

Olean Planning Board Meeting Minutes

Revised

Monday, February 11, 2019
Council Chambers
Olean Municipal Building

Attendance:

Chairman: Tom Barnes
Members: Chris Chapman
Mary Fay
Gabrielle Kyser
Mark Sabella
Jerry Steiner

Applicants: Amy Howard, Go To Meals, LLC

Staff: Keri Kerper, CD Program Coordinator
Kathleen Monroe, Sr. Account Clerk Typist

Other(s): None

1. Roll Call

Recognizing a quorum, Chairman Tom Barnes called the meeting to order at 7:02 p.m. and requested the roll call show all members present except Craig Polson.

2. Reading and approval of the January 14, 2019 public hearings & meeting minutes

A motion was made by Jerry Steiner, seconded by Mary Fay to approve the public hearing minutes for Luke Wenke (SP#06-18). Voice vote, ayes all. Motion carried.

A motion was made by Chris Chapman, seconded by Mark Sabella to approve the public hearing minutes for HK Olean Hotel, LLC (SP#01-19). Voice vote, ayes all. Motion carried.

A motion was made by Mary Fay, seconded by Chris Chapman to approve the January 28, 2019 meeting minutes. Voice vote, ayes all. Motion carried.

3. Old Business

Mr. Barnes referred to the HK Olean Hotel, LLC site plan Planning/Zoning Coordination Referral document advising of the Cattaraugus County Planning Board's response that the project would have no countywide or inter-community impact, therefore, the condition may be removed from the site plan approval.

4. New Business

**i. Go To Meals, LLC (SP#02-19)
801 West State Street**

Ms. Howard introduced herself to the Board and explained the applicant is proposing opening a retail storefront at the West State Street location for the sale of prepared meals. She advised the business is currently operating as a delivery service and is expanding into the retail market where customers have the option to stop and purchase the meals.

Mr. Barnes questioned if a kitchen area would be included in the plans, and Ms. Howard explained they currently rent kitchen space at the Beef 'n' Barrel on Sundays where the meals are prepared and packaged for delivery to customers throughout the week therefore they do not intend to include a kitchen at this time.

Ms. Howard explained they prepare, cook and package all of the meals only on Sundays when the Beef 'n' Barrel is closed, and then deliver them to their customers. She indicated, if approved is received by the Planning Board, they would transport the prepackaged meals to the storefront to sell in addition to delivery.

Ms. Howard indicated the business will operate at the West State Street location Monday through Friday. Mr. Barnes referred to the memorandum received from Code Enforcement Supervisor Jennings informing the Board two parking spaces are required and the property includes two spaces of off street parking in front of the building. He noted handicap accessible spaces are not provided; however, there is room to add an unloading space alongside the two parking spaces available. Ms. Howard noted the site also includes a driveway for customer parking. Mr. Barnes indicated per the memorandum from Code Enforcement, the greenspace is sufficient, drainage is adequate, the means of egress and ingress are appropriate and a dumpster area will not be provided.

There was discussion regarding exterior lighting for the project, and Ms. Kerper advised it is her understanding two pendants lights are planned for the façade of the building which would be placed on either side of the proposed sign. She indicated she would follow up on the style of the lighting or the applicant could prior to the next meeting. Mr. Barnes suggested the applicant work with Code Enforcement to ensure the exterior signage is Code compliant.

Mr. Barnes questioned if meals will be reheated. Ms. Howard advised meals would not be warmed or reheated. She noted the meals are delivered or would be sold cold right out of the refrigeration units. She indicated the prepped and packaged meals would be transported from the prep site to the storefront in coolers to ensure the meals are kept at the required temperature, and then promptly transferred into one of the three refrigeration units to be installed at the West State Street location.

Mr. Barnes asked if the applicant has been in contact with the County Health Department concerning permitting. Ms. Howard advised they contacted the County Health Department and were directed to New York State Agriculture & Markets (NYS AM) from which the business was issued a permit to prepare and package the meals. She further explained the business does not plan to sell any items other than refrigerated foods at this time. Mr. Barnes suggested the applicant follow up with the NYS AM Division of Food Inspection and Safety to ensure the permits apply to the expansion of the business into retail sales.

Mr. Barnes explained the recommendation to contact the NYS AM Division of Food Inspection and Safety is a general recommendation to prevent obstacles, and advised the Planning Board's role is to enforce the City Zoning Ordinance. He noted the New York State Food Code does not fall under the purview of the Planning Board.

Mr. Barnes indicated he saw work has begun to construct an exterior deck on the front of the building. He noted State Building Code does not require the applicant to renovate the preexisting building to become handicap accessible, and suggested the applicant may wish to consider adding a handicap ramp for greater access to the business.

Ms. Kerper advised Code Enforcement can't force the applicant to make the space ADA compliant if the plans do not include renovating more than 50% of an existing building. She explained Code Enforcement Officials advised that there is enough room to keep the deck as is and add a ramp to the side if the applicant chooses to do so. Ms. Kerper noted she will follow up with Code Enforcement to confirm the location of the handicap ramp that could be constructed.

Ms. Fay suggested the applicant change the wording on the site plan and zoning permit to exclude the word "prep".

After brief discussion, Mr. Barnes suggested adding a condition that no on-site commercial kitchen activities or meal preparation occur at the site regarding the use of the building. He indicated that would ensure the building is used only for what it is currently being proposed. Mr. Barnes advised in the future if a kitchen is proposed then the applicant would be required to appear before the Board for review and approval.

Mr. Barnes noted the site lies on a State controlled highway, and questioned if it would trigger County Planning Board review or if it would fall under the Memorandum of Understanding with the County. Ms. Kerper explained it is intended this site plan would be the first to fall under the Memorandum of Understanding with the County Planning Board concerning site plan referrals.

A motion to declare the Planning Board Lead Agency for an uncoordinated NYSEQRA review was made by Mark Sabella, seconded by Chris Chapman. Voice vote, ayes all. Motion carried.

The Planning Board reviewed Parts I & II of the Short Environmental Assessment Form prepared for the project and made the following changes to Part I: question 1. change to “no”; question 2. Mr. Barnes noted the question is answered yes; however, no agency is listed. He suggested listing the Cattaraugus County Health Department; question 4. add “Urban”; question 5b. change to “Yes”; Mr. Barnes stated the applicant utilized the Environmental Assessment Form Mapper online system which automatically populates some areas of the form with NYS Department of Environmental Conservation information upon entering a specific area or parcel number. Ms. Fay questioned what percentage of the meals would be delivered. Ms. Howard replied it is hard to predict before the storefront is opened; however, she would estimate half or more of the meals are expected to be delivered and the business will continue to be mainly focused on a delivery meal service. Mr. Barnes questioned the amount of delivery vehicles going to and from the location, and Ms. Howard explained the truck will deliver multiple meals at a time thus cutting down on additional traffic; question 13b. mark “no”; question 14. add “Urban and Suburban”. No changes were made to Part II. After brief discussion, a motion indicating that the Planning Board made a finding that the project would have no significant impacts, and that the Planning Board therefore issues a Negative Declaration for (SP#02-19), was made by Jerry Steiner seconded by Mary Fay. Voice vote, ayes all. Motion carried.

A motion to certify the application complete was made by Jerry Steiner, seconded by Mark Sabella. Voice vote, ayes all. Motion carried.

A motion was made by Chris Chapman, seconded by Mary Fay to set the public hearing for Monday, February 25, 2019 at 7:00 p.m. Voice vote, ayes all. Motion carried.

Mr. Barnes explained the public hearing process to the applicant and advised the materials would be available from Community Development on Wednesday morning. He thanked the applicant for investing in the City of Olean. For additional discussion, please see page 5.

5. Miscellaneous

Mr. Barnes explained he has received a complaint from a resident on North Eighth Street regarding smoke and odor on a previously approved site plan for McNamara’s Chicken Barbeque located at 904 West State Street. He explained the constituent has stated she suffers from multiple health issues including congestive heart failure and the smoke from the Barbeque pit irritates her respiratory condition.

Mr. Barnes explained that during the August 16, 2010 Planning Board meeting, Mr. McNamara advised he would cook the chicken off-site and transport it to the West State Street location if the smoke from the cooker became a nuisance to the area residents. The County Health Department agreed the chicken may be cooked off site and advised the applicant would be required to be in compliance with cooking and transporting the chicken as well as reheating at the West State Street location.

Ms. Kerper explained Code Enforcement Supervisor Jennings advised he is writing a letter to the applicant advising of the noncompliance issues relating to parking requirements, the proximity of the cooker to the sidewalk and the smoke complaints along with a reminder that the applicant previously advised prior to approval that he is willing to cook off-site and transport the chicken to the sales location. She advised she had a conversation with Eric Wohlers from the Cattaraugus County Health Department, and he has provided information for Code Enforcement Supervisor Jennings to relay to the applicant on the proper permitting and transporting process.

Mr. Barnes explained the Planning Board has no enforcement capacity and when communications or complaints are received from the public they are promptly referred by staff back to Code Enforcement Officials for review and/or enforcement.

Ms. Kerper explained the first approval of the site plan at the location was in 2008 to sell hotdogs and scooters with a second approval in 2010 to alter the permit from hotdogs to chicken and add fruits and vegetables. She noted the applicant at one point proposed dog washing but the addition never came to fruition. Ms. Kerper advised she will update the Board and forward a copy of the compliance letter from Code Enforcement.

Ms. Kerper indicated the resident attended a recent Common Council meeting and during the public comment section expressed her concerns be addressed prior to the barbeque season beginning. Ms. Kerper noted multiple other residents have voiced their concerns regarding the issues outlined at that location.

Ms. Kerper explained the lack of police enforcement has been raised as an issue in the area due to drivers exiting the car wash and blocking traffic along with resident's driveways as customers are stopped in the road to purchase goods. She stated the applicant often uses required parking spaces as an area to setup and sell goods. Mr. Barnes commented the business is currently using some of the required parking to house a dumpster.

Mr. Barnes explained due to potential issues that could be parallel the compliance issues and complaints concerning the location, the Board is conducting a thorough review of the Go To Meals, LLC site plan application to avoid future issues on the project.

Ms. Kyser questioned the purpose of the deck being constructed on the front of Go To Meals building. Ms. Kerper explained the building location is unique in how the parcel is carved out and that it may not trigger certain actions. She further explained the owner of the property owns six to eight feet in front of the building which extends further into the subway and is known as a nonconforming building. Mr. Barnes advised the deck currently being constructed is not wide enough to allow seating; however, the applicant may in the future choose to expand the deck for customer seating and would be required to appear before the Board for a change in use from a commercial operation to a restaurant.

Mr. Barnes asked if there was an update on the Forest Hills Subdivision, and Ms. Kerper stated there is no update at this time.

6. Next Meeting Date

The next Planning Board meeting has been scheduled for Monday, February 25, 2019 at 7:00 p.m.

7. Adjournment

A motion to adjourn was made by Mark Sabella, seconded by Mary Fay. Voice vote, ayes all. Motion carried. The meeting ended at approximately 7:55 p.m.