

ON THE MOTION OF Amy Bertini
Craig Umbehauer

RESOLUTION NO. 20-09

GML# 76.15-01-30.000
Town of Cortlandville
Conditional Permit, Aquifer
Protection District Special
Permit & Development
Permit for Flood Hazard
Areas
Kile

WHEREAS, on June 26, 2020 the Zoning Officer, Town of Cortlandville, pursuant to General Municipal Law 239 M submitted an application for a Conditional Permit, Aquifer Protection District Special Permit and a Development Permit for Flood Hazard Areas because the property is located within 500 feet of US Route 11/NYS Route 41, Interstate Route 81 and the Village of Homer boundary which has been received by the Cortland County Planning Department, AND

WHEREAS, the Cortland County Planning Department has reviewed this request and submitted a written report dated July 10, 2020, which is on file, AND

WHEREAS, the Cortland County Planning Board on July 15, 2020 held a regular meeting with a quorum and did consider this request, AND

WHEREAS, the Cortland County Planning Board did thoroughly consider the material submitted by the petitioner, Department comments and all other relevant reports on file, NOW THEREFORE BE IT

RESOLVED, that the Board recommends approval of this application a conditional permit, aquifer protection district special permit and development permit for flood hazard areas to construct a 40 ft. by 80 ft. two story building as an additional museum display area resembling an old fire station with a 10 ft. by 10 ft. bell tower contingent upon the following:

1. the applicant either submitting a technical evaluation by a licensed professional engineer of the proposal that demonstrates that the proposed encroachment into the floodway shall not result in any increase in flood levels during the occurrence of the base flood, or

the Town of Cortlandville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision,

FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Cortlandville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Cortlandville for all costs related to the final map revisions., as is required before development in the floodway may occur.

- 2. that either the lowest floor of the proposed building , including basement or cellar, be elevated to or above two feet above the base flood elevation, or**

that the proposed building be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy as is required before development within an area of special flood hazard (100 year floodplain) may occur.

- 3. the applicant applying for and receiving a bulk variance from the required front yard setback upon the Town weighing the benefit of the reduced front yard to the applicant vs. the health, safety, and welfare of the community/neighborhood.**
- 4. the applicant preparing and receiving approval of a stormwater pollution prevention plan for the site from the Town if it is determined that a stormwater pollution prevention plan is required per the Town's stormwater ordinance.**
- 5. the applicant applying for and receiving a bulk variance from the maximum lot coverage allowance upon the Town weighing the benefit of exceeding the maximum permitted lot coverage to the applicant vs. the health, safety, and welfare of the community/neighborhood, if it is determined that the lot coverage of this site exceeds 75%.**
- 6. A negative declaration of environmental impact under SEQR, AND**

BE IT FURTHER RESOLVED, that the Board reminds the Town of the requirements of General Municipal Law Section 239 M that a supermajority vote is to be attained by the Town in order to approve this application unless every contingency documented in this resolution is followed, AND

BE IT FURTHER RESOLVED, that the Planning Department is hereby authorized to convey this action to the Zoning Officer, Town of Cortlandville.

**Wendy Miller, Secretary
Cortland County Planning Board
July 15, 2020**

Ayes: 7

Nays: 1 (Chuck Feiszli)

July 10, 2020

GML#76.15-01-30.000
Town of Cortlandville
Conditional Permit, Aquifer Protection District Special Permit
& Development Permit for Flood Hazard Areas
Kile

TO: Cortland County Planning Board

FROM: Cortland County Planning Department

This application for a conditional permit, aquifer protection district special permit and development permit for flood hazard areas is being referred to the Cortland County Planning Board pursuant to General Municipal Law 239-M because the property is located within 500 ft. of U. S. Route 11/NYS Route 41, Interstate Route 81 and the Village of Homer.

GENERAL INFORMATION

Date Received: June 26, 2020

Applicant: Tom Kile
P. O. Box 222
Homer, NY 13077

Status of Applicant: Chairman of Buildings & Grounds Committee, CNY Living History Center

Requested Action: conditional permit, aquifer protection district special permit and development permit for flood hazard areas

Purpose: to construct a 40 ft. by 80 ft. two story building as an additional museum display area resembling an old fire station with a 10 ft. by 10 ft. bell tower

Location: east side of U. S. Route 11/NYS Rt. 41, immediately north of the viaduct

Size: 6.33± acres

Existing Zoning: B-2 (Highway Commercial Business)

Existing Land Use: CNY Living History Center

Surrounding Zoning: B-2 (Highway Commercial Business) & R-1 (Residential)

Surrounding Land Uses: N - vacant
S - residential
E - Tioughnioga River
W – TLC Emergency Medical Services and Cortland Auto Body Repair and Service

Existing Regulations: Code of the Town of Cortlandville
Chapter 178 Zoning
Article IA Wellhead Protection Areas
~178-2.2. Provisions applicable to B-1, B-2, B-3, I-1 and I-2 Districts
A. Lot coverage
(3)
Article VIII Highway Commercial Business B-2 District
~178-31. - Uses subject to conditional permit
C. Educational institutions
Article X: Aquifer Protection District
~178-46. - Special permits
B.
Article XIV: Conditional Permit
~178-75. - Structure/use requirements for permit approval
~178-76. - Additional specific requirements
C. Educational and cultural facilities
Article XV: Flood Damage Prevention
~178-82. Construction standards
Article XVI: Stormwater Management and Erosion and Sediment Control
~178-90. Jurisdiction and applicability

ANALYSIS:

The applicant is requesting a conditional permit, aquifer protection district special permit and development permit for flood hazard areas to construct a 40 ft. by 80 ft. two story building as an additional museum display area resembling an old fire station with a 10 ft. by 10 ft. bell tower. The property is located on the east side of U. S. Route 11/NYS Route 41, immediately north of the viaduct, and is zoned Highway Commercial Business (B-2).

This is the fourth time that an application for this property has been before the County Planning Board for review. In January 1992, the Board returned a bulk variance request to have a building attached sign project two to three feet above the height of the building for local determination on the grounds that it had minimal, if any, State or County impact. In December 2003, the Board recommended approval of a conditional permit request to operate a water and wastewater training facility at this location contingent upon the following:

1. A stormwater pollution prevention plan being developed for the site if it is determined that the proposed roadway would increase the impervious surface of the site by more than 10,000 sq. ft.
2. A permit being obtained from the Cortland County Health Department for connection to municipal water and a Cortland County Health Department permit being obtained for the connection to the public sewer or installation/use of a septic system.
3. A negative declaration of environmental impact under SEQR.

This proposal was subsequently withdrawn by the applicant. In December 2006, the Board recommended approval of a conditional permit, aquifer protection district special permit and development permit for flood hazard areas request to convert former retail space to multiple museum space contingent upon the following:

1. the applicant's submittal of a technical evaluation of the proposal that demonstrates that the proposed development will not result in any increase in flood levels during the occurrence of the base flood elevation as is required for development of properties in the floodway per the "Zoning Local Law of the Town of Cortlandville".
2. that the proposed development complies with all applicable provisions of the "Zoning Local Law of the Town of Cortlandville" for flood hazard reduction.
3. the applicant applying for and receiving bulk variances from the front and rear yard setbacks for the proposed front entryway and deck/outdoor eating area respectively upon the Town weighing the benefit of the reduced front and rear yards to the applicant vs. the health, safety, and welfare of the community/neighborhood.
4. the applicant preparing and receiving approval of a stormwater pollution prevention plan for the site per the Town's stormwater ordinance since the project would result in more than 10,000 sq. ft. of impervious surface on the site and the total impervious surface of the lot would be more than 35% of the lot.
5. the applicant filing a Notice Of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan if it is determined that the proposal involves the disturbance of at least one acre of land.
6. the applicant applying for and receiving a bulk variance from the maximum lot coverage allowance upon the Town weighing the benefit of exceeding the maximum permitted lot coverage to the applicant vs. the health, safety, and welfare of the community/neighborhood.
7. the NYS Department of Transportation (DOT) being consulted to determine if a curb cut permit is required for use of the existing access locations along U. S. Route 11/NYS Route 41 due to the change in use of the property.
8. the applicant applying to the Town of Cortlandville/Cortland County Health Department for connection to public water and sewer including an application for a back flow prevention device for the public water supply connection.
9. a negative declaration of environmental impact under SEQR.

The applicant is now requesting a conditional permit, aquifer protection district special permit and development permit for flood hazard areas to construct a 40 ft. by 80 ft. two story building as an additional museum display area resembling an old fire station with a 10 ft. by 10 ft. bell tower.

The Coordinated Review Committee (CRC) reviewed this proposal and addressed the following issues. Educational facilities are permitted in the B-2 District subject to a conditional permit. An aquifer protection district special permit is also required as the development cost of the project will exceed \$150,000. Finally, a development permit for flood hazard areas is required as the entire property is within the 100 year floodplain with the vast majority (95+ %) of the property, including the areas proposed for development, within the floodway. The applicant is proposing to construct the new building on the portion of the property within the floodway. The "Zoning Local Law of the Town of

Cortlandville” prohibits new construction, substantial improvements or other development in the floodway unless

- 1. a technical evaluation by a licensed professional engineer demonstrates that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood, or**
- 2. The Town of Cortlandville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Cortlandville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Cortlandville for all costs related to the final map revisions.**

In addition, new construction and substantial improvements of any nonresidential structure shall either:

- 1. have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation, or**
- 2. be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.**

The proposed project would consist of constructing a 40 ft. by 80 ft. addition to the south end of the existing CNY Living History Center. This addition would be a two story building resembling an old fire station to display vintage/antique fire trucks and equipment. Additionally the applicant is proposing to construct a 10 ft. by 10 ft. bell tower attached to the front of the building and a 4 ft. by 40 ft. roof overhang on the front of the proposed building. The proposed additions appear to meet the setback requirements for educational facilities in the Business District with the exception of the front yard setback (64 ft. vs. the required 75 ft.). The applicant would therefore be required to apply for and receive a bulk variance. In order for this bulk variance to be granted, the Town must weigh the benefit of the reduced front yard to the applicant vs. the health, safety, and welfare of the community/neighborhood.

The proposed building addition would be located partially on an existing paved area and partially on existing greenspace. It is unclear as to whether this proposal would require a stormwater pollution prevention plan per the Town’s stormwater ordinance as while the project would result in less than one acre of land disturbance, the total impervious surface of the lot is be more than 35% of the lot. If it is determined that a stormwater pollution prevention plan is required, the stormwater pollution prevention plan would require review and approval from the Town. It should also be noted that the maximum permitted lot coverage for parcels located outside of Wellhead Protection Zones 1a and 1b is 75%. It is unclear from the application as to the proposed lot coverage for the site. If it is determined that the lot coverage of this site exceeds 75%, the applicant would be required to apply for and receive a bulk variance to exceed the maximum lot coverage of the site. In order for this bulk variance to be granted, the Town must weigh the benefit of the increased lot coverage to the applicant vs. the health, safety, and welfare of the community/neighborhood.

Finally, the proposal is considered an Unlisted Action under SEQRA. The applicant has completed Part I of the Short Environmental Assessment Form. Parts II & III would be required to be completed by the Town to determine if there may be any significant adverse environmental impacts as a result of the proposed development.

RECOMMENDATION -

The staff recommends approval of this application for a conditional permit, aquifer protection district special permit and development permit for flood hazard areas contingent upon the following:

1. the applicant either submitting a technical evaluation by a licensed professional engineer of the proposal that demonstrates that the proposed encroachment into the floodway shall not result in any increase in flood levels during the occurrence of the base flood, or

The Town of Cortlandville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Cortlandville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Cortlandville for all costs related to the final map revisions., as is required before development in the floodway may occur.

2. That either the lowest floor of the proposed building , including basement or cellar, be elevated to or above two feet above the base flood elevation, or

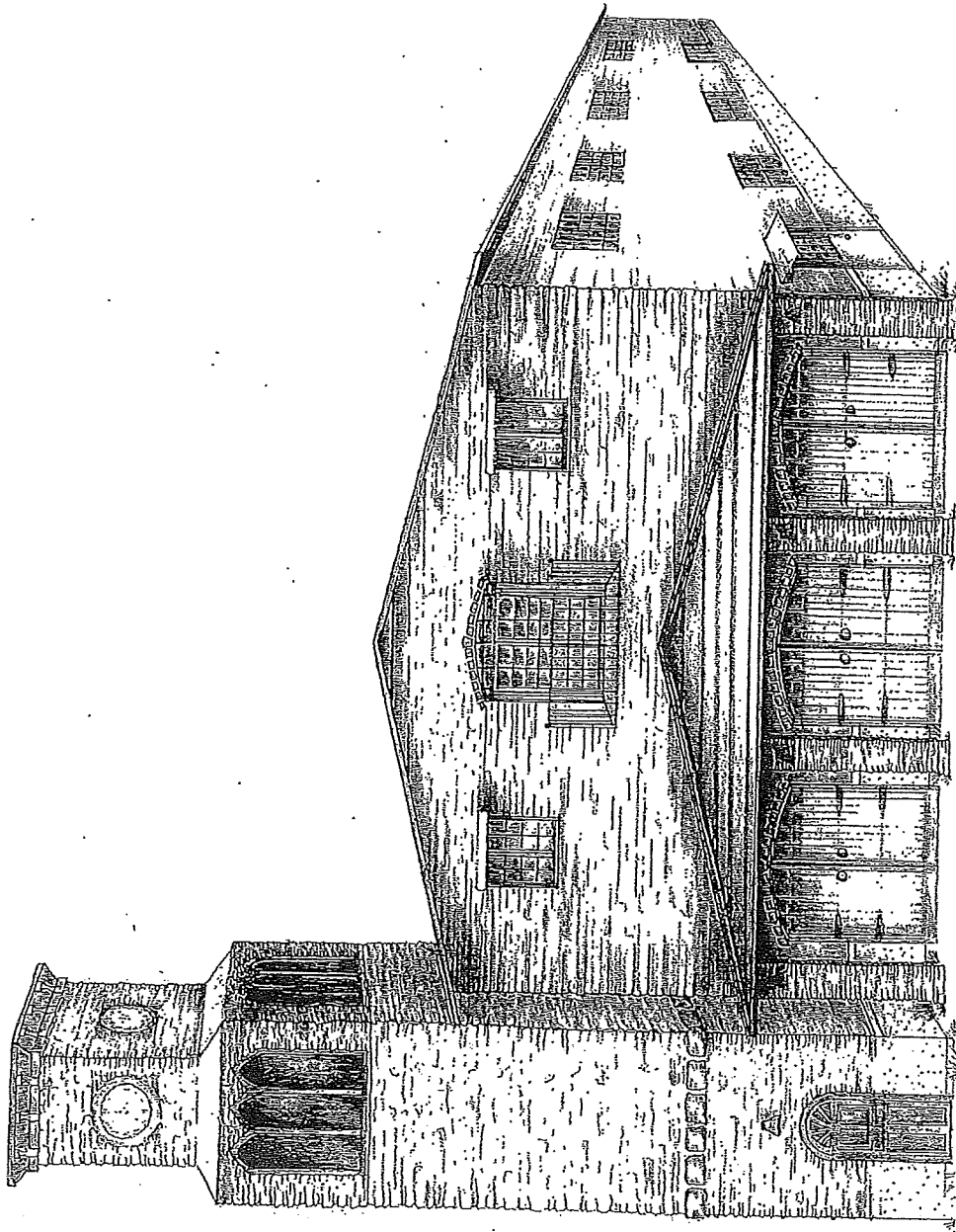
That the proposed building be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy as is required before development within an area of special flood hazard (100 year floodplain) may occur.

3. the applicant applying for and receiving a bulk variance from the required front yard setback upon the Town weighing the benefit of the reduced front yard to the applicant vs. the health, safety, and welfare of the community/neighborhood.
4. the applicant preparing and receiving approval of a stormwater pollution prevention plan for the site from the Town if it is determined that a stormwater pollution prevention plan is required per the Town's stormwater ordinance.
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6. A negative declaration of environmental impact under SEQR.

Prepared by:

A handwritten signature in cursive script, reading "Daniel S. Dineen", written over a horizontal line.

Daniel S. Dineen
Director of Planning



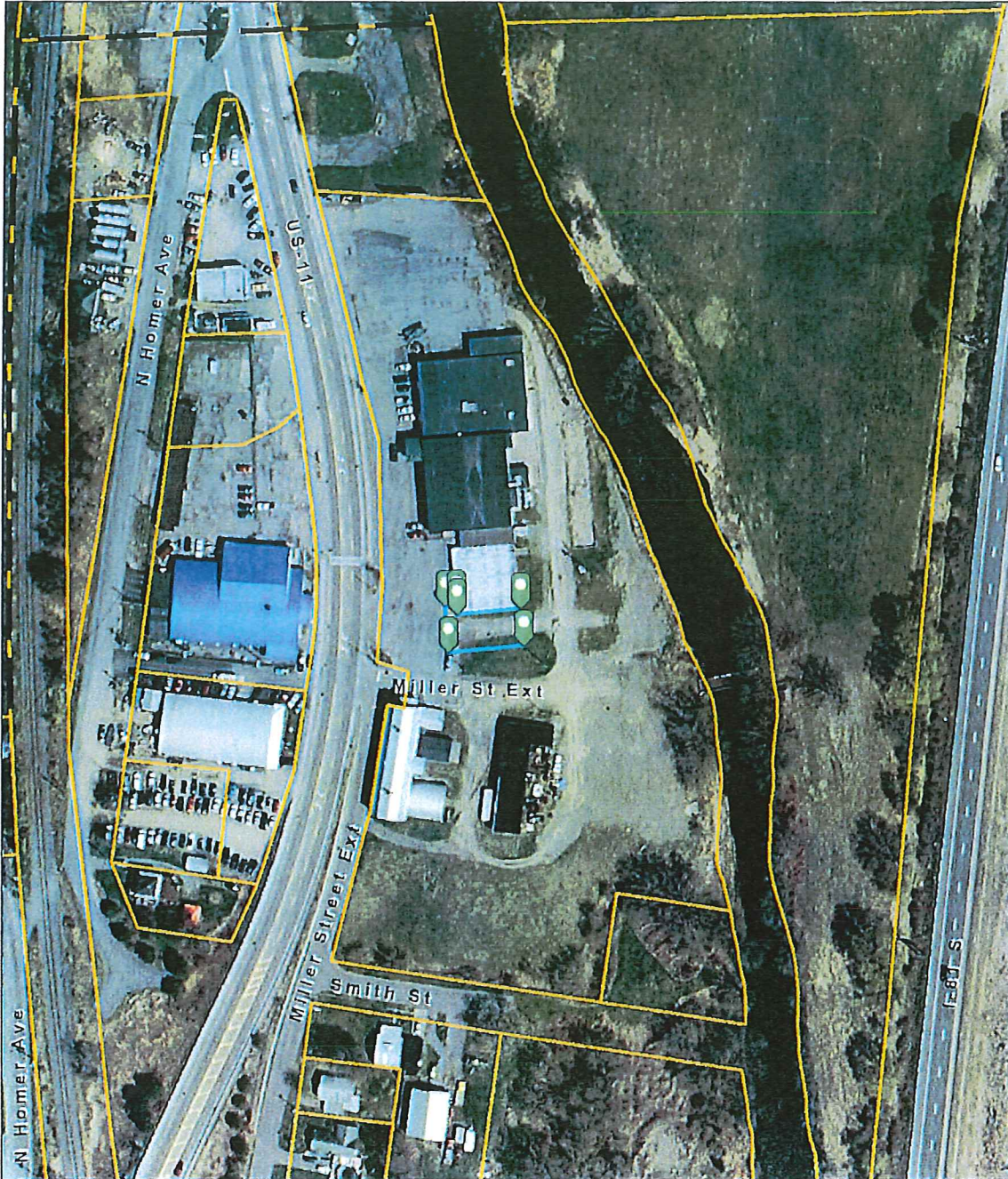


Cortland County, NY

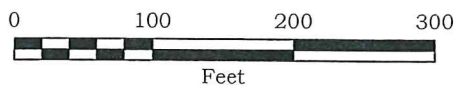
1 inch = 150 Feet



July 1, 2020

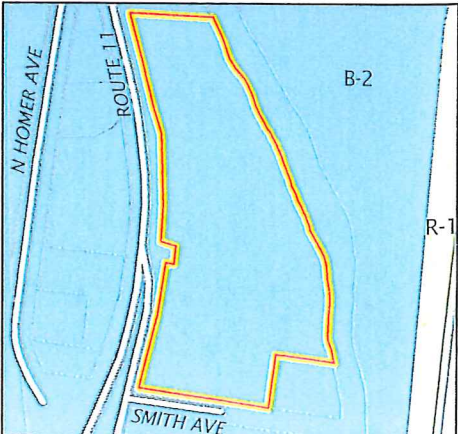


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ZONING DISTRICTS

[White box]	AG
[Light blue box]	R-1
[Yellow box]	R-2
[Orange box]	R-3
[Light blue box]	B-1
[Medium blue box]	B-2
[Dark blue box]	B-3
[Light blue box]	I-1
[Light blue box]	I-2
[Purple box]	PUD



Cortland County
Planning Department
37 Church Street
Cortland, NY 13045