

ACPB February 2020 Meeting Minutes

Present: Dominic Rigosu, acting chair; Gerry Engstrom, Brian Crawford, Vincenzo Sofia, Board Members; Tim Garufi (Ex-Officio); David Reilly (Ex-Officio).

Albany County Public Works Office: Laura Trivison, Senior Planner; Lynn Delaney, Secretary; William Anslow, Civil Engineer (Ex-Officio), Robert Gunther, Stormwater Program Technician.

Guests:

Cindi Elliott, Dan Hershberg, George McHugh, Ransom Moore.

Minutes: Lynn Delaney

Call to Order: Dominic Rigosu called the meeting to order at 3:31PM.

Brian Crawford made a motion to approve the January, 2020 ACPB minutes. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

Brian Crawford made a motion to bring Referral **#05-200203411**, Town of Coeymans, Local Law No. 1; to the front of the agenda so George McHugh could address the Board if needed. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

<u>Case #:</u>	<u>05-200203411</u>
Project Name:	Local Law No. 1 of 2020 of Coeymans
Applicant:	Town of Coeymans
Project Location:	N/A
Municipality:	Town of Coeymans
Parcel Size:	N/A
Zoning:	N/A
Tax Map Number:	N/A
Referring Agency:	Town of Coeymans Legislative Board
Considerations:	A local law to abolish the planning board and transfer its functions to the zoning board of appeals, which it to be known as the "Planning Board / Zoning Board of Appeals" and to increase its membership to 7 members.
Action Type:	Adoption of Local Law

ACPB February 2020 Meeting Minutes

Juris. Determinant: Adoption of Local Law

Potential Impacts: The Town's Planning Board and Zoning Board of Appeals

Staff Notes: The proposal includes the adoption of a local law to abolish the planning board and transfer its functions to the zoning board of appeals, which it to be known as the "Planning Board / Zoning Board of Appeals" and to increase its membership to 7 members. The Town Legislative Board stated intent is to streamline the review process for applicants and promotes economic development by providing a more efficient and coordinated land use review process within the Town of Coeymans.

Staff Opinion: Modify local approval to include:

1. If the Town consolidates its ZBA and Planning Board, the NYS enabling law requires subdivision review to become the jurisdiction of the Town Board.
2. Notification of local law updates should be sent to all adjacent municipalities.

Advisory Note:

1. In conversation with the Department of State, representatives discouraged the consolidation of Zoning Boards of Appeals and Planning Boards and offers no "best practice" recommendations. DOS representatives stated that the intent of land use administration supplied by a Zoning Board of Appeals should maintain an appropriate separation of power from a Planning Board. A separation of power maintains impartiality in addressing zoning requirements and land use policy.
2. The Department of State's Division of Local Government Services has adopted best practices to help municipal governments administer land use policy. The DOS recommends consolidation of Village and Town Boards with the same jurisdictional intent when consolidation is needed to obtain efficiency. The Department of State encourages the Town of Coeymans and the Village of Ravena to consider consolidating their retrospective Planning Boards and Zoning Boards of Appeals as an option before consolidating the Town Planning Board and ZBA. The DOS Division of Local Government Services provides resources for intermunicipal board consolidation.

George McHugh, Town of Coeymans Supervisor, was asked if he would like to comment on this referral.

"The Village of Ravena has already done this a few years ago, about five years ago they consolidated their Planning and Zoning Boards into one. I've been an applicant in front of them and it's worked very well, it's very efficient it speeds up the process because you don't have to educate two separate Boards, so I liked the way it worked. So now that the Town Board has proposed this, I don't remember if the Village got any feedback at all when they did it, but that's the reasoning behind it is to educate one seven member board instead of educating two".

Dominic asked if George is on any of the Boards and George replied that he is the Town Supervisor. The other members of the Board did not have any comments. Dominic then asked Laura Trivison, Senior Planner for information regarding her conversation about this Referral with a representative from the

ACPB February 2020 Meeting Minutes

Department of State. The Department of State discourages the practice of combining the Boards. Dominic then asked George if he had spoken with anyone from DOS. He replied that there are over a dozen municipalities that have done this and the feedback he has received is all positive. He stated that there are over 13 municipalities throughout the State that have done this including the Village of Ravena and Stillwater, locally.

Dominic then stated that “reading through the notes that Laura prepared for us, it seems the big concern is the separation of power from the Zoning Board and Planning Board and is it too easy or too streamlined where it’s not getting a proper look in terms of two separate boards?”

George replied “The review process doesn’t change, whether they are functioning as a Planning Board or functioning as a Zoning Board the review doesn’t change, it’s just the same people who will be doing both jobs. There is no shortcut. The only difference is this Board can meet the 2nd Monday of every month, and then schedule a public hearing for the 4th Wednesday when they also meet, whether it be for a variance or a site plan review or whatever they might need. It’s just efficient.”

Laura Trivison then added, “The County Attorney was very clear that this is permissible, that the enabling law allows it”.

She then added that DOS did say that if it is about efficiency, one option is to combine the Village of Ravena and the Town of Coeymans Planning Boards into one Board and the Village of Ravena and the Town of Coeymans Zoning Boards into one which essentially still does away with 2 Boards but keeps the Planning and Zoning Boards separate. This would need the Village of Ravena to buy in, but if the Town wanted to reconsider, DOS has many online examples of this option which gives a more regional approach, it creates consistency and it also maintains impartiality.

Laura then states that “The reason DOS discourages combining a Planning and Zoning Board into one, is that if you go to one place to get a variance and a site plan at the same time, the politics of a site plan review can then impact the variance review process. If a Village or a Town wants a site plan to go through, they have an incentive to not maintain the ZBA restrictions, and so the idea is when you keep the ZBA and the Planning Board separated, you maintain impartiality. That said, the Executive Branch of the County is very clear that this is allowed. Ravena has done it, it’s done in other parts of the state and so that’s why I recommended to modify. The other thing I will say is that the Town Attorney did tell me is that the subdivision review should go to the Town Board. So site planning, area variances, all of that, special use permits can be combined into one Board, with the Planning Board and the ZBA, with the one exception of Subdivision Review. Subdivision Review, should go back to the Town Board. The Town Board is what enables the Planning Board and it can dissolve the Planning Board.

With no further questions or comments from the Board, Enzo Sofia made a motion to accept the Staff Opinion for Referral **#05-200203411**. The motion was seconded by Brian Crawford and unanimously approved by the Board.

A motion was made by Brian Crawford to bring the following 4 cases to the front of the agenda. Referral **#05-200203412**, Town of Coeymans Local Law No. 2; **#13-200203420** Town of New Scotland, Lands of O’Brian and Devellis; **#13-200203423** Town of New Scotland, Lands of Abbuhl and Spinosa; and **#06-200203414** Town of Colonie, Starlite Retail. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

ACPB February 2020 Meeting Minutes

<u>Case #:</u>	<u>05-200203412</u>
Project Name:	Local Law No. 2 of 2020 Coeymans
Applicant:	Town of Coeymans
Project Location:	N/A
Municipality:	Town of Coeymans
Parcel Size:	N/A
Zoning:	N/A
Tax Map Number:	
Referring Agency:	Town of Coeymans Legislative Board
Considerations:	A local law to authorize the establishment of escrow accounts to be funded by applicants before the Planning/Zoning Board of Appeals for professional services to review land use applications.
Action Type:	Adoption of Local Law
Juris. Determinant:	Adoption of Local Law
Potential Impacts:	The Town's Planning Board and applicants.
Staff Notes:	The Town's stated purpose of this Local Law is to amend the Town of Coeymans Code to authorize the establishment of an escrow account to be funded by an Applicant when the Planning Board/Zoning Board of Appeals determines that professional services are necessary to properly review a submitted application. The Town's stated intent of this Local Law is to require an applicant before the Planning Board/Zoning Board of Appeals to be responsible for professional costs incurred for the review of their application through the creation and funding of an escrow account. If the Planning Board/Zoning Board of Appeals determines that professional review services are appropriate at the time of application or at any time during the approval process, the Planning Board/Zoning Board of Appeals shall request from a professional consultant retained by the Town Board an estimated fee for performing a review of the project submissions or other necessary services to properly review and consider an application. Professional review services are defined as, but not limited to, those services provided by engineers, lawyers, architects, designers, planners, surveyors, appraisers and related professionals. When review services are less than the amount in the escrow account, remaining funds shall be returned to the applicant within thirty (30) days of project approval.

ACPB February 2020 Meeting Minutes

Staff Opinion:

Modify local approval to include:

1. The approval of this Local Law No.2 2020 should wait till Local Law No.1 is adopted, since it refers to the Planning Board/Zoning Board of Appeals which does not yet exist.
2. In section §165-13(F) "Costs for Professional Review of Applications" #4 is states : "When review services are less than the amount in the escrow account, remaining funds shall be returned to the applicant within thirty (30) days of project approval." This section should be amended to address the return of unspent funds when the project is not approved.
3. Notification of local law updates should be sent to all adjacent municipalities.

Advisory Note:

There were no comments or questions from the Board. Brian Crawford made a motion to accept the staff opinion for Referral #05-200203412. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

Case #:

13-200203420

Project Name:

Lands of O'Brian and Devellis

Applicant:

Cindy Elliot

Project Location:

351/355 Rock Hill Rd.

Municipality:

Town of New Scotland

Parcel Size:

3.50 acres

Zoning:

RA

Tax Map Number:

82.-4-48, 82.-4-47

Referring Agency:

Town of New Scotland Planning Board

Considerations:

Lot line adjustment between adjacent parcels that each have proposed improvements.

Action Type:

Subdivision Review

Juris. Determinant:

NYS Designated Agricultural District

Potential Impacts:

NYS Designated Agricultural District, wetlands

ACPB February 2020 Meeting Minutes

Staff Notes: The property owners are proposing to adjust the existing property boundary between two house lots. The adjustment area is vacant. No new lots are being created and no new construction is being proposed at this time. The lot line adjustment will result in .33 acres being added to the norther parcel making it a total of 1.51 acres. After the lot line adjustment the southern parcel will be 2.09 acres. There are no wetlands on either parcel. The northern parcel is in a NYS Designated Agricultural District.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

Dominic Rigosu asked Cindi Elliott if she had any comments regarding this referral. She stated, "No, although I would love the Board to consider lot line adjustments that are not within 500ft of a State or County Highway, that are just on a Town Road, to not come to this Board."

Laura Trivison replied "They don't, this is an Agricultural District"

Cindi Elliot stated "That's right and that's the reason why and I'm hopeful that we could move that along and get that off the docket cause it clogs everything up. Thank you."

With no other comments or questions from the Board, a motion was made by Gerry Engstrom to accept the staff opinion for Referral #13-200203420. The motion was seconded by Brian Crawford and unanimously approved by the Board.

<u>Case #:</u>	<u>13-200203423</u>
Project Name:	Lands of Abbuhl and Spinosa
Applicant:	Cindy Elliot
Project Location:	166 Clip Rd.
Municipality:	Town of New Scotland
Parcel Size:	2.49 acres
Zoning:	RA
Tax Map Number:	106.-2-5 and 106.-2-1.1
Referring Agency:	Town of New Scotland Planning Board

ACPB February 2020 Meeting Minutes

Considerations: A lot line adjustment that will create two parcels from a parcel dissected by a road and adjoin one of the new parcels with an adjacent lot.

Action Type: Subdivision Review

Juris. Determinant: NYS Designated Agricultural District

Potential Impacts: NYS Designated Agricultural District, wetlands

Staff Notes: The property owner is requesting a lot line adjustment that will create two parcels from a parcel dissected by a road and adjoin one of the new parcels with an adjacent lot. The final parcels will be 13.23 acres on the western side of the road, and 4.43 acres will be added to the Lands of Spinosa on the eastern part of the road. The Lands of Spinosa will eventually be roughly 7 acres. Parcel 106.-2-1.1 (on the western side of the road has wetlands on premise, and is in a NYS Designated Agricultural District.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

With no comments from the Board, a motion was made by Brian Crawford to accept the staff opinion for Referral #13-200203423. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #: 06-200203414

Project Name: Starlite Retail

Applicant: Starlite Associates, LLC

Project Location: 635 Columbia St.

Municipality: Town of Colonie

Parcel Size: 6.10 acres

Zoning: Commercial Office Residential (COR)

Tax Map Number: 19.2-1-64

ACPB February 2020 Meeting Minutes

Referring Agency:	Town of Colonie Planning Board
Considerations:	A site plan review for the proposed 3-story, 60,000 SF mixed use retail and commercial building.
Action Type:	Site Plan Review
Juris. Determinant:	State Road
Potential Impacts:	NY 9R (Columbia Street Extension), wetlands

Staff Notes: The property owner proposes the construction of a 3-story mixed use building. The first floor will house a 2500 SF bank with drive through lanes, a 3,000 SF (60 eat) sit down restaurant, a 3,000 SF retail area and an entrance lobby and office. The second and third floor will house general office space. The total area devoted to general office use is 51,000 SF. Parking will be provided for 271 cars including 7 ADA accessible spaces. The site is currently paved in parts and has no existing pavement. The site plan proposes to reduce the pavement from 3.24 acres to 2.46 acres and add a .46 acre building. The greenspace would increase from 45.3% of the site to 52.1% of the site. The applicant will connect with public utilities and construct a new sewer connection with oil and water separator for the restaurant. The applicant acknowledges the need for a SWPPP in the project narrative.

Staff Opinion: Modify local approval to include:

1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
2. Review by the Albany County Department of Health for the backflow preventer, food service, and other required permits.
3. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-15-003, May 1, 2015) for construction activities that disturb more than one acre of land.

Advisory Note:

Dominic Rigosu stated that he is going to recuse himself from this Referral due to a conflict of interest.

Dan Hershberg, architect, with Hershberg and Hershberg addressed the Board. Dan stated that he is very comfortable with the recommendations. He showed the Board the Site Plan and described the project in

ACPB February 2020 Meeting Minutes

detail. The Board had some questions and discussion about the proposed reduction of parking spaces. There was also discussion about drainage which Dan discussed. Laura Trivison and Rob Guenther confirm that a SWPPP will be needed.

With no further comments from the Board, a motion was made by Brian Crawford to accept the staff opinion for Referral #06-200203414. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

A motion was made by Brian Crawford to bring the rest of the cases that have a staff recommendation to Defer to Local Consideration to the front of the agenda. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

Dominic Rigosu stated that he would like to discuss two of these defers - The Town of Altamont Referral #02-200203406 Stewart's Shop Redevelopment; and The Town of Voorheesville Referral #16-200203426, Vly Creek Farm Coffee/Ice Cream Shop, separately from the others.

<u>Case #:</u>	<u>01-200203405</u>
Project Name:	17 New Scotland Ave.
Applicant:	BBL Construction Services, LLC
Project Location:	17 New Scotland Ave.
Municipality:	City of Albany
Parcel Size:	0.49 acres
Zoning:	Mixed-Use, Community Urban (MU-CU)
Tax Map Number:	76.22-1-55.1
Referring Agency:	City of Albany Planning Board
Considerations:	A conditional use permit to enable the use of an 8,722 SF indoor commercial space as a fitness gym.
Action Type:	Conditional Use Permit
Juris. Determinant:	State Road
Potential Impacts:	US 20 (Madison Ave).
Staff Notes:	In October 2019 the ACPB reviewed a referral for the first floor of 17 New Scotland to be used as a satellite for the YMCA after its North Albany chapter closed (referral # 01-191003367). The ACPB recommended the referral be differed to local consideration.

ACPB February 2020 Meeting Minutes

This referral is to consider the rest of that square footage on the first floor to be added to the original referral. Operation of a gym is allowed in this zone is conditioned on acquiring a Conditional Use Permit. The remaining area is 8,772 SF.

Staff Opinion:

Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

Case #:

04-200203410

Project Name:

Lowe's Home Improvement Center

Applicant:

Lowe's Home Centers, LLC

Project Location:

271 Route 9W

Municipality:

Town of Bethlehem

Parcel Size:

32.80 acres

Zoning:

General Commercial

Tax Map Number:

86.00-2-21.4

Referring Agency:

Town of Bethlehem Planning Board

Considerations:

A site plan amendment for a proposed outdoor sales/storage/display for an existing Lowe's.

Action Type:

Site Plan Review, Site Plan Amendment

Juris. Determinant:

State Road, NYS Designated Agricultural District

Potential Impacts:

US 9W, NYS Designated Agricultural District

Staff Notes:

A site plan amendment for a proposed outdoor sales/storage/display for an existing Lowe's includes a proposed storage area on top of an already impervious surface. Materials stored outside will be in bags or enclosed containers.

ACPB February 2020 Meeting Minutes

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

Case #: **06-200203415**

Project Name: **319 Troy Schenectady Rd Real Estate Office**

Applicant: Sherif Mohamed

Project Location: 319 Troy Schenectady Rd.

Municipality: Town of Colonie

Parcel Size: 0.88 acres

Zoning: Mixed Use Commercial Office Retail (COR)

Tax Map Number: 19.20-1-60

Referring Agency: Town of Colonie Zoning Board of Appeals

Considerations: A special use permit to enable a home occupation in the COR zone with a sign.

Action Type: **Special Use Permit**

Juris. Determinant: State Road

Potential Impacts: NY 2 Troy Schenectady Road

Staff Notes: The property owner is seeking a special use permit to enable a real estate business to operate out of a single family residency in a Commercial Office Residential Zone. The house has a garage and driveway for parking for clients. The business does not expect more than one customer at a time and most business occurs off site.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

ACPB February 2020 Meeting Minutes

<u>Case #:</u>	<u>10-200203416</u>
Project Name:	2020 Solar Code Amendments
Applicant:	Town of Guilderland
Project Location:	N/A
Municipality:	Town of Guilderland
Parcel Size:	N/A
Zoning:	N/A
Tax Map Number:	N/A
Referring Agency:	Town of Guilderland Legislative Board
Considerations:	Updated amendments to Town Code pertaining to Solar Code.
Action Type:	Amendment of Local Law
Juris. Determinant:	Amendment of Local Law
Potential Impacts:	Solar energy system construction, permitting and regulation within the Town of Guilderland
Staff Notes:	The proposal includes updating Section §280-5 (Definitions) and §280-40 (Supplemental Regulations) of the Town Code Chapter 280. The Amendments would make permit application for an eligible energy system available on the Town's website, and strengthens the requirement for proposed solar energy applications to be in accordance with the Town's Comprehensive Plan. The amendments include sections that state the Town's intent to become a "Climate Smart Community", support the NYS Energy Plan, and protect scenic and environmental resources by minimizing the impact of major solar energy facilities. The amendments establish a more robust rubric for a visual impact assessment, site plan review, special use permit conditions, and decommissioning and removal requirements. The amendments also recognize the NYS Uniform Solar Permit.
Staff Opinion:	Defer to local consideration.
Advisory Note:	1. The ACPB supports the Town and its residents in planning for future solar energy system growth that will have an impact on nearby State and County roads as well as adjacent municipalities.

ACPB February 2020 Meeting Minutes

Case #: **10-200203417**

Project Name: **Knockout Car Wash Signs**

Applicant: AJ Signs

Project Location: 2123 Western Ave.

Municipality: Town of Guilderland

Parcel Size: 3.20 acres

Zoning: General Business (GB)

Tax Map Number: 51.02-1-20

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: An area variance to enable the installation of one freestanding and one building mounted sign over the allowable 50 SF. The applicant is seeking a variance to allow for 106.3 SF of signage.

Action Type: **Area Variance**

Juris. Determinant: State Road

Potential Impacts: US 20 (Western Ave.)

Staff Notes: An area variance to enable the installation of one freestanding and one building mounted sign over the allowable 50 SF. The applicant is seeking a variance to allow for 106.3 SF of signage. The double sided freestanding sign would be 16" deep, 104" wide and 149" tall. The single sided wall sign is 84" tall and 108" wide.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

1. The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to the sign code in a commercial zone.

Case #: **10-200203418**

ACPB February 2020 Meeting Minutes

Project Name: Lands Amedore 4 Lot Subdivision

Applicant: Paul Amedore

Project Location: 2819 West Old State Rd.

Municipality: Town of Guilderland

Parcel Size: 23.90 acres

Zoning: R40

Tax Map Number: 27.00-1-29.2

Referring Agency: Town of Guilderland Planning Board

Considerations: Subdivision review of a 23.9 acre lot into 4 new parcels that are intended to enable the construction of new single family homes.

Action Type: Subdivision Review

Juris. Determinant: NYS Designated Agricultural District

Potential Impacts: NYS Designated Agricultural District, wetlands

Staff Notes: This subdivision review entails the creation of 4 new parcels from a 23.9 acre lot. The new parcels are intended to enable the construction of new single family homes. The proposed subdivision would disrupt wetlands. The property owner has acquired permits from DEC and USACOE to enable the proposed subdivision. Three of the parcels will have access off of an existing drive. One parcel will have access directly off of West Old State Road.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note: 1. Submission of an agricultural data statement to the Town as required by Town Law for subdivision approval of sites within 500 feet of a farm operation located in an agricultural district.

Case #: 10-200203419

Project Name: Serafini Residential Facility

Applicant: Angelo Serafini

ACPB February 2020 Meeting Minutes

Project Location:	2965 West Old State Road
Municipality:	Town of Guilderland
Parcel Size:	1.10 acres
Zoning:	
Tax Map Number:	27.19-1-5.2
Referring Agency:	Town of Guilderland Zoning Board of Appeals
Considerations:	An area variance and special use permit for a proposed 12 unit independent living residential unit.
Action Type:	Area Variance and Special Use permit
Juris. Determinant:	State Road
Potential Impacts:	NY 146 (Carman Road)
Staff Notes:	The property owner is requesting a Special Use Permit to enable a proposed conversion of an existing, previously approved mixed use building to a building that contains four dwelling units. The additional proposed developments of the site will include two four unit building, associated parking, and a common recreational area for the residents of the facility. A variance is also requested to enable the reduction if a required setback to a residential property line. As a mixed-use building the required setback to a residential zone was 20'. By changing the use to a residential facility the setback requirement increases for 20' to 100'. Access to the site will be provided via an existing drive on the West Old State Road and through an adjoining parcel owned by the same applicant with an existing access to Carmen Road. There are no wetlands on this site. This in not yet a site plan review.
Staff Opinion:	Defer to local consideration. 1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.
Advisory Note:	1. The town should ensure that the property owner is aware of the regulations for construction activities that disturb land greater than one acre.
<u>Case #:</u>	<u>13-200203421</u>
Project Name:	Lands of Schaming

ACPB February 2020 Meeting Minutes

Applicant:	Taza Schaming
Project Location:	168 Duck Hill Rd
Municipality:	Town of New Scotland
Parcel Size:	34.63 acres
Zoning:	
Tax Map Number:	105.-1-1.2
Referring Agency:	Town of New Scotland Zoning Board of Appeals
Considerations:	Area variance request to allow building permit for a lot with half the required frontage. The parcel is on an intermunicipal boundary and has access from Town of Berne.
Action Type:	Area Variance
Juris. Determinant:	Municipal Boundary
Potential Impacts:	Town of New Scotland and Town of Berne municipal boundary
Staff Notes:	The property owner is asking for an area variance request to allow a building permit for a lot with half the required frontage. The parcel is on an intermunicipal boundary and has access from Town of Berne. The Town of Berne has granted access and a 911 number has been issued to the parcel. The property owners plan to build a single family house on the property. The Town of New Scotland requires 50' of frontage to allow a building permit for a residence on a parcel. The access road has been abandoned by the Town of New Scotland. However, the Town of Berne is willing to maintain access of Bern's side of Duck Hill Road, and as long as the property owner provides a turnaround driveway for plows and emergency vehicles, is willing to maintain access up to the parcel. Because the Town of New Scotland abandoned the road, the owner only has roughly 24' of fee frontage and is requesting a variance for that requirement. The property owner planned to disturb roughly 1 acre and install a well and septic.
Staff Opinion:	Defer to local consideration.
Advisory Note:	1. The Town should make sure the applicant knows the construction of a new septic system and/or well will need to be reviewed by the Albany County Department of Health. 2. The town should ensure that the property owner is aware of the regulations for construction activities that disturb land greater than one acre.

ACPB February 2020 Meeting Minutes

Case #: 15-200203425
Project Name: **Ronald Young / Lot Line Revision**

Applicant: Ronald Young
Project Location: 7 Gifford Ln
Municipality: Town of Rensselaerville
Parcel Size: 1.00 acre
Zoning: A1 RR
Tax Map Number: 173.-1-12
Referring Agency: Town of Rensselaerville Planning Board

Considerations: A subdivision review to move lot lines on a parcel so that an entire pond is on one parcel, instead of split between two parcels.

Action Type: **Subdivision Review**

Juris. Determinant: State Road

Potential Impacts: NY Troy Schenectady Rd (NY2)

Staff Notes: Currently the property lines between two parcels dissects a pond. The proposed lot line adjustments would take place the majority of the pond in 7 Gifford Lane. No new construction is proposed at this time.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

With no comments or questions from the Board, a motion was made by Brian Crawford to accept the staff opinion for Referral #'s 01-200203405, 04-200203410, 06-200203415, 10-200203416, 10-200203417, 10-200203418, 10-200203419, 13-200203421, and 15-200203425. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

ACPB February 2020 Meeting Minutes

Case #: **02-200203406**

Project Name: **Stewart's Shop Redevelopment**

Applicant: Stewart's Shop Corp.

Project Location: 1001 Altamont Blvd. / 109 Helderberg Ave.

Municipality: Village of Altamont

Parcel Size: 1.01 acres

Zoning: CBD

Tax Map Number: 48.06-2-3, 48.06-2-2

Referring Agency: Village of Altamont Zoning Board of Appeals

Considerations: Three area variances to enable the redevelopment of a Stewart's. The property owner seeks a variance to enable encroachment within a front yard setback, rear setback, and to exceed a minimum lot size.

Action Type: **Area Variance**

Juris. Determinant: State Road

Potential Impacts: NY 156 (Altamont Boulevard)

Staff Notes: The ACPB previously voted to defer to local consideration the matter of rezoning the adjacent parcel to allow this Stewart's expansion (referral # 02-190803352). The rezone of the adjacent parcel from residential (R-10), to a Commercial Business District (CBD) has gone through and now Stewart's is applying for three area variances to enable a future proposed site plan. The first is a variance for minimum allowable lot size. The parcel has an area of about 34,000 acres. Village code states that gasoline service stations are permitted only on lots of 40,000 square feet or more therefore an area variance of about 6,000 would be needed. The second area variance is a setback variance from the adjacent property at 111 Helderberg Ave. With a gasoline-service-station designation, the village code says the only structure on the site that can be closer than 50 feet to the adjacent residential lot is a fence. As proposed, the site plan shows the back of the new building approximately 20 feet from the property line of the adjacent 111 Helderberg Ave., which has a Victorian house. The plan calls for a six-foot high fence (built on top of a two-foot berm) placed about 13 feet from the back of the new Stewart's Shop to separate the two parcels. A setback variance of about 30 feet would be needed. Finally the proposed site plan would require a setback variance from Altamont Boulevard for the new building. According to village code, the maximum distance from Altamont Boulevard that the new shop could be built is 10 feet. Stewart's is proposing to place its

new store 104 feet from Altamont Boulevard. The company would need a setback variance of about 94 feet. This is currently not a site plan review. Members of the public have registered substantial discontent with the Stewart's expansion at multiple Village Planning Board and ZBA meetings and through letter to the Boards. There is an underground ravine that runs along the southern property line. There is proposed access onto NY 156 and Helderberg Ave. In order to redevelop and expand their existing site, Stewart's is proposing to demolish the building at 107 Helderberg Ave. Stewarts bought 107 Helderberg Ave in 2015, and the Village of Altamont did issue a rezone for the .17 acre parcel on December 12th, 2018. On April 24, 2019 litigation was bought forth by Village residents against the Village for excluding the impact of demolition from the SEQR review process within the rezone review. Stewart's has resubmitted a rezone request to enable the Village an opportunity to initiate a new SEQR review. The ACPB reviewed the rezone on November 15, 2018 and issued this recommendation for the rezone: "Defer to local consideration 1. This board has found that the proposed action will have no significant countywide or intermunicipal impact." The ACPB also issued this advisory within the recommendation: "Prior to site plan review, the applicant should contact the New York State Department of Environmental Conservation's Division of Environmental Permits (Region 4 Office) to determine whether permits or additional review will be required due to the presence of a regulated waterbody, designated floodway, and proposed bulk petroleum storage on the subject parcels. The applicant should also seek review and any necessary permits from New York State Department of Transportation for any improvements within the State Route 156 right-of-way." (case # 02-181103148) The site plan review is ongoing. On July 9, 2019 the Village Board of Trustees declared themselves Lead Agency for a full SEQRA review. That review resulted in a Negative Declaration. Both parcels are within 500' of the Altamont Historic District.

Staff Opinion:

Modify local approval to include:

1. The Zoning Board of Appeals should adhere to state statute and balance the benefit to be realized by the applicant against the potential detriment to the health, safety and general welfare of the neighborhood or community when considering whether to grant the area variances. The balancing test requires the ZBA to consider five factors:
 - a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - c) Whether the requested area variance is substantial.
 - d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Advisory Note:

1. Prior to site plan review, the applicant should contact the New York State Department of Environmental Conservation's Division of Environmental Permits (Region 4 Office) to determine whether permits or additional review will be required due to the presence of a regulated waterbody, designated floodway, and proposed bulk petroleum storage on the subject parcels.

ACPB February 2020 Meeting Minutes

2. Any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.
3. Prior to site plan review the applicant should also seek review and any necessary permits from New York State Department of Transportation for any improvements within the State Route 156 right-of-way.
4. The new Stewart's will require review by the Albany County Department of Health for food service and other required permits.

The Board asked to review the Site Plan for this Referral. They studied the plan and discussed the drainage issues currently on the site as well as the specifics involved with this Area Variance request. The decision was made to switch this referral from a Defer to a Modify (indicated above).

With that change noted, a motion was made by Brian Crawford to accept the staff opinion for Referral **#02-200203406**. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

<u>Case #:</u>	<u>16-200203426</u>
Project Name:	Vly Creek Farm Coffee/Ice Cream Shop
Applicant:	Charles and Sandra Dollard
Project Location:	8 Altamont Rd.
Municipality:	Village of Voorheesville
Parcel Size:	4.01 acres
Zoning:	Creekside Commercial
Tax Map Number:	72.11-3-1
Referring Agency:	Village of Voorheesville Planning Board
Considerations:	A site plan review and special use permit for the proposed seasonal ice cream and coffee shot in an existing structure.
Action Type:	Special Use Permit, Site Plan Review
Juris. Determinant:	State Road, County Road
Potential Impacts:	NY 156 (Altamont Rd.), CR 208 (School Road), NY 85A (Helderberg Parkway)
Staff Notes:	This site plan review entails a proposal to redevelop an existing accessory 12'x24' wood framed barn into a small coffee and ice cream shop. The shop will contain a small seating area and counter area. Only coffee will be prepared on site, no food will be

ACPB February 2020 Meeting Minutes

prepared. Prepackaged pastries and ice cream will be available. The shop will employ approximately 2-3 people and operate during afternoon and evening hours. It will be opened seasonally from April to December. It will be open on weekdays from 2-9pm and weekends from 8am-9pm. Public water currently serves the site. No toilet is proposed and the sink will connect to the existing septic tank on site. The Albany County Health Department has given a preliminary review of this proposal. A gravel storage area is existing and no impervious area other than the 288 SF of roof and brick paver sidewalk is proposed. There is a flood plain on this parcel but the barn and parking is outside of it. A total of .03 acres are expected to be disturbed. Five parking spots are proposed, including one accessible parking spot. This use in this zone is conditioned on the acquisition of a special use permit.

Staff Opinion:

Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory Note:

1. Bathroom facilities for employees must be provided in all occupancies, in accordance with Section 311.1 of the 2015 IPC.
2. Review by the Albany County Department of Health for waste water discharge, and other required permits, will be needed. Especially in lieu of the fact that the ACDOH stated the existing septic will be sufficient previous to a site plan proposal that includes the required employee bathroom.

Dominic Rigosu stated that an advisory note needed to be added to advise that bathroom facilities must be provided (noted above) according to NYS Law. He also suggested that the Dept. of Health should be contacted to see if hot water is required on site.

With no further comments from the Board, a motion was made by Enzo Sofia to accept the staff opinion for Referral #16-200203426. The motion was seconded by Brian Crawford and unanimously approved by the Board.

Case #:

04-200203409

Project Name:

Trued and Bain Re-subdivision

Applicant:

Cynthia DeMichele

Project Location:

737 Feura Bush Rd.

Municipality:

Town of Bethlehem

Parcel Size:

2.41 acres

Zoning:

Residential A

Tax Map Number:

97.13-1-5.1

ACPB February 2020 Meeting Minutes

Referring Agency: Town of Bethlehem Planning Board

Considerations: Subdivision review for a parcel that was recently created through a previous 1993 subdivision. The subdivision would result in a .7 acre parcel with all existing structures, and a new 1.7 acre parcel where a new proposed single-story wood-framed bungalow would eventually go.

Action Type: **Subdivision Review**

Juris. Determinant: There is no jurisdictional determinant. Not a GML referral

Potential Impacts: State Route (Feura Bush)

Staff Notes: Subdivision review for a parcel that was recently created through a previous 1993 subdivision. The subdivision would result in a .7 acre parcel with all existing structures, and a new 1.7 acre parcel where a new proposed single-story wood-framed bungalow would eventually go. The proposal also includes a new access to Feura Bush Road, where access to the new parcel would go through the old parcel with a partially shared driveway.

Staff Opinion: Modify local approval to include.

1. A shared access agreement (including a maintenance agreement) should be referenced in the deeds for both properties.
2. While the property development will require a site plan review, the subdivision should not be granted without first consulting NYSDOT on the proposed design layout and curb cut changes.

Advisory Note:

The Board asked to look at the Site Plan. After some review, the Board was satisfied with the information they had. With no further comments from the Board, a motion to accept the Staff opinion for Referral **#04-200203409** was made by Enzo Sofia. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #: **03-200203407**

Project Name: **Domermuth Subdivision / Lot line**

ACPB February 2020 Meeting Minutes

Applicant:	Gregory Domermuth
Project Location:	993 Switzkill Rd.
Municipality:	Town of Berne
Parcel Size:	5.00 acres
Zoning:	
Tax Map Number:	114.-1-16.2
Referring Agency:	Town of Berne Planning Board
Considerations:	A subdivision review for the proposed annexation of a part of parcel 114.-1-16.2 to be annexed to 114.-1-16.1.
Action Type:	Subdivision Review
Juris. Determinant:	County Road and Intermunicipal Boundary
Potential Impacts:	CR1 (Switzkill Rd.), CR 408, Town of Berne and Town Westerlo municipal boundary, wetlands
Staff Notes:	The same owner of two adjacent parcels wants to annex 1.88 acres of one parcel to the parcel north of it. This will create 1 6.91 parcel north of Smith Lane and another 40 acre parcel south of Smith Lane. The parcel north of Smith lane will keep the existing barn and residence. The larger parcel has no structures. There is no proposal for construction or change in access at this time.
Staff Opinion:	Modify local approval to include: 1. Notification of the application should be sent to the Town of Westerlo, including all required notices pursuant to GML §239-nn.
Advisory Note:	

The question was raised as to why the Town of Westerlo needed to be notified. After reviewing the site plan it was determined that the Staff Opinion to notify the Town of Westerlo was correct.

With no further questions or comments from the Board, a motion to accept the Staff Opinion for Referral **#03-200203407** was made by Brian Crawford. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

ACPB February 2020 Meeting Minutes

Case #: **04-200203408**

Project Name: **294 Route 9W - Petrol Site by Silver Lining Development LLC**

Applicant: Silver Lining Development LLC

Project Location: 294 Route 9W

Municipality: Town of Bethlehem

Parcel Size: 6.90 acres

Zoning: General Commercial

Tax Map Number: 97.08-1-2, 97.08-1-1

Referring Agency: Town of Bethlehem Zoning Board of Appeals

Considerations: The property owner is requesting eleven variances for setback, signage, and parking to allow the redevelopment of the site for multiple commercial uses.

Action Type: **Area Variance**

Juris. Determinant: State and County Road

Potential Impacts: US Route 9W, NYS designated Agricultural District

Staff Notes: The property owner has entered into a contingent contract with Silver Lining Development LLC to sell the entire parcel, which would, if all approvals are granted, discontinue the current gasoline sales operation which has been ongoing on the property for the past 90 years, and provide for the removal of all underground storage tanks and any contamination; removal of the existing building on the property, and the construction of a proposed 23,000 SF market, a proposed 3,650 SF restaurant, and a proposed retail and/or bank building measuring 8,300 SF. The property is currently located in a General Commercial District. The contingent contract requires the current owner to receive a number of area variances to ensure the later proposed site plan is feasible. The proposed site plan does not meet a number of applicable zoning requirements. The requested area variances are as follow: A minimum 50' setback is required form the rear property line. The proposed market will be setback 16.5 feet and the proposed retail building will be setback 21.75 feet, thus leaving those structures 33.5 feet short and 28.25 feet short of the required setback, respectively. Furthermore, the structures are required to maintain a minimum setback of 100 feet from the front yard property line. The proposed restaurant will be setback 97.2 feet and the proposed retail building will be setback 76.1 feet, leaving those structures 2.8 feet short and 23.9 feet short of the required setback. Lastly, the structures are required to maintain a minimum setback of 40 feet from the side property line. This side yard setback also comes the

requirement of an additional 100' buffer due to fact that the proposed market, driving lanes and parking spots are facing a residential zoning district. These two requirements (side yard setback and the 100' buffer) total a required 140 feet setback from the side property line. The proposed market will be setback 78.75 feet. Also, a variance will be required for the driving lanes and parking spots that are located in this buffer. Under Town of Bethlehem's Article VI, Supplementary Regulations, Section 128-59, Signs. G. Signs in the R, and C Districts (1), on all nonresidential premises only one freestanding sign is allowed. At this time three freestanding signs are being proposed. Article VI, Supplementary Regulations, Section 128-56, Off-street parking and loading, F. states off-street parking shall not be permitted within 10 feet of any property line providing highway frontage to the property. The proposed parking in front of the retail building is encroaching this setback. Also, under Section 128-56, Off-street parking and loading, G. states off-street parking areas shall be located no closer than 15 feet to any side or rear property line. The proposed parking in the rear of the retail building is encroaching this setback. Lastly, under Section 128-56, Off-street parking and loading, K. Any parking facility for more than 40 cars shall provide landscaped areas within the parking lot equal to at least 10% of the gross parking lot area. This landscape area requirement shall be provided by landscaped end islands and landscaped center islands within the parking area. Landscaped end islands shall be a minimum of 15 feet in width and landscaped center islands shall be a minimum of 18 feet in width. No islands or landscaped centers are shown on this site plan and the proposed landscape area is 4.7%. The middle of the second parcel are wetlands. It is unclear if these wetlands are under the US Army Corp of Engineer's jurisdiction, and to what extent, if any, there is standing water. A major part of the justification for encroaching into the front and side setbacks is avoiding this wetland. Especially the roughly 3' encroachment to the front set back by the restaurant. Another justification offered by the property owner for the side setback encroachment is to offer enough space to provide a route to 9W for the land locked parcel behind the property. Providing this parcel with egress/ingress is a request form the Town of Bethlehem. A total of 4.7 acres are expected to be disturbed if the area variances are granted. Because this is just a preliminary area variance, utilities, lighting, and parking are not referenced in depth in this application. The proposed site plan shows new access to 9W on the northern parcel.

Staff Opinion:

Modify local approval to include:

1. The property owner should notify and accept review by the U.S. Army Corps of Engineers to determine if they have jurisdiction over the wetlands delineated on the plans under Section 404 of the Clean Water Act.
2. While the property development will require a site plan review, the zoning board should not grant the variances without first consulting NYS DOT on the proposed design layout and curb cut changes. Commercial property development plans that involve new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway, will need a highway work permit from the New York State Department of Transportation.
3. The removal of underground fuel storage tanks should be reviewed by NYS DEC for any necessary permit.
4. A shared access agreement (including a maintenance agreement) should be referenced in the deeds for the applicant property as well as the parcel in the rear, due to the proposed use of the 9W access on parcel 97.08-1-2 to be used by parcel 97.08-1-41.

ACPB February 2020 Meeting Minutes

Advisory Note:

1. The Town should consider the precedent that will be set for surrounding properties on Route 9W to make similar variance requests. The number of variances needed should be kept to a minimum. This application includes a significant number and type of variances from Town code regulations.
2. The Town should ensure that Silver Lining Development LLC is aware of the regulations for construction activities that disturb land greater than one acre.
3. The submission of an agricultural data statement to the Town is required by Town Law for site plan approval of sites within 500 feet of a farm operation located in an agricultural district. The Town should ensure that the property owner knows the parcel is within 500' of a NYS designated agricultural district, should the application proceed to a site plan review.

The site plan was reviewed when discussing this Referral due to the large number of variances being requested. Laura did have a discussion with Robert Leslie from the Town of Bethlehem about this project and was able to obtain some background information. There was much discussion about the long term plans for this project and the precedent that will be set for the Town of Bethlehem to agree to eleven variances. Ultimately, it was determined that setting this precedent is ultimately up to the Town and they have the right to make that determination.

With no further comments or questions from the Board, a motion was made by Enzo Sofia to accept the Staff Opinion for Referral #04-200203408. The motion as seconded by Brian Crawford and unanimously approved by the Board.

Case #:	<u>06-200203413</u>
Project Name:	Dental Office Building - Redevelopment
Applicant:	ALM Properties, LLC (David Mitola)
Project Location:	1153 Loudon Rd.
Municipality:	Town of Colonie
Parcel Size:	0.78 acres
Zoning:	Commercial Office Residential (COR)
Tax Map Number:	10.1-1-2
Referring Agency:	Town of Colonie Planning Board

Considerations:	A site plan review for the proposed redevelopment of the parcel by adding a 1,728 SF addition to an existing building to be used as a dental office. The second floor will be removed and the final foot print of the building will be 4,177 SF.
------------------------	--

ACPB February 2020 Meeting Minutes

Action Type: Site Plan Review

Juris. Determinant: State Road

Potential Impacts: US 9 (Loudon Rd.)

Staff Notes: The parcel is currently occupied by a two story building that was previously occupied by a commercial business but has been vacant for a period of time. The site is also developed with garage, shed, and gravel parking lot. The property owner proposes to redevelop the parcel by adding approximately 1,728 SF addition to an existing 2,449 SF structure. The new addition and existing structure will be one story in height. The existing second-story will be removed as well as the garage. The total footprint of the redeveloped building will be 4,177 SF. the proposed redevelopment will add an asphalt parking lot and access drive. The parking spots will not be increased. The site plan depicts 25 parking spaces, one of which is accessible. The proposed site plan will result in a 5% increase of building coverage, 22.4% increase of pavement/sidewalk, and a 27.4% reduction in greenspace. Fifty-three percent will remain greenspace. No wetlands exist on this parcel. The proposed operations may involve the use of controlled materials. The use and disposal of these material will be managed by a contracting company that is licensed to handle, transport, and dispose of the materials. The Town Departments have given comments on this site plan to which the applicant has responded.

Staff Opinion: Modify local approval to include:

1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
2. Review by the Albany County Department of Health for the backflow preventer required on the water line due the use of medical offices.

Advisory Note:

1. While the site is a redevelopment project and less than one acre will be disturbed, there is an opportunity to use green infrastructure practices to reduce the amount of stormwater flow off the parcel. The Town should encourage the applicant to use the amount of green space in the project to incorporate drainage to a green infrastructure practice for the increased stormwater runoff due to the increased impervious surface.

With no comments or questions from the Board, a motion was made by Enzo Sofia to accept the Staff Opinion for Referral **#06-200203413**. The motion as seconded by Gerry Engstrom and unanimously approved by the Board.

Case #: 13-200203422

Project Name: Lands of Fiato

ACPB February 2020 Meeting Minutes

Applicant:	Fred Fiato
Project Location:	148 Dunbar Hollow Rd
Municipality:	Town of New Scotland
Parcel Size:	11.45 acres
Zoning:	RF
Tax Map Number:	117.-1-11.2
Referring Agency:	Town of New Scotland Planning Board
Considerations:	A subdivision review for a proposed merger of two adjoining parcels who have the same owner.
Action Type:	Subdivision Review
Juris. Determinant:	Municipal Boundary
Potential Impacts:	Town of New Scotland and Town of Westerlo Municipal Boundary
Staff Notes:	The property owner of two adjacent parcels is seeking to merge both. The current parcels are 11.45 acres and 10.03 acres. The final proposed parcel would be 21.48 acres. The southern parcel's property line runs along the municipal boundary. A riverine runs along the north west portion of the southern parcel.
Staff Opinion:	Modify local approval to include: 1. Notification of the application should be sent to the Town of Westerlo, including all required notices pursuant to GML §239-nn.
Advisory Note:	

After a brief clarification of the exact location of this referral, a motion to accept the Staff Opinion for Referral #13-200203422 was made by Brian Crawford. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

<u>Case #:</u>	<u>14-200203424</u>
Project Name:	Herboasis

ACPB February 2020 Meeting Minutes

Applicant: Xinyi Trading Inc.
Project Location: 149 Main St.
Municipality: Village of Ravena
Parcel Size: 0.13 acres
Zoning: B-1: General Business
Tax Map Number: 168.39-2-40
Referring Agency: Village of Ravena Planning Board

Considerations: A site plan review to enable the adaptive re-use of an existing mixed-use structure and some internal floor plan redesign. The proposed first floor retail use will consist of the sale of herbal supplements.

Action Type: **Site Plan Review**

Juris. Determinant: State Road

Potential Impacts: NY 143 (Main St.)

Staff Notes: The property owner proposes the adaptive re-use of an existing mixed-use two-story structure on the parcel with a gross square foot area of 2,909 SF. The structure will undergo minor floor plan changes to convert the first floor commercial area into a retail store for the sale of herbal supplements. The property will be occupied by the owner. The parcel is zoned B-1 Business and allows for a retail use. There is an existing residential dwelling unit that will remain unchanged. No exterior changes are proposed. The store will have two employees. There are two parking spaces that exist in the rear of the parcel. The property owner is seeking to waive the remaining 23 required parking spaces. The Village requires 1 space / 4 employees, 1 space / dwelling unit, and 1 space / 100 SF, which would result in 23 more parking spaces than currently exist on the parcel. There is on-street parking on Main St. The hours of operation will be from 10am-8pm. There are no proposed changes to water or sewer service connections. There are no wetlands on this parcel.

Staff Opinion: Modify local approval to include:

1. The renovation should result in the structure, parking, and path of travel coming into "readily achievable" compliance with the minimum standards for ADA accessibility.

Advisory Note:

1. Commercial renovations on existing structures trigger requirements for upgrades that will bring a space into compliance with the Americans with Disabilities Act.

ACPB February 2020 Meeting Minutes

2. This includes "readily achievable" removal of any accessibility barrier. Title III of the ADA provides guidance in renovation compliance including achievability standards. The front entrance is currently inaccessible and it is unclear to the ACPB if the rear entrance meets ADA requirements.
3. The ACPB supports the Village in allowing the reduction of required parking spaces for this parcel if it so chooses.

The Board had some discussion about the parking area for this referral. It was determined that the Village of Ravena should make the decision about the number of parking spaces needed for this location.

With no further comments or questions from the Board, a motion was made by Brian Crawford to accept the Staff Opinion for Referral **#14-200203424**. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

<u>Case #:</u>	<u>18-200203427</u>
Project Name:	Local Law No 1. of 2020 of Westerlo
Applicant:	Town of Westerlo
Project Location:	N/A
Municipality:	Town of Westerlo
Parcel Size:	N/A
Zoning:	N/A
Tax Map Number:	N/A
Referring Agency:	Town of Westerlo Legislative Board
Considerations:	A proposed Local Law that incorporates the NYS Uniform Fire Prevention and Building Code and the State Energy Construction Code in the Town of Westerlo's Zoning Law and Town Law.
Action Type:	Adoption of Local Law
Juris. Determinant:	Adoption of Local Law
Potential Impacts:	Westerlo Zoning and Town Law
Staff Notes:	In December 2019 the Town of Westerlo Town Board scheduled a continuance of a Public Hearing regarding Local Law No. 5 of 2019. This proposed local law establishes

ACPB February 2020 Meeting Minutes

a Local Government Code Enforcement Program and provides for the administration of the NYS Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Town of Westerlo, New York. The local law is to be adopted pursuant to section 10 of the Municipal Home Rule Law except as otherwise provided in the Uniform Code, other state law, or other sections of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law. The majority of the changes to the Westerlo Zoning Law are concentrated in 7.50 (Fire Safety and Property Maintenance Inspections) and 7.60 (Certificate of Occupancy). That said, the entirety of the Zoning Law is impacted in that definitions and references that appear through have been changed to comply with the new additions.

Staff Opinion:

Modify local approval to include:

1. Notification of the zoning update should be sent to all adjacent municipalities, including all required notices pursuant to GML §239-nn.

Advisory Note:

1. NYS Uniform Fire Prevention and Building Code and the State Energy Construction Code were previously replaced by new code. Recently the Uniform code was voted on in 2019, but won't be enacted till May 2020. The village should make sure they are referring to the latest code.

Dominic Rigosu recommended adding an advisory that would advise the Town to make sure they are referring to the correct code names as they have changed.

With the addition of the Advisory Note, Gerry Engstrom made a motion to accept the Staff Opinion for Referral #18-200203427. The motion was seconded by Brian Crawford and unanimously approved by the Board.

Case #:

18-200203428

Project Name:

Constanza Solar

Applicant:

Cypress Creek Renewables

Project Location:

252 Cty Rte 405 / 198 Sunset Hills Rd

Municipality:

Town of Westerlo

Parcel Size:

129.00 acres

Zoning:

Agricultural

Tax Map Number:

162.-2-4

ACPB February 2020 Meeting Minutes

Referring Agency:	Town of Westerlo Planning Board
Considerations:	A site plan review to enable the construction of a large-scale solar energy system. The proposed project will include a permeable haul road, solar tables with associated appurtenances, equipment pads, perimeter fencing, driveway swales, and stormwater management practices. Access to the site will be provided by a permeable haul road.
Action Type:	Site Plan Review
Juris. Determinant:	County Road
Potential Impacts:	CR 405, CR 409, and wetlands
Staff Notes:	This site plan review entails a proposal to construct a large-scale solar energy system. The proposed project will include a permeable haul road, solar tables with associated appurtenances, equipment pads, perimeter fencing, driveway swales, and stormwater management practices. A SWPPP is provided with the application as well as developer responses to Town comments. Access to the site will be provided by a permeable haul road. The ACPB has given multiple recommendations on this proposal as it has involved. The most recent recommendation was in April 2018 recommendation (# 18-180403000). The recommendations was to modify local approval to include notification of USACE and review by Albany County DPW for highway design permits. The corresponding application was approved on 4/23/19, but with a with a smaller array size. Since the acceptance of a smaller array did not negatively impact the earlier 2018 decision, the Town did not submit. However, the new updated site plan involved an access has change on a county road (AC 405), and therefore the Town has now resubmitted it for ACPB review. Adjustments have been made to the culvert and the southern exposure of the road (near Maier and Sharkey property) will have additional screening. The cleared area will be seeded with a meadow mix. The developer plans to roughly maintain the existing drainage patterns and runoff rates. The total project disturbance is ±20.1 acres; however, the applicant will phase construction to limit the total disturbance to 5 acres or less. There are two Army Corps of Engineers (USACE) regulated wetlands and one NYSDEC regulated wetland. The wetlands are located in the northern and eastern portions of the site. NYSDEC Chapter X Part 664 “Freshwater Wetlands Maps and Classification” requires provisions of a 100-foot adjacent area (which will be regulated by the NYSDEC) measured horizontally from the edge of the NYSDEC regulated wetland boundaries.
Staff Opinion:	Modify local approval to include: 1. Any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.

ACPB February 2020 Meeting Minutes

2. A decommissioning plan or established conditions requiring abandoned solar systems to be removed by the owner should be included as part of an approval for this size project.
3. Consult with the local fire department when reviewing the site plan for the project to ensure proper siting of the utility from a fire protection standpoint and to ensure proper training and response procedures are in place. Require that 24 hour emergency contact information is clearly posted on the site for emergency responders to communicate with a licensed individual to safely turn off all power on site.
4. Review by the Albany County Department of Public Works for design of highway access, assessment of road capacity, and drainage.

Advisory Note:

1. A shared access agreement (including a maintenance agreement) should be referenced in the deeds to both parcels.

The site plan was reviewed when discussing this referral. The Board members wanted to go over the impact for drainage on this site. Rob Gunther, Albany County Stormwater Program Technician, discussed the issues of runoff and drainage. Rob stated that this is currently a wooded area, but will be replaced by a grassy area planted with meadow seed. A wooded area naturally has a greater absorption rate, than a grassy area. While this proposed plan will naturally create additional runoff, the drainage on the site should be sufficient. Rob then pointed out all of the drainage on this site. Laura Travison confirmed that they have submitted a SWPPP with this referral.

A motion was made by Brian Crawford to accept the Staff Opinion for Referral **#18-200203428**. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

Unfinished Business:

The Costco referral will be on the March agenda. A large crowd is expected to attend that meeting so Lynn Delaney, Board Secretary, was asked to reserve the large room at Cornell Cooperative Ext. for the March meeting.

Dominic Rigosu asked Laura Travison to update the Board on the Costco referral. Laura stated that we will be seeing a special use permit and a variance for light pole height. Laura and Bill Anslow, Albany County Civil Engineer, met with representatives from Pyramid and said that it was an interesting but good meeting.

Laura Travison said that Pyramid walked us through the DEIS, which is now up on the Town of Guilderland website and it is a massive document. A hard copy was sent to the Public Works office on Friday so that Jim Mearkle, Albany County Traffic Engineer and Rob Gunther Albany County Stormwater Program Technician can look at it.

Laura told the Board that there are 3 areas covered by the DEIS: The Rapp Road Apartments which the ACPB already disapproved, Costco and an undeveloped site. She mentioned that if the Town accepts the DEIS, then all the sections go together. Pyramid did provide numerous options to address the traffic implications on Rapp Road. Laura then went over some of the options that were outlined. Pyramid is

ACPB February 2020 Meeting Minutes

willing to pay for these and install it themselves and not all are options that involve a dead end. Some are on the City of Albany side.

She said that the City of Albany has not approved anything yet nor have they commented on the DEIS. Laura mentioned that she told the Pyramid Representatives that the intermunicipal impact is a priority to the County because they are our constituents and they have no other political recourse. Laura will hopefully meet with representatives of both the Pine Bush and Rapp Road and possibly the City of Albany to see if there is a solution that will be satisfactory to all parties. Dominic then asked if SHPO (State Historic Preservation Office) has been involved yet and if not, if she can bring them in because that would help to represent Historic Rapp Road. Laura said she will contact them.

Laura indicated that she will gather information from DEC and DOT, and then the ACPB can determine if they want to make a comment on the DEIS. We have 30 days to make comments if we want to. That is separate from the decision that needs to be made at next month's meeting. It is possible that the 30 days may be extended, but we do not know for certain and we do not know how long it might be extended for.

Enzo Sofia talked about the possibility of hiring someone to review the DEIS and report to the Board. Others felt that the timeline and potential cost wouldn't make that a viable option at this point.

Laura will have more information to discuss when the DEIS has been reviewed and will get that information to the Board prior to next month's meeting.

A motion to adjourn was made by Brian Crawford at 5:16pm.