, Inc. (**To Return**)

Board Members Present: Bob Smith (Chairman), Mark Marzullo, Greg Card (Ad Hoc), Joe Ruscitto and Chuck Abbey.

Others Present: Neil Germain, Planning Board Attorney, Mark Parrish, Planning Board Engineer and Richard Hooper, Codes Enforcement.

Chairman Smith opened the meeting by noting the locations of the three emergency exits, asked that all cell phones be silenced and noted if anyone had difficulty hearing the proceedings please bring it to the Clerk's attention so the audio system could be adjusted.

Mr. Ruscitto led the Pledge of Allegiance.

Chairman notes: The agendas are going to be full for the summer months and he asked the Board to advise if anyone will be taking vacation in July or August.

Zoning has started. The Town Board is going to continue to hold their public meetings and are moving forward. I would like to set a public hearing for the Planning Board. They asked us to conduct some hearing. Our next meeting is June 13th. I would like to carve out some time to go over what is being done. I would like a resolution to do a public hearing, have it published, so that there is plenty of opportunity for the residents to come in.

Regarding the apartments behind the Cicero Post Office, they have met with the Town. They are almost to the point where they are going to put in the sidewalks and repave the road. We were concerned that it might expire but it should be wrapped up by the end of the summer.



Approval of Minutes of May 9, 2016 Meeting:

Mr. Card made a motion to approve the Planning Board Minutes from May 9, 2016. **Mr. Abbey seconded the motion.** The Chairman called a vote.

In favor: 4 Opposed: 0 Abstained: 1 Motion approved

**SITE PLAN
PETER N. TALEV
8033 BREWERTON ROAD
PROPOSED ADDITIONAL PARKING AND DRIVE
IANZU & ROMANS**

The applicant asked to be moved to the next meeting. He is still working on the snow and storm water approval.

**MAJOR SUBDIVISION FINAL PLAN
T&L COMPANIES, LLC
CICERO CENTER ROAD (Tax Map No. 080.1-14-03.2)
12 LOTS
TOM WOZNICA/IANUZI & ROMANS**

Tim Coyer, Ianuzi & Romans, Representative

The Chairman made the following statement for the record concerning the proposed matter:

This Board recognizes that this subdivision was initially approved before the Town of Cicero enacted legislation promulgating the new and current road standards. I have reviewed the matter with the Planning Board's counsel and have confirmed that nothing in the legislation enacting the current road standards prohibits this board from approving the Final Plan with roads built to the standards that were in existence when the project was initially approved. In other words this Planning Board has the option of approving the road built to the then existing standards or requiring that it be built to the new standards. Either option is perfectly acceptable from a legal perspective.

It has come to the attention of the Planning Board that the previous Town Board had given the Applicant the indication that the roads in this project could be built to the previous standard. That they would be considered to be grandfathered in based on the fact that the project was initiated under the old standards. The Applicant could claim that they relied on the previous Town Board's assurance and constructed the road to the old standard. I have been informed by counsel that this may form the basis of detrimental reliance and may allow the applicant to claim the right to construct the road in accordance with the previously existing road standards.



Chairman Smith: Mr. Parrish, does the cross section that is in front of the Board accurately reflect what has been installed?

Mr. Parrish: Yes, it does.

Chairman Smith: We have written verification that the road was acceptable. The Planning Board can say we are not going to approve it because it is not in compliance with the new standards. Given the fact that there are 12 lots, houses have already been sold. That will put the Town in a difficult situation because the remedy is that you take the road out. It was inspected. Mr. Parrish says it has been constructed according to the plan in front of us. The only remedy is to tear the road out.

Mr. Germain: The legal doctrine is referred to as detrimental reliance. The applicant was given the indication from the previous Town Board that the old road standard was acceptable. Once the Town told the applicant that this was an acceptable way to construct the road, the applicant relied on this. The applicant may have a cause of action against the Town. Of course, the Planning Board does have the final say in approval. The previous Town Board did tell the applicant that it was ok to build in the manner that it was constructed.

Chairman Smith: At the next Town Board meeting, there will be a new policy that the Town Board will no longer take infrastructure, roads, etc unless there is formal approval by the Planning Board. There was significant controversy. The current Town Board would not have approved it.

Mr. Germain: This is a unique circumstance. The project began under the old standards. At some point the standards changed. It was left to be determined whether the project was grandfathered or not. The issue here is that the Town Board already told the applicant that the way that they built the road was ok. Once they did that, the applicant relied on the information given to them and commenced building to the old standard. Forcing the applicant to reconfigure the roads to the new standards could subject the Town to liability because the applicant would have relied on the information provided by the Town to their detriment in building to the old standard.

Chairman Smith: The applicant is aware that all future roads must comply with the new standards. This comes from the Town Supervisor, the Town Engineer and myself. It is in writing that the new roads must be in compliance with the new standards. It is built with the new drainage system. It is built in accordance with the standard that we have in front of us. Pavement is according to the old standards. In the future, all contract drawings will have to be submitted to the Planning Board so that we can ensure that the road standards are being built in accordance. In the past, this went to the Town Board. It will now come to us.

Chairman Smith asked Mr. Germain to construct a motion for the adoption as lead agency.



Mr. Germain: You are to move for the adoption of a resolution that the Planning Board of the Town of Cicero assume the role of Lead Agency pursuant to the New York State Environmental Quality Review Act.

Chairman Smith put this in the form of a motion. Mr. Marzullo seconded the Motion. The Chairman called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

Mr. Ruscitto read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines based upon the applicant's completed environmental assessment, the information presented by the applicant, the information contained in the Planning Board's Engineer's Review Letter, the information contained in the Onondaga County Planning Board's referral, if any, the Planning Board's personal knowledge of the Site, and all other information presented and proceedings had herein 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. Further the Planning Board Chairman is authorized to complete environmental assessment form in accordance with the findings and proceeding had herein.

That is in the form of a motion. Seconded by Mr. Card.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

Chairman Smith asked Mr. Germain to construct a resolution approving the site plan.

Mr. Germain: You are going to move for the adoption of a resolution approving the Major Subdivision Final Plan known as T&L Companies, LLC, Cicero Center Road (Tax Map #080.1.-14-03.2), 12 Lots, said plan last dated 3/30/2016 with road profiles dated May 18, 2016.

1. The applicant is hereby advised that Pursuant to Section 185-6 Subsection F of the code the applicant has 90 days from approval to file the map. If the applicant missed the 90 day filing deadline this approval will have expired.
2. The Planning Board notes that the applicant has been required to regrade and vegetate 300-ft of swale between Lot's 6 and 11 to provide required slope. Accordingly this approval shall not be effective until such time as these 2 items have been completed. The codes office shall not issue any permits, other than those that may be necessary to perform this work, or approvals of any sort until such time as this work has been completed.
3. Park Fees are hereby set at \$5,700.00 or \$475.00 per Lot and are payable pursuant to town code and as a condition of this approval.



4. The applicant is further notified that the Chairman of the Planning Board may delay signing of the final plan until the chairman verifies that the applicant has executed any and all necessary agreements with the Town and that all security or undertakings are in place.

Chairman Smith put this in the form of a motion. Seconded by Mr. Ruscitto.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**SITE PLAN
MID-COUNTRY PROPERTIES, LLC
9206 BREWERTON ROAD
PROPOSED BUILDING AND ADDITIONAL PARKING
IANUZI & ROMANS**

Tim Coyer, Ianuzi & Romans, Representative
Joseph Panebianco, Applicant
Bud Pekoy, Applicant

Mr. Coyer: The last time I was here, I provided the plan on what had not been done, what we wanted to have done, etc. This plan proposes what they want to do only. One of the main things is we added the trees. We took off the originally proposed asphalt. Going to stay gravel. We added the display area in the front. We added a note that the boom lifts will not be over 20 feet in height. We understand that the Certificate of Occupancy will not be granted if we do not conform exactly to our proposed site plan. The applicant is aware that the current lights are not acceptable and he will be removing them.

Chairman Smith: We will need the cut sheets for the new ones you are putting in. It looks good from Route 81 now.

Mr. Coyer: we do not have the cut sheets yet. He is going to provide those to Mr. Hooper and Mr. Parrish prior to purchasing them.

Chairman Smith: So the cut sheets will be approved by the engineer.

Mr. Coyer: The existing wall packed on the building were installed improperly. They are getting fixed so they comply.

Chairman Smith: The lighting must be approved by our engineer as a condition. The lighting is going to continue out onto Route 81. They cannot have it shining out onto Route 81.

Mr. Coyer: His is shielding the lights on the building. The light standards are going to be replaced with something that is approved.



Mr. Hooper: On the lighting package, the large LED flood light, where is that being proposed?

Mr. Coyer: That is the existing light out there now. Those are being removed. We are going to provide new cut sheets for what is going to be installed.

Chairman Smith: The overall lighting will be approved by Mr. Parrish in accordance before the Certificate of Occupancy is issued and he will give us letter approving the lighting.

Mr. Coyer: We have the approval for the lot line adjustment.

Chairman Smith: Let's discuss the asphalt and gravel.

Mr. Coyer: The dark shaded area is what exists today. This area here is gravel. This is also existing. That is going to stay. We are proposing new asphalt in front of the existing building. New asphalt is proposed for in front of the new building. All the gravel is going to stay where it is today.

Chairman Smith: If the booms are up, they will be within the 20 feet. Is that understood?

Mr. Coyer: Understood.

Mr. Panebianco: We have an existing sign. It is 10 x 15. It was already approved. We would like that to be LED.

Chairman Smith: Are you asking us to now put an LED sign on Route 11? We have certain requirements for LED.

Mr. Germain: I can run them down for you.

Mr. Marzullo: There are so many changes taking place. I want to understand how we got to this point and know that this is not going to happen again.

Mr. Pekoy: If we elect to get an LED sign, we do not want to have to go through this all again.

Chairman Smith: Whatever is on the site plan and is approved is what has to be built. It cannot vary or be different in any way. We want to get everything that you want on the plan so we can approve it for you. Whatever is on the site plan, Mr. Hooper has to enforce. If you put so many number of trees on your site plan, you have to plant exactly as many trees before the Certificate of Occupancy will be issued. If you are going to have a new sign, you have to have it approved exactly as is. No modifications. Mr. Hooper cannot approve. What Mr. Marzullo is trying to say is what you are asking us to approve is what you want built. It is what we agree to. If you decide that want to do a LED sign six months from now, you will have to come back in, apply for a site plan change and modify your site plan for approval. You should ask us for everything that you want now. Then that is the site plan.



Mr. Marzullo: Last time, you went back and constructed the facility, there were a lot of items that happened that were not part of the approval. I don't think we are ready to continue tonight.

Mr. Panebianco: Because we may want to add LED sign?

Mr. Coyer: Remember you had done some things that were not approved? The light cut sheets? We talked about this. You had some pavement instead of gravel? The fence?

Chairman Smith: Does the plan in front of us accurately reflect exactly what you want to do?

Mr. Panebianco: Yes.

Chairman Smith: Are there any other changes that are not reflected on this map? Any changes whatsoever?

Mr. Panebianco confirmed that the plan accurately reflects what he wants to do and confirms that he understands that he cannot change or modify the plan without coming back before the Board for approval of any site plan modifications.

Chairman Smith: If you want to have an LED sign, you must provide us with the exact dimensions. What part of the sign will be LED. Do you know?

Mr. Panebianco: No.

Mr. Pekoy: I am not sure how big the LED sign will be. I personally think we should table the sign if it delays the whole process.

Chairman Smith: You have two choices. You either come back in two weeks with the sign as part of the site plan or we continue on with what is on your site plan, exactly as it is. When you come back the second time, it will cost \$500.00 to amend the site plan. If you want to save \$500.00, you can come back next meeting.

Mr. Pekoy: One more question. You have it 24 feet in the air. Is that what we proposed? Can we do an eye level sign instead?

Chairman Smith: We like eye level signs, monument signs. We cannot approve a monument sign because you do not have it on your site plan now. Do you want to come back in two weeks or continue on now with the current sign as it?

Chairman notes for the Minutes: Whatever the applicant is proposing right now and is shown on the map right now is what we will be approving. This is what Mr. Hooper is going to enforce. It will cost \$350.00 per day for not adhering to your site plan. The Applicant stated that he understood this.

Mr. Marzullo: You did not adhere to the last site plan. That cannot happen again.



Mr. Pekoy: Going back to the fence, does the board understand that we were supposed to fence in the property? We have had an extreme amount of theft.

Chairman Smith: Whatever fence you want, you need to tell us. That is the fence that is going to be approved. You need to tell us what you want to put up for fencing.

Mr. Pekoy: Did someone complaint about our fence?

Chairman Smith: It does not require a complaint from anyone. What is approved is what has to be built.

Mr. Pekoy: I think that the lights are fine. We have \$5 million dollars worth of inventory. We are trying to protect our assets.

Mr. Germain: The proper way to deal with this is to state what lighting package you want. Show it on your plan. Get it approved. When you swap out the lights as opposed to what was shown on the plan, then you are not in compliance with the site plan. What exactly do you want to do? Put it on your plan. That is what we will be approving. Do not deviate from the plan.

Mr. Coyer: About the fencing. There is an existing chain link fence that goes around the site. This is shown as existing. That chain link fence was not on the original site plan. They did install it though. The chain link fence that was approved has not been installed. We are showing it now as being installed.

Chairman Smith: Do you plan on putting chain link fence between Route 81 and your display?

Mr. Pekoy: No. We would tie into the existing state fence.

Mr. Parrish: They are going to revise the site plan to show what fence they are going to construct.

The Board, Mr. Parrish and the applicants had a lengthy and involved discussion about the fencing. The applicant understands that he must show exactly what fencing he wants on his site plan. This is the fencing that will be approved.

Mr. Parrish: Storm water is all set.

Chairman Smith: What about the new building?

Mr. Coyer: We are proposing a 12,000 square foot building. 5600 of which is for the applicant's private storage. The remaining in front will be leased with parking are in back. We show overhead doors on the north side.

Chairman Smith: Will the building be keeping with the building that already exists?

Mr. Coyer: yes. It will match the existing building.



Mr. Card: The remaining 6400 will be leased out?

Mr. Panebianco: We outgrew our initial building. We are putting up the second building. We are going to keep the back 5600 square feet for us. The other is going to be up for lease but we will probably end up using the whole building in the future.

Mr. Card: It must be an approved use. If you anticipate on leasing that space out, it must be an approved use.

Mr. Panebianco: We are confident that once the building is up, we will have a lease.

Mr. Card discussed the existing sign about the extra panels.

Mr. Card: The proposed display area is in the setback between the road and the 50 foot setback. Is that acceptable?

Parrish: I don't think that anything prohibits that. New septic must be approved by the county
Applicant has agreed to return for the next meeting.

**SITE PLAN
SKETCH REVIEW
APPROACH ASSOCIATES
STEWART DRIVE WEST (Tax Map No. 057.-02-29.3)
PROPOSED BUILDING
C&S ENGINEERS, INC.**

Mark Chambers, Representative C&S Engineers

Mr. Chambers: C&S Companies would like to relocate their construction out to Hancock Airpark. They are proposing a 25,000 square foot main building, shop area and office space. This will include file storage as well. The site would have two accesses on Stewart Drive. One toward the William Barry side for deliveries, construction equipment, etc. with a proposed loading dock. The other access would be for employees, visitors, etc. We are looking at a metal building, face block on the bottom. Facing Stewart Drive, those are actual windows.

Chairman Smith: The south side appeal isn't as much of a concern for us as the Stewart Drive side. With our storm water issues, we would like to explore anything that works. This is a big building, a nice building but it will shed a lot of water.

Mr. Chambers: We are still working on that. As part of the pavement, we are proposing to have crushed stone in the back of the building instead of the paving as originally thought.

Mr. Marzullo: How many employees? How much traffic?



Mr. Chambers: Right now, there is just one person there all day. There are 2 ladies that run from the office to the archive area. There is a lot of equipment and a crane inside. We will have the crane unload for us.

Chairman Smith: The purpose of your building is to support your construction companies?

Mr. Chambers: Correct. We are going to be archiving plans here. Looking to store that inside this building.

Mr. Marzullo: Construction equipment and materials in warehouse?

Mr. Chambers: Yes, also tools. Outside we would have construction trailers for job sites. Steel for projects.

Chairman Smith: Is that adjacent to the airport?

Mr. Chambers: Yes. We will have the oil water separator. We already got the lighting on the site plan.

Chairman Smith: When do you want to start construction?

Mr. Chambers: Early fall.

Chairman Smith: You have to building in one year.

Mr. Chambers: Understood.

Chairman Smith: Do any members of the Board have anything additional? The Board did not have anything further.

Chairman Smith made a motion to adjourn. Mr. Abbey seconded the motion. The motion was approved unanimously.

Next Scheduled Regular Meeting: Monday, June 13, 2016 at 6:30 PM

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 8:06 pm.

Submitted by Lisa L. Stewart
Planning Board Clerk