

**TOWN OF CORTLANDVILLE PLANNING BOARD**  
**Minutes of Regular Meeting - Tuesday, 28 February 2012 - 7:30 PM**  
**Town Hall Board Room - 3577 Terrace Road - Cortland, NY**

**Board Members** (\*absent)

Katherine Wickwire, Chairperson  
Christopher Newell  
Nicholas Renzi  
Elizabeth Ambrose  
John M. Finamore

**Others Present**

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

**Applicants & Public Present**

John DelVecchio, Applicant; David Yaman, Applicant; Kurt Hackwelder of QPD Design (re Yaman); Chris Boyea of McDonald's; Mike Griffin, Applicant; Jeff Tinkham for Bestway Enterprises, Applicant; Patricia Stock, Brian Donner & Richard Young for Pall Corp., Applicant; Town Councilman John Proud; Eric Mulvihill of WXHC.

<b>REGULAR MEETING</b>
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**The Regular Meeting of the Town of Cortlandville Planning Board was called to order by Chairperson Kathy Wickwire at 7:43 p.m.**

**APPROVAL OF MINUTES – 31 JANUARY 2012**

**A motion was made by Member Nick Renzi to approve the Minutes of the 31 January 2012 Planning Board meeting, as submitted. The motion was seconded by Member Chris Newell, with the vote recorded as follows:**

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

**Nays: None**

**Motion carried.**

**This becomes Action #6 of 2012.**

**OLD BUSINESS**

**David Yaman, Applicant/Tompkins Trust Company, Reputed Owner – 859-865 NYS Route 13 – TM #95.00-10-04.000 – Conditional & Aquifer Protection District Special Permit – Proposed Commercial Retail Center – Continued Review**

Chair Wickwire recognized the applicant who had appeared before this Board on 28 June 2011 for a Sketch Plan Conference and again on 27 December 2011 and 31 January 2012. Reference is made to those Minutes for the particulars.

Chris Boyea of Bohler Engineering, submitted a “revised new look” to the exterior of the proposed McDonald’s which will be relocating from its present site to this site, adjacent to Mr. Yaman’s proposed 9200 SF commercial retail strip mall. Architectural elements were changed/added on both ends of the building, as shown on a rendering submitted to the Board. Aspen Dental had requested an exterior change, which was indicated by the applicant.

Mr. Boyea, speaking on behalf of McDonald’s Corp., stated they were able to incorporate most of the Board’s requests which were made at the January meeting. The height of the building had

been raised slightly, colonial cornice trim was added around the top, stone was added to the front façade. The Board liked the new appearance. There would be a crosswalk between the two facilities, and handicapped spaces were made wider. McDonald's would like to have yellow trellises in place of the striped awnings. Chair Wickwire stated she liked the awnings better. Member Elizabeth Ambrose agreed.

Chair Wickwire and Mr. Yaman reviewed the County Planning Board's recommendations of 15 February 2012, as follows:

- ✓ Item 1 – Mr. Yaman stated the documentation requested will be provided.
- ✓ Item 2 – Town Highway Superintendent has been contacted. NYSDOT suggested talking with "permit person." She said as long as they don't use rear access off Lime Hollow, it should be okay. Asked for traffic counts from applicant; they will do that and provide their letter to the Board.
- ✓ Item 3 – Handicapped parking issue has been taken care of.
- ✓ Item 4 – Pavement Markings. Will be done.
- ✓ Item 5 – SPPP has been submitted; maintenance schedule will be submitted to Pat Reidy.
- ✓ Item 6 – Notice of Intent to NYSDEC. Done
- ✓ Item 7 – Snow storage/removal approval. Done
- ✓ Item 8 – Dumpster screening. Will be done.
- ✓ Item 9 – Food service permit. Will be done.
- ✓ Items 10 thru 12 – All will be done.

PZO Weber informed the applicant that the sign package should be submitted to the County, when ready, for approval. Mr. Yaman stated that they have the sign design that fits the Town's requirements. PZO Weber stated they will also need a variance for building-mounted, illuminated signs.

Member Finamore asked the applicant if the project was still going to be done in two phases, as originally proposed. Mr. Yaman responded that there will be no Phase 1 and 2, all will be done at once.

Member Renzi asked about proposed circulation of traffic at McDonald's; has anything changed? Mr. Yaman answered that it is the same as it was.

At the conclusion of this extensive discussion, **a motion was made by Member Newell to approve a Conditional Permit for the proposes strip mall/McDonald's, incorporating the recommendations of the Cortland County Planning Board, with a recommendation to the Town Board that they issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQRA.**

**This becomes Action #7 of 2012.**

**NEW BUSINESS****Bestway Enterprises, Inc., Applicant/Reputed Owner – 3832 Luker Road – TM #86.17-02-01.000 AND Luker Road Properties, LLC, Reputed Owner – 3812 Luker Road – TM #86.17-02-05.000 – Lot Line Adjustment**

Chair Wickwire recognized Jeff Tinkham, representing Bestway Enterprises who was seeking approval of a Lot Line Adjustment as shown on the survey map accompanying the application. A copy of a proposed Easement Agreement also accompanied the application, giving access to the Bestway property by Builder's Best. There will be no additional tax map parcels.

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

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

**Nays: None**

**Motion carried.**

**This becomes Action #8 of 2012.**

**John DelVecchio, Applicant/DelVecchio Family, LLC, Reputed Owner – 1703 NYS Route 13 – TM #97.17-01-08.200 – Site Plan for Two-Family Residence**

Chair Wickwire recognized the applicant who would like to build a two-family residence on this 3± A. parcel, located across from BOCES. A two-family house is allowed subject to Site Plan approval by the Planning Board.

After a very brief discussion, **a motion was made by Member Renzi to approve the Site Plan for a two-family house, as requested. The motion was seconded by Member Elizabeth Ambrose, with the vote recorded as follows:**

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

**Nays: None**

**Motion carried.**

**This becomes Action #9 of 2012.**

**Mike Griffin dba Ma's Flowers, Applicant/Cort-Lanes, Inc., Reputed Owner – 928 Tompkins St. – TM #95.16-02-46.000 – Conditional Permit for Flower Sales Tent**

Chair Wickwire recognized the applicant who was seeking approval to erect a 30 ft. by 60 ft. sales tent (as shown in the photos accompanying the application) on the Cort-Lanes parking lot's right side, along the side of Aldi's, for the purpose of selling flowers, opening ten days before Easter, then ten days before Mother's Day until the end of June; by June 15<sup>th</sup>, everything will be removed for the season. Cort-Lanes will provide restroom facilities and their dumpsters for trash. Mr. Griffin has a franchise for Ma's Flowers, a division of Flower Tent®.

After calculating that the proposed business would be open around 57 days, Chair Wickwire asked Town Attorney Folmer what his opinion was regarding the type of business. Attorney Folmer stated that he felt it was a "transient" business, but it was up to the Board. Member Renzi then

read aloud the comments he had generated after reviewing the Code, along with the application/materials, as follows:

**BACKGROUND:**

*THE APPLICATION IS FOR A CONDITIONAL PERMIT FOR RETAIL SALES OF POTTED FLOWERS AND PLANTS. THE DURATION OF THE BUSINESS IS STATED AS "WE WILL BE OPENING 10 DAYS BEFORE EASTER THEN 10 DAYS BEFORE MOTHER'S DAY TO THE MIDDLE OF JUNE." THE BUSINESS WILL BE COMPRISED OF A 30'X60' TENT AND AN ADJOINING OUTSIDE DISPLAY CONSISTING OF TABLES.*

*THE LOCATION OF THIS BUSINESS IS IN THE CORT-LANE'S PARKING LOT ADJOINING THE ALDI'S STORE.*

*THE BUSINESS IS LOCATED IN THE B-3 BUSINESS DISTRICT.*

**COMMENTS:**

*THE 30X60 TENT AND THE OUTSIDE DISPLAY TABLES, COUPLED WITH THE TEMPORARY NATURE OF THE BUSINESS, IS NOT IN KEEPING WITH THE SPIRIT AND INTENT OF BUSINESS DISTRICT ZONING.*

*TRADITIONALLY, CONDITIONAL PERMITS ARE GRANTED FOR BUSINESSES THAT ARE PERMANENT WHOSE INTENT AS STATED IN THE CODE (SECTION 178-36.6 STATEMENT OF INTENT) IS "FOR LARGE SCALE RETAIL SALES AND BUSINESS ENTERPRISES----- WHICH ARE GENERALLY COMPATIBLE WITH EACH OTHER AND WHICH ARE NOT DETRIMENTAL TO ADJOINING USES, COMMUNITY AESTHETICS, ----".*

*GRANTING OF A CONDITIONAL PERMIT USUALLY INVOLVES SITE PLAN REVIEW, LANDSCAPE DESIGN, STORMWATER MANAGEMENT, TRAFFIC FLOW, LOT COVERAGE CONSIDERATIONS, AND THE BASIC CONFORMITY TO THE BUSINESS DISTRICT DESIGN GUIDELINES AND THE TOWN'S POLICY FOR BUSINESS DISTRICT DESIGN SPECIFICATIONS.*

*IN SECTION 178-75, STRUCTURE/USE REQUIREMENTS FOR PERMIT APPROVAL, IT IS CLEAR TO ME THAT ALL OF THE REQUIREMENTS ARE DIRECTED TOWARD STRUCTURES WITH PERMANENCY, NOT A TENT BUSINESS WITH LIMITED DURATION.*

*IN 178-75B IT IS STATED "THE PLANNING BOARD SHALL NOT APPROVE A CONDITIONAL USE EXCEPT IN CONFORMITY WITH THE SPIRIT, PURPOSE, CONDITIONS AND STANDARDS OUTLINED IN THIS CHAPTER. IN ORDER TO OBTAIN THE PLANNING BOARD'S APPROVAL OF A CONDITIONAL PERMIT, THE APPLICANT MUST PROVE THAT THE LOCATION, STRUCTURE, AND/OR USE (1) IS CONSISTENT WITH THE GENERAL INTENT OF THE TOWN OF CORTLANDVILLE'S LAND USE AND AQUIFER PROTECTION PLAN".*

*IN SUBSECTION 5, THE APPLICANT IS REQUIRED TO PROVE THAT THE LOCATION, STRUCTURE, AND/OR USE "IS SUITABLE FOR THE PROPERTY IN QUESTION AND DESIGNED TO BE CONSTRUCTED, OPERATED, AND MAINTAINED SO AS TO BE IN HARMONY WITH AND APPROPRIATE IN APPEARANCE WITH THE EXISTING OR INTENDED CHARACTER OF THE GENERAL VICINITY."*

*IT IS MY OPINION THAT THE TEMPORARY NATURE OF THIS FRANCHISE BUSINESS ON PROPERTY THAT IS NOT OWNED OR HAVING A LONG-TERM LEASE BY THE APPLICANT IS A TRANSIENT BUSINESS THAT DOES NOT QUALIFY FOR A REVIEW AS A CONDITIONAL PERMIT BUT RATHER A TRANSIENT BUSINESS PERMIT WITH ALL OF ITS REQUIREMENTS.*

*I RECOMMEND THAT APPROVAL OF A CONDITIONAL PERMIT NOT BE GRANTED SINCE IT DOES NOT CONFORM TO THE SPIRIT, INTENT, OR SPECIFICS OF THE TOWN CODE.*

*APPLICATION MAY BE MADE TO THE TOWN CLERK FOR A TRANSIENT BUSINESS PERMIT. THE TOWN CLERK IS ADVISED TO REFLECT ON THE FACT THAT PRODUCTS BEING PLANNED FOR SALE BY THE APPLICANT ARE ALSO SOLD BY AN ADJOINING BUSINESS NAMELY ALDI'S AND ABOUT 500 FEET AWAY BY COUNTRY MAX.*

*NICK RENZI  
PLANNING BOARD MEMBER  
FEBRUARY 28, 2012*

Member Renzi stated there was a big difference between the proposed business and Hannah's Flowers (locally owned by Harold Gibbs), that sets up before Easter and is open through Christmas tree sales on property for which he has a long-term lease. Mr. Griffen stated he had spoken with PZO Weber and asked him what he needed to do; he was told, he stated, to go with the Conditional Permit. Chair Wickwire said she agreed with the "transient" definition. The applicant was "coming in for a few days each time, for a total of 57± days."

PZO Weber commented that the Planning Board has, in the past, granted Conditional Permits for uses that were temporary in nature, utilizing a tent, such as the car sales by Royal Motors; however, the Board may feel that the proposed flower tent does not meet those requirements. Member Renzi pointed out that he felt there was a difference, that Royal Motors is a permanent local business.

Member Ambrose asked the applicant if it would be a hardship for him to operate as a transient business, and he responded that he was not familiar with the transient permit process, as he was "told I needed to do a Conditional Permit application, but the fees appeared to be prohibitive. Attorney Folmer explained the rules for a transient business. Mr. Griffin stated that if he had known he "wouldn't have gotten this far."

Chair Wickwire recalled a Conditional Permit application for a temporary auto sales at Groton Avenue Plaza, which was not approved. She then asked if Mr. Griffin was entitled to a refund of his application fee. PZO Weber stated he was not authorized to do so.

With no further discussion, a motion was made by Member Newell to deny the Conditional Permit for proposed flower tent sales, based on the fact that it is a transient business. **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 Ambrose</b>		
	<b>Member Finamore</b>		

**Motion carried.**

**This becomes Action #10 of 2012.**

**Pall Trinity Micro, Applicant/Reputed Owner – 3643 NYS Route 281 – TM #76.00-01-11.000 – Conditional Permit for Proposed Addition**

Chair Wickwire recognized Richard Young, representing the applicant who was seeking a Conditional Permit to construct a 20 ft. by 28 ft. single-story masonry structure, slab on grade, metal roof, for the purpose of NH<sub>3</sub> (anhydrous ammonia) storage and processing, all as described in the "NH<sub>3</sub> Process Study" prepared by C&S Engineers, Inc., dated 21 December 2011, which accompanied the application. The building will be in a fenced-in area and constructed at an estimated cost of \$100,000. The estimated construction cost was discussed. PZO Weber advised

the Board that they could determine what constitutes the cost: building plus contents, or building alone.

Regarding the involvement of the Cortlandville Fire Department, Patricia Stock of Pall Corp., stated that once everything is approved, they will notify them of what's going on and give them an invitation to visit the new facility.

At the conclusion of the discussion, **a motion was made by Member Renzi to forward the application to the Cortland County Planning Department for their review. The motion was seconded by Member Newell, with the vote recorded as follows:**

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

**Nays: None**

**Motion carried.**

**This becomes Action #11 of 2012.**

Attorney Folmer advised the Board to record in these Minutes that they have made a determination that construction of the building itself is what they determined to be the cost of development.

**OTHER BUSINESS**

- ✓ Member Renzi stated he hasn't had a chance to put the procedures for stormwater management systems together nor obtain the cost.
- ✓ Member Renzi commented on Conditional Permit monitoring; he will get with Bruce Weber and Tom Williams.
- ✓ Attorney Folmer reported that Walgreen's matter should be completed by 30 May 2012.
- ✓ Member Renzi stated that Town needs to come up with third party to do inspecting.
- ✓ Member Renzi provided a checklist of Conditional Permits; will have all Board members review to discuss.
- ✓ Empire Tractor – NYS Route 13 – Chair Wickwire stated she had visited this which had been reported to her as being unsightly. Storage trailers, broken pallets, etc. are onsite and "it doesn't look good." PZO Weber stated he would look at their Site Plan to review for compliance. Unless someone is in violation, then it's difficult to have them appear before the Planning Board.
- ✓ Upstate Auto – NYS Route 281 @ Kinney Gulf Road – Vacant lot being used for display of vehicles for sale.
- ✓ **Lisa Thomas, Applicant/PROP, Inc., Reputed Owner – 3903 NYS Route 281 – TM #86.17-01-02.111 – Existing Used Car Sales** – PZO Weber reported that vehicles for sale are still being displayed on the grass areas, despite his attempts to end this disallowed practice; need to schedule their appearance before the Board. **A motion was then made by Member Renzi that the applicant be asked to attend the next Planning Board meeting to review the conditions of the Conditional Permit approved 26 October 2011 for the used car sales lot. The motion was seconded by Member Newell, with the vote recorded as follows:**

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

**Nays: None**

**Motion carried.**

**This becomes Action #12 of 2012.**

- ✓ **Storage of Vehicles on Former SCM Property** –Sun Auto is still using this parking lot for car storage. Dave Yaman commented that cars are being stored there and not for display. Conditional Permit needed for car storage there.
- ✓ **Town Attorney Folmer read a prepared statement** he had authored to the Board regarding proper procedures, considerations, etc. He stated he had already read the same statement to the Town Board and Zoning Board of Appeals.
- ✓ **Ma's Flowers** – Attorney Folmer commented about previous action regarding this application which was made consistent with past policies of the Board. PZO Weber will deal with it in whatever manner the Board/Town Attorney would like.

**ADJOURNMENT**

At 9:30 p.m., a motion to adjourn the meeting was made by Member Finamore, seconded by Member Ambrose, with all members present voting in the affirmative.

  
Joan E. Fitch, Board Secretary

E-mailed to Town, KW, JMF, CN,  
EA, NR, JF & BW on 3/19/12.