

**TOWN OF CORTLANDVILLE PLANNING BOARD**  
**Minutes of Regular Meeting - Tuesday, 29 December 2015 - 7:30 PM**  
**Town Hall Board Room - 3577 Terrace Road - Cortland, NY**

**Board Members** (\*absent)

Katherine Wickwire, Chairperson  
Christopher Newell  
Nicholas Renzi  
John M. Finamore  
John A. DelVecchio

**Others Present**

Bruce Weber, Town Planning/Zoning Officer  
Joan E. Fitch, Board Secretary  
John B. Folmer, Town Attorney

**Applicants & Public Present**

Al Kryger, Bob Ferris, Engineer Tim Buhl, Attorney Mike Shafer for Leonidas Group, Applicant; Robert Temple, Jr., Applicant; Joe Reagan & Engineer Chuck Feiszli for Royal Auto Group, Applicant; Walter Kalina, PE, of Clough Harbour & Associates; Lisa Foster, Leo Mieras, Daniel Mieras, Charles Drach, Jason Schlenker, Daniel Mones, Don Richards, Steve Terwilliger, Tracey Walters, Peter Blanchard.

<b>REGULAR MEETING</b>
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**The Regular Meeting of the Town of Cortlandville Planning Board was called to order at 7:40 p.m. by Chair Katherine Wickwire.**

**OLD BUSINESS**

**Leonidas Group of Virgil, LLC, Applicant/Robert Ferris, Reputed Owner - Starr Road - TM #96.10-01-19.100 - Proposed PUD (Planned Unit Development)**

Chair Wickwire recognized Attorney Mike Shafer, representing the applicant, who requested that the Board extend the 45-day time period, postponing this matter until the 26 January 2016 meeting of this Board in order to have time to review the 22 December 2015 comments of Clough Harbour & Associates provided to them at this meeting.

**A motion was then made by Member Nick Renzi to postpone the proposed PUD matter until the 26 January 2016 meeting of this Board, as requested by Attorney Shafer. The motion was seconded by Member John Finamore, with the vote recorded as follows:**

<b>Ayes:</b> Chair Wickwire Member Newell Member Renzi Member Finamore Member DelVecchio	<b>Nays:</b> None
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**Motion carried.**

**This becomes Action #85 of 2015.**

Walt Kalina, PE, of Clough Harbour & Associates, an engineering firm assisting the Town with this proposed project, distributed to Board members a copy of a guidance for planning Boards to consider steep slopes in land use decisions, entitled *Steep Slopes and Land Use Decisions*, prepared by the Southern Tier Central Regional Planning & Development Board, February 2012, for their perusal. The Board had no questions for Engineer Kalina at this time.

**Royal Chevrolet/Cortland, Inc., Applicant/Reputed Owner – 3838 NYS Route 281 (West Road) - TM #86.17-01-10.211 – Conditional Permit & Aquifer Protection District Special Permit – Proposed Body Shop Addition**

Chair Wickwire recognized Chuck Feiszli, PE, and Joe Reagan, who were seeking a Conditional Permit and Aquifer Protection District Special Permit for a proposed 11,250 SF body shop addition to their existing facility, all as shown on and described in the materials accompanying the application. Engineer Feiszli acknowledged receipt of the Cortland County Planning Department/Board's report regarding this project.

Chair Wickwire asked about the exhaust system and if they would be doing a lot of painting; they replied yes. Regarding chemicals, Mr. Reagan stated they would provide MSDS data sheets and they also have a spill plan. He added that they had no problem complying with the County's recommendations contained in their Resolution No. 15-35 of 21 December 2015. The body shop was not new, it was an expansion, he stated.

Engineer Feiszli added that he had made a stormwater change; he talked with Pat Reidy of County Soil & Water so plan was modified and has been submitted; he will be providing a letter from Pat after completing his calculations.

After a brief discussion **a motion was made by Member Chris Newell to approve the Conditional Permit for the proposed 11,250 SF Body Shop Addition to the existing facility, incorporating Items 1 thru 14 of the Cortland County Planning Board's Resolution No. 15-35 of 21 December 2015. The motion was seconded by Member Renzi, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wickwire</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Newell</b>		
	<b>Member Renzi</b>		
	<b>Member Finamore</b>		
	<b>Member DelVecchio</b>		

**Motion carried.**

**This becomes Action #86 of 2015.**

**A motion was then made by Member Newell that the Cortlandville Town Planning Board recommends to the Town Board that they issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQRA. The motion was seconded by Member Renzi, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wickwire</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Newell</b>		
	<b>Member Renzi</b>		
	<b>Member Finamore</b>		
	<b>Member DelVecchio</b>		

**Motion carried.**

**This becomes Action #87 of 2015.**

**NEW BUSINESS**

**Robert L., Jr. & Nicole L. Temple, Applicants/Reputed Owners – 100 Beechwood Lane - TM #96.17-01-13.000 – Subdivision of Land**

Chair Wickwire recognized Mr. Temple who was seeking approval of a subdivision at this location. PZO Weber explained that the subject parcel was previously two lots and, some time ago, Mr. Temple combined the two into one lot. He then ran into some problems with the Association regarding the maintenance of the woods. So in order to allow the woods to remain as they are, the applicants would like to subdivide the parcel again to create an undeveloped lot; therefore the woods would remain as woods.

With no further discussion, **a motion was made by Member John DelVecchio to approve the Subdivision, as requested. The motion was seconded by Member Finamore, with the vote recorded as follows:**

**Ayes: Chair Wickwire  
Member Newell  
Member Renzi  
Member Finamore  
Member DelVecchio**

**Nays: None**

**Motion carried.**

**This becomes Action #88 of 2015.**

**David Sanford, Applicant/Reputed Owner - 3303 US Route 11 - TM #108.00-01-02.200 - Conditional Permit (Pending ZBA)**

PZO Weber advised the Board that this application had been postponed by the Zoning Board of Appeals to give the applicant time to provide additional information; therefore, the application for a Conditional Permit was removed from this Agenda.

**Zoning Text Amendment Relating to Location/Operation of Retail Petroleum Sales**

Chair Wickwire acknowledged receipt of a letter from Engineer Timothy C. Buhl regarding his opposition to the proposed Zoning Text Amendment, a copy of which has been placed on file for the record. Board members had also received "*Comments on the Proposed Zoning Text Amendment Regarding the Location and Operation of Retail Petroleum Sales*" from Member Renzi, dated 22 December 2015, as follows:

**BACKGROUND**

Currently, gasoline stations are not permitted in any zoning district in the Town except the B-3 District in shopping centers with special permit.

Cortlandville has five gasoline stations. The Sunoco station located on the corner of Route 222 and Route 281, the Red Apple located on McLean Road and Route 13 and three located south on Route 11. The City of Cortland has six gas stations on its main thoroughfares, easily available to travelers into and out of Cortlandville. To the south of Cortlandville there are three gas stations on Route 13 and to the north on Route 281 there are three gas stations. The total number of gas stations in and around Cortlandville is seventeen.

The way the Town Code is written currently, gas stations can be located in the Agricultural, R-1, R-2, R-3 Districts by applying for and obtaining a use variance from the Town Zoning Board of Appeals. The same is true for the other Districts.

Previous applications for the gas stations within Cortlandville have been denied based upon the need to minimize the threat to the sole source aquifer that provides drinking water to the Town's residents.

**PROPOSED ZONING TEXT AMENDMENT DESCRIPTION AND COMMENTS**

The proposed amendment as written would maintain the current restrictions of not allowing gas stations in the Agricultural, R-1, R-2 and R-3 Districts but adds the Area 1A of the wellhead protection area.

The intent of the proposed zoning text amendment is not clear since any prohibited use called out for any of the districts can be appealed by submitting a variance request to the Zoning Board of Appeals. Adding the 1A area to the restrictions carried by the Agricultural District, R-1, R-2 and R-3 Districts does nothing since variances currently can be applied for and possibly granted.

An approved variance, coupled with site plan approval and issuance of a Conditional Permit and an approved Aquifer Protection Permit gasoline stations, could result in gas stations being located anywhere in Cortlandville. Highly unlikely, but entirely possible.

On the other hand, if the proposed amendment were located in the Town's Code outside of the Zoning section, a variance request would never come into play.

### **GENERAL COMMENTS**

1. The Cortlandville Town Code in Article X Aquifer Protection District, which was added in May of 1988, twenty-seven years ago, has very specific definitions of the various areas and highlight the importance of these areas necessary to preserve the integrity of the sole source aquifer.
2. Within Article X the Restrictions and requirements section 178-45 lists in paragraph A Prohibitive uses and activities subparagraph (7) Gas stations, solid waste disposal facilities and junkyards are prohibited in Areas I and II.
3. The Town Board's proposed zoning amendment as written and located in the zoning section of the Town Code neither adds or reduces restrictions since variance requests and approvals are possible.
4. If the Town Board desires to facilitate establishing additional areas to place retail petroleum sales operations beyond what is currently allowed, the action should start with a needs assessment. Is it necessary to be less restrictive in the protection of the sole source aquifer? Is the need so critical as to warrant less restrictive protection of the aquifer? Once a realistic need has been defined, then the Town Board should consult with technical experts knowledgeable in aquifer hydrology to determine if the need can be satisfied without jeopardizing the integrity of the aquifer. The recommendations of the technical people should be the basis of any change to the Town Code.
5. Once areas are defined that could accommodate gas stations without compromising the sole source aquifer, then those areas should be specifically identified and spelled out in the Code outside of zoning.
6. In the 2002 draft report titled "Delineation of Wellhead Protection areas for the Town of Cortlandville and City of Cortland" the travel time for the 1A zone was defined as 2-year travel time and Zone 1B as 5-year travel time. It was stated on page 4 relative to zone 1B "This zone represents a significant risk of contamination to the well, but not as high as Zone 1A."

### **CLOSEOUT STATEMENT**

The proposed zoning text proposal as written and located in the Zoning section does nothing to restrict or facilitate gas stations within Cortlandville.

The need for additional gas stations should be defined first followed by recommendations from a technical body to see if we can safely modify our Town Code to facilitate retail gasoline sales without compromising the current and future integrity of our sole source aquifer. The work, knowledge and recommendations of Todd Miller and Pat Reidy are required to formulate a plan to facilitate additional gas station locations within Cortlandville.

Considering the importance of the sole source aquifer and the existence of seventeen gas stations in and around Cortlandville it begs the question as to why this matter is even being brought up for discussion. Although the Town code may be somewhat restrictive, considering the importance of the sole source aquifer the originators of the code acted with an abundance of caution based on hydrological science, which up to now has served us well.

*These comments are those of Nick Renzi, Planning Board Member, and in no way represent the opinion of the Cortlandville Planning Board.*

The Board discussed what the proposed amendment would allow or prohibit. The Board did not support the proposed change in the zoning text regarding this matter, and agreed with Member Renzi's comments. Chair Wickwire stated she would like Member Renzi's comments (with the exception of his last sentence) forwarded to the Town Board; Town Attorney John Folmer said he would convey this Board's comments to the Town Board.

Chair Wickwire commented that this Planning Board has worked for many years to protect the sole source aquifer, and what has been done in the past has accomplished this with the Code as it is, it's kept the water clean and have had no problems. What we have works.

At the conclusion of the discussion, **a motion was made by Member DelVecchio that the Cortlandville Town Planning Board recommends to the Cortlandville Town Board that they consider the written comments of Planning Board Member Renzi (excluding the last sentence), and the letter from Timothy C. Buhl, PE, to be an expression of the opinion of the Planning Board in non-support of the proposed change. The motion was seconded by Member Newell, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wickwire</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Newell</b>		
	<b>Member Renzi</b>		
	<b>Member Finamore</b>		
	<b>Member DelVecchio</b>		

**Motion carried.**

**This becomes Action #89 of 2015.**

Chair Wickwire recognized Steve Terwilliger, proprietor of a Sunoco fueling station on NYS Route 13, who asked, "Why the change?" PZO Weber responded that would be a question for the Town Board. Mr. Terwilliger stated he had talked with the Cortland County Planning people and they thought "by voting affirmative to this, they were actually strengthening the rules against gas stations coming in." Chair Wickwire agreed that County Planning did feel that way, but she didn't think they "really understood it."

### **EXECUTIVE SESSION**

**At 8:20 p.m., a motion was made by Member Renzi to recess the regular meeting and go into Executive Session to discuss pending litigation. The motion was seconded by Member Finamore, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wickwire</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Newell</b>		
	<b>Member Renzi</b>		
	<b>Member Finamore</b>		
	<b>Member DelVecchio</b>		

**Motion carried.**

**This becomes Action #90 of 2015.**

**At 8:30 p.m., motion was made by Member Renzi to come out of Executive Session to discuss pending litigation and reconvene the regular meeting. The motion was seconded by Member Newell, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wickwire</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Newell</b>		
	<b>Member Renzi</b>		
	<b>Member Finamore</b>		
	<b>Member DelVecchio</b>		

**Motion carried.**

**This becomes Action #91 of 2015.**

NO ACTION WAS TAKEN DURING THE EXECUTIVE SESSION.

**ADJOURNMENT**

At 8:32 p.m., a motion to adjourn the meeting was made by Member Finamore, seconded by Member Renzi, with all members present voting in the affirmative.

  
Joan E. Fitch, Board Secretary

E-mailed to Town Clerks, JBF, PB Members,  
DD, BW & DC on 1/24/16.  
Corrected (deleted wrong Att. Sheets) & re-sent on 1/25/16. JEF