

JOINT TOWN AND VILLAGE PLANNING BOARD MINUTES

November 20th, 2024 at 6:30 PM | 103 Main Street, Mount Morris, NY 14510

Present: Jim Patrick, Planning Board Chairman; Phil Race, Planning Board Member; Larry Woodworth, Planning Board Member; Joel Clester, Planning Board Member; Brianna Rawleigh, Planning Board Member

Others Present: Chelsey Woodworth, Town Clerk; Mark Mulliken, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilmember; Kevin Fahey, Zoning Board of Appeals Chairman; Robert Ossont; Brenda DiSalvo; Dean Smith; Wilma Smith; Ken Steen; Dominic Leone; Pete DiSalvo; George Bellanca; Michael O'Dell; Ivan Johnson; Christina Kemp; Steve Morrison; Kitt Ceronie; Steve Soto; Donna Palermo-Guido; Joseph Guido; Eric Hyde

Excused: Planning Board Secretary, Kaylee Leone

CALL TO ORDER REVIEW OF MINUTES

Meeting Called to order at 6:31 PM by Chairman Jim Patrick. Pledge of allegiance led by Chairman Jim Patrick.

Chairman Patrick said that he would have the board introduce themselves. He introduced himself and then said that he would like to welcome new Planning Board Member Brianna Rawleigh. Brianna Rawleigh introduced herself, then remaining board members Phil Race, Joel Clester and Larry Woodworth introduced themselves. Code enforcement Officer Mark Milliken introduced himself and Town Clerk Chelsey Woodworth introduced herself and advised that she was filling in for Planning Secretary Leone while she was out of town.

Chairman Patrick said that there were no meeting minutes in his board packet and asked Clerk Woodworth about the meeting minutes. Clerk Woodworth advised that Secretary Leone had made the board packets prior to her leaving and she would not be able to obtain the meeting minutes if they were not provided as they are on Secretary Leone's laptop. Since Secretary Leone was excused from this meeting the board said they would review the minutes at the next scheduled meeting.

PUBLIC HEARING- SPECIAL USE PERMIT- 126 CHAPEL STREET- MT MORRIS FIRE AND RESCUE

Chairman Patrick advised that this would be the continuation of the Public Hearing for The Special Use Permit received by Mount Morris Fire and Rescue for 126 Chapel Street. He said that the public hearing was left open so that the proper notifications could be sent by mail to property owners within 500 ft of the proposed development.

Chairman Patrick went on to say that comments would only be open to property owners that received notification through mail.

Chairman Patrick then asked applicant Dominic Leone to explain what they are proposing for this building. Dominic Leone said that the fireman are trying to build this building so that they can have a training area for their firefighters. They would like to also be ADA accessible as where they currently are is not. They would also like to use it for a warming center in case of evacuation. They also plan to use it for their meetings like department and committee meetings. Someone asked how often these meetings would be taking place. He said that they have a department dinner once a year and the County and Fire Chiefs Association has dinners once a year. He went on to say that they might allow a member to use it for a baby shower or for an after funeral gathering. He said that they were told to put

down all of the uses they could possibly use it for when they filled out their application, so they would be covered if they decided to use it for something else in the future.

Donna Palermo Guido asked what the square footage is. Chairman Patrick said approximately 4000 sq ft. Donna Palermo Guido said that the road is going in very nicely and would like to know if the building is going to be towards the back of the property.

Dominic Leone answered that the building would be on the back portion of the property. She asked if they will be entering and exiting Chapel Street, and he said yes. She said she doesn't think it is wide enough for both an entry and exit. He said that it will be wider when it is done. She said that you mentioned funerals for members, would you open that to other people. He said no, most likely not. This is more for firefighters and their families. She asked what the building would cost. Dominic sighed and said a lot of money. She asked if the Fireman had the money to build it. Bob Ossont said this isn't taxpayer money. Dominic Leone also said the same thing and said the money comes from fundraisers and added that money also came from John Osika.

Chairman Patrick said he wanted to make it clear that this is not for the firehall. Donna Palermo-Guido asked where that Firehall will be located. Dominic Leone said that it will be located in front of the property.

Joe Rawleigh said that he had a question. Chairman Patrick said that he was not able to speak as he spoke last time, and he was not one of the property owners to receive a notice in the mail. Joe Rawleigh said that he didn't speak last time, and he did receive a notice through the mail. Mr. Rawleigh asked if the property is to change hands will the special use go with the property. Mark Mulliken Village Code Officer said that if the property is sold the new owner will have to reapply for a new permit if the use differs from what is listed. Joe Rawleigh said so in theory someone could buy this property and turn it into an event center because that is one of the specified uses. CEO Mulliken said that it would have to be listed in the provision in order for them to use it. Mr. Rawleigh said this is listed as a use in the application so it could be transferred over. Donna Palermo-Guido said it could be written up in the deed to say that it wouldn't transfer over. Chairman Patrick said not necessarily in the deed, but it could be conditioned. Mr. Rawleigh said he is just asking because if something were to happen, he is a neighbor and he would be concerned.

Chairman Patrick asked Kevin Fahey if he had anything else to add. Chairman Patrick said I know that you already spoke at the last meeting. Mr. Fahey said he would just like to make sure that the county advisory opinion is entered into the minutes. Chairman Patrick asked Clerk Woodworth to please make sure these comments were entered into the minutes.

See County Letter:

October 11, 2024

Mark Mullikin
117 Main Street
Mount Morris, NY 14510

Re: Zoning Referral #2024-080, Village of Mount Morris, Special Use Permit and Site Plan Review for a Social Hall and Event Space at 126 Chapel Street (Applicant: Mt. Morris Fire & Rescue)

Dear Mr. Mullikin:

The Livingston County Planning Board, at its regular meeting on October 10, 2024, reviewed the zoning referral from the Village of Mount Morris of the above mentioned pursuant to Sections 239-1 and m of the General Municipal Law of the State of New York.

The County Planning Board has taken no official action on this application due to a lack of a quorum vote. A response of "No Action" on the part of the County Planning Board should not be construed as a judgment on the project. The Village is now free to take final action on this application.

The County Planning Department would like to forward the following informal advisory comments:

1. The regulations of Village Law § 7-706 apply to this proposal because this proposal involves lands that are within 500 feet of the Town of Mount Morris boundary. The Village should ensure all the necessary notifications are completed at least ten days prior to the public hearing, as required.
2. If not done already, the Applicant should provide the Site Plan to the Village Engineer and the New York State Department of Transportation for their review and approval, noting any future intended uses for review.
3. According to the Natural Resources Inventory, the property under review is located within 300 feet of a Federal wetland northwest of the proposed. The Village should take this into consideration when reviewing development on this property.
4. If not done already, the Village should complete the SEQR process before final action is taken.

5. Because prohibited uses are classified as specially permitted uses in the Village of Mount Morris zoning regulations, the Village zoning regulations are in conflict with New York State Village Law, as described below:
 - a. According to NYS Village Law 7-725-b: "Definition of special use permit. As used in this section the term "special use permit" shall mean an authorization of a particular land use which is permitted in a zoning local law, subject to requirements imposed by such local law to assure that the proposed use is in harmony with such local law and will not adversely affect the neighborhood if such requirements are met."
 - b. According to NYS Village Law 7-712 1. (a): ""Use variance" shall mean the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations."
 - c. Further, according to Village Law 7-712-b.2. (b): "No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. . ."

The Village of Mount Morris Zoning Code does not have a definition for "Use Variance," instead substituting "Special Use" as a catch-all term. This is inconsistent with New York State Village Law, and the Village of Mount Morris Code has no provision to supersede NYS Village Law. This could become an issue for the Village if there were challenges to the Village zoning regulations in an Article 78 proceeding. The Village Board may wish to consult the Village Attorney and/or the NYS Department of State for further assessment and options for resolution.

6. If not done already, and if the Village wishes to approve the proposed, the Village should require the Applicant to secure a cross-access easement from Chapel Street through the adjacent south-eastern parcel as a condition of approval.
7. Article VII §221-62 of the Village of Mount Morris Code requires that all vehicles in the Village to be parked in designated paved or stone driveways; parking on lawns or other unimproved areas is not permitted. Given the social hall has a proposed future use as event space, proposed parking spaces depicted on the site plan may not adequately cover all future parking needs.
8. The Board noted that the Engineering Response letter did not seem to address several areas of concern. They advised that if not done already, the Applicant should meet the concerns set forth in the MRB letter to the satisfaction of the Village Engineer.
9. The Board noted that the Village's Use Variance/Special Use Permit inconsistency is an ongoing issue, as a similar advisory comment was made on previous zoning referral #2013-030. The Board urged the Village to take steps to remedy the inconsistency.

Thank you for submitting the proposed for County Planning Board review. If you have any questions regarding this referral, please do not hesitate to call me or Deputy Planning Director Heather Ferrero at 243-7550.

Sincerely,



Ted Griswold
Planner

cc: John Van Heusen, Chairman, Livingston County Planning Board
Kevin Fahey, Village of Mount Morris representative, Livingston County Planning Board

Chairman Patrick said just so everyone knows the County did also mention in their comments that the Village code is not up to where it should be, and it needs to be changed. Joe Rawleigh said their comments also state that you could enter into litigation because of it. Chairman Patrick said that is correct that they have to go with the way the code is written they can't arbitrarily change them. They had the same issue with the Special Use Permit for Auto Sales on Case Street. They applied for a Special Permit there and it doesn't really fit up there. Chairman Patrick said it's a problem and it really needs to change.

Chairman Patrick asked for anymore comments from the public. There being no further comments he closed public hearing at 6:48 PM

PLANNING BOARD DISCUSSION

Chairman Patrick said they would move on to board discussion and then the SEQR. Brianna Rawleigh, the new member of the Planning Board advised that she had some questions before moving forward into the SEQR.

Brianna Rawleigh said I am sure you all have copies of these, and I would like to start with the Short environmental Assessment Form. Chairman Patrick advised her that he would be going through the whole application before they proceed. She said she is aware of that, but she has specific questions that she would like answered before determining her vote. She asked him if he would like her to wait and he said no that is fine.

She went onto say that on this form Question # 6 says: Is the proposed action consistent with the predominant character of the existing built or natural landscape? She said that they indicated yes. So currently that's vacant land in a residential area. She said based on your proposal I would like to know how that is consistent with the current character of the area of the village. Bob Ossont asked if she could let him know what she is specifically asking. She said the property is currently vacant land in residential and you're proposing to put up per your application a social building. Bob Ossont said it's a social training building. She said how does that fit into the character of the residential area its in. He said its not inconsistent with it. She said the character of this building is vastly different than a single family residential. He said no its not. Chairman Patrick said okay, we are going to go through all of this and just so you know we did accept that from them. Board member Rawleigh said okay, that's fine. She said okay as we are going through the voting we should hash through some of these things. Donna Palermo- Guido asked how it is zoned. Chairman Patrick so no, the public hearing is over this is for us to ask questions.

Per question #8 You had indicated that the proposed action would not result in a substantial increase in traffic above present levels. She said I know that the DOT study has been referenced several times, but she wants to clarify that the DOT study was from the original Firehall plans from back in 2007. She said I am correct in saying there has not been a current DOT study. Mark Mulliken said you are correct they didn't do another full scale study. Board member Rawleigh said we do not have a current study of the traffic patterns for the proposal. Bob Ossont said we do not, but the patterns haven't changed. Board member Rawleigh said how can you say that the patterns haven't changed because the composition of our county has changed over the course of years. Bob Ossont said I don't understand that statement the land hasn't changed. She said the land hasn't changed but the amount of people in our county has changed. Dominic Leone said that he has lived on Chapel Street for a few years and the traffic is the same.

Question #13 She said its asking about wetlands which has been indicated as no. She addressed the Chairman and said I know that you said the board has approved this but if

you look there are Federal wetlands within 300 feet of this property. She asked how that impacts the land use and the wetlands and what needs to be done to mitigate any issues. Chairman Patrick said that based on what they heard from the Village Engineer they didn't have an issue with the wetlands and to keep it in mind when they make their decision. Board member Rawleigh asked that with this being a federal wetland and not a state wetland are there any additional groups that they would need to get in contact with before they make an approval. Chairman Patrick said not that he is aware of. They rely on their engineer to guide them on that along with the applicants engineer.

Board member Rawleigh said she would like to come to an understanding of the hours of use. Dominic Leone said that sometimes people have department meetings and people go ahead and cook. They would rather put more hours just so that they are not in violation of the hours they are using it. Chairman Patrick said that was originally not part of their application. This board requested it. Board member Rawleigh said she is just trying to understand how they came up with the hours. Dominic Leone said that they went off of how long their meetings usually go and added a little extra time to make sure they didn't violate anything.

She asked if they would have someone internally who would be in charge of the rentals. Bob Ossont said that they have a board of directors, and this will have to go before it.

Board member Rawleigh said that she would like to move on to the Geotechnical Engineering Report. She said that she went through this, and her main concerns are that this study is 16 years old. She is worried about the impact of that time and the changes to the property already. She knows that there has been fill brought in which would change this report. The report mentions that any changes to grade and fill would impact the validity of the report. Dominic Leone said that report was made out for the building of a Firehall not a lower level. Chairman Patrick said that was a great concern of this board and we reached out to our Village attorney JP Schepp from MRB associates, and he assured us that the use that they are planning for this property is sufficient. Now for the Fire Department Building with the trucks that maybe a concern. Board member Rawleigh said she is not concerned with that at the time being. She said that this was included with the application, and she thinks that it should be discussed because it does reference the training side of it. The initial application did have the administrative side and the training. She said the building location is completely different than the initial report. So the sampling location is different. She said that means there is no testing done where the actual building is going. Dominic Leone said we are building slab on grade. She said exactly and this application references slab on grade and we have nothing to reference what the soil is like where this building is going. Chairman Patrick said as far as I am concerned, and I can't speak for the rest of the board but that's why we send this to our village engineer. He has way more experience with this than any of us do. If he tells me that its sufficient to support the weight and the load of the building, I can't really argue with him. Board member Rawleigh said I don't think that's what he said but we can continue on.

Board member Rawleigh said that she would like to move on to the light duty parking that is referenced in this report. She said currently there aren't enough parking spaces based off the size of the structure and also it references gravel parking or grass parking to accommodate the overflow. She said but based on this report that apparently is invalid. Chairman Patrick interjected and said "no, were not saying its invalid." She said it has been indicated in this report that the parking should be asphalt not gravel or grass. Chairman Patrick said that the village engineer didn't have an issue with a gravel lot.

Board member Rawleigh also brought up her concern about work being done during different times of the year and in different weather and as the Planning Board they should consider the validity of the base that is there.

Board member Rawleigh went on to discuss MRB's comments. She asked if he is who they are referring to as the village engineer. Chairman Patrick said yes. She said that she doesn't see any of the concerns that the village engineer had being addressed by Hager the applicants engineer. Dominic Leone said all of the things he asked for have been addressed on the new drawings that were provided to you. Board member Rawleigh said that the applicants engineer says in the report that the existing soils are more than adequate, but she doesn't understand how the engineer can say this if the soil where the building is going hasn't been tested. Chairman Patrick said that the soil hasn't gotten better. Dominic Leone said it would continue to compact over the years. Chairman Patrick said the engineer said the soil can support the building. Board member Rawleigh said all she can go off is what is given to her in print, and she doesn't see that anywhere.

Board member Rawleigh said that there isn't a lighting or landscaping plan. Dominic Leone said they don't want landscaping. Board member Rawleigh said there aren't any lights on the driveway or roadside.

Board member Rawleigh asked about the applicant listing one of the uses as a warming center. She said it was her understanding that Mount Morris Central School was the designated Warming Center. Dominic Leone said yes, they are but they had an issue a few years back with people needing some place to go and them not having the time to contact the school. This would be on more of an emergency use basis.

Board member Rawleigh asked what other options they considered for the site. Dominic Leone said they didn't have many options. Bob Ossont said initially looked at eight different sites and this was the most viable one.

Chairman Patrick asked the board if they had any concerns. Board member Race said that he has concerns. He supports the fire department and thinks they should have a meeting and training center. He doesn't like the inclusion of rentals. He said he is okay with it if they removed some of the things that would carry over if the property were to be sold. Dominic Leone said the rentals are out. They are not going to rent it.

SEQR

Chairman Patrick read off the questions:

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)

Moderate or Large: 0

2. Will the proposed action result in a change in the use or intensity of the land?

No or Small : 0

Moderate or Large: 5 (Patrick, Woodworth, Race, Clester, Rawleigh)

This board agrees that this is not a large or significant adverse impact.

3. Will the proposed action impair the character or quality of the existing community?

No or Small : 4 (Patrick, Woodworth, Race, Clester)

Moderate or Large: 1 (Rawleigh)

4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0
 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?
No or Small : 3 (Patrick, Woodworth, Clester)
Moderate or Large: 2 (Race, Rawleigh)
 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0
 7. Will the proposed action impact existing:
 - a. Public/private water supplied
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0
 - b. Public/private wastewater treatment utilities
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0
 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources?
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0
 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora or fauna)?
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0
 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?
No or Small : 0
Moderate or Large: 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
- Chairman Patrick said he has some concerns with this as the village engineer did mention this. He thinks there may need to be a small retention pond. They will condition this as part of the site plan approval.
- The board agrees that this is not a large or significant adverse impact.
11. Will the proposed action create a hazard to environmental resources or human health?
No or Small : 5 (Patrick, Woodworth, Race, Clester, Rawleigh)
Moderate or Large: 0

SPECIAL USE PERMIT-SITE PLAN

Chairman Patrick feel that hours of operation should be addressed. He thinks that 11:00 PM would be sufficient for hours in the evening. He isn't concerned with morning hours. Board member Race says 8:00 AM- 11:00 PM. He says he isn't as concerned with the hours as he is with the rental portion.

Board member Rawleigh said she thinks it needs to be specified that it can be rented to internal members for birthday parties or their other events. She also stated that it should be listed as a seven day a week venue on the permit.

Chairman Patrick asked about live entertainment or amplified music. Dominic Leone said they didn't plan to have music like that there. Board member Rawleigh asked if there is a definition in the village code to specify this. Clerk Woodworth asked what if they wanted to have a DJ if they were having a birthday party. Chairman Patrick asked Village Code Enforcement Officer Mark Mulliken if they could apply for a permit. CEO Mulliken said that there is a village noise ordinance. The board agreed to have the applicant adhere to the noise ordinance.

Board member Race brought up the DOT study and said that traffic conditions have definitely changed over the last 10 years. Chairman Patrick asked CEO Mulliken about the parking or the capacity or the building. Board member Rawleigh said that based off of the September plans there were 18 parking spaces and 28 are required. CEO Mulliken said that they needed to have at least 18 and gravel there for overflow, not grass. Board member Rawleigh asked if its 28 standard plus the ADA spaces. CEO Mulliken said the 28 includes the ADA spaces.

The board agreed to have the overflow parking be gravel as a condition.

Board member Race said we needed to go back to the discussion on the drainage pond. Chairman Patrick said that he would like this to go back to the village engineer and have him look over the drainage issue to make sure there doesn't need to be a retention pond prior to building as a condition.

Chairman Patrick asked if they have any other conditions on the special use permit other than no rentals to outside entities.

Board member Rawleigh said that she would like to see an actual lighting plan because this is a main road and feels lights would be important. Chairman Patrick asked if her biggest concern was the driveway lighting. She said that yes, it's a pretty dark part of town.

Board member Clester said he is more concerned with the building fixtures being labeled as motioned and not being dusk till dawn. Dominic Leone said they are going to change it to dusk till dawn lights and motion lights. The board agreed this should be conditioned.

No one else on the board had issue with the driveway lighting other than Board member Rawleigh so they did not condition this.

Board member Rawleigh said that for the driveway, an easement does need to be granted. The board agreed that this should be conditioned.

VOTE SPECIAL USE PERMIT-SITE PLAN

A motion was made by Chairman Patrick, seconded by Board member Woodworth to approve the Special Use Permit with conditions.

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 1 (Rawleigh)

Abstain: 0

The motion was carried.

A motion was made by Chairman Patrick, seconded by Board member Woodworth to approve the Site Plan with conditions.

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 1 (Rawleigh)

Abstain: 0

The motion was carried.

OTHER BUSINESS

Chairman Patrick said that Town Code Enforcement Officer Shawn Grasby was not able to attend, but did tell him that Verizon had submitted an application to install a tower in the town.

CEO Mulliken said that he received two applications recently that will need to go to the Zoning Board of Appeals.

One is the doctor's office that was recently sold. Someone purchased it and would like to convert that to a living space. This particular property is a R-4 district not residential. It doesn't meet the particular in the code and the driveway belongs to the neighbor. He would like to go to the planning board prior to the ZBA.

He also has a homeowner that is looking to do extensive remodel of his home that will put him closer to the property line. He would like the planning board to look at this prior to ZBA.

Chairman Patrick said that the next planning board meeting will be the 18th of December at 6:30PM

A motion was made by Board member Woodworth, seconded by Board member Clester to adjourn.

Aye: 4 (Clester, Patrick, Race, Woodworth, Rawleigh)

No: 0

Abstain: 0

The motion was carried.

Meeting adjourned at 7:50 PM

Respectfully Submitted,

Town Clerk
Chelsey Woodworth