

# Ontario County Planning Board

Jaylene Folkins, Chair  
Mary Neale, Vice Chair

## Draft Referral Review Comments for Discussion at the Ontario County Planning Board Coordinated Review Committee – May 9, 2012

55 - 2012

Town of Phelps    Town Board

Class: 2

[Aerial](#)    [Site plan](#)

Type: *Site Plan*

Related Referrals: *n/a*

Applicant: *Richard Turner*

Property Owner: *Danny Prospero*

Representative:

Tax Map Parcel #: *63.00-1-23.300*

Brief Description: *Proposal to construct a 9,000 sq. ft. showroom, office and warehouse building for Prospero Equipment Co. at 1902 State Route 14 in the Town of Phelps.*

**NOTE: This referral was submitted last month and returned by the CPB as incomplete because the parcel information was wrong.**

Site Characteristics		Adjoining Land Use/Land Cover		Infrastructure	
Acres:	8	North:	Commercial	Public water:	No
Land Use:	Vacant	South:	Flag drive & residence	Public sewer:	No. Soils are have severe limitations for septic systems
Land Cover	W: 60% wooded	East:	Wooded/wetland	Municipal stormwater:	No
		West:	Rt. 14	Public road:	SR14
	E: Open			Existing subsurface existing drainage	No information
Water Resources		Wetlands		Agriculture	
Major watershed	Canandaigua Outlet	NY DEC	No	Prime etc soils	Yes
Sub-watershed	Unnamed tributary to Canandaigua Outlet	NWI	No	In NY Ag. Dist.	No

**Abbreviations**

AR 1: Administrative Review Class 1  
 AR 2: Administrative Review Class 2  
 EX: Exempt  
 W : Withdrawn

Stream/Lake	No	Hydric soils	No	Active Ag.	No
Aquifer	No information			500 ft. of Ag. Dist.	No
Well Head study	No				
<b>Drainage</b>		<b>Cultural/Historic Resources</b>		<b>Scenic Views/Viewshed</b>	
Slope	<10%	National	No information	From Site	No
Soil permeability		State	No information	To Site	No
Erodibility	Low	Local	No information		
<b>Transportation Corridor</b>					
CPB Gateway	State Route 14				
Corridor Study	Yes				
<b>SITE PLAN ELEMENTS</b>					
<b>Community Character Elements</b>			<b>Vehicle &amp; Pedestrian Circulation</b>		
Lighting Plan	Two dark sky compliant wall packs listed on building. Wall packs shown on sign are not full cut off.		Access Management	The site plan indicates that the parcel will share the driveway with the parcel to the north.	
Signage Plan	Sign mounted on building		Internal Circulation	Circulation is along the north side of the parcel (no loop). Loading dock is at the rear of the building.	
Noise	No information		Pedestrian Linkages	None indicated	
Landscape Plan	Trees and shrubs indicated		Parking	Eleven spaces are indicated. A “tractor-trailer” is located behind the building to show adequate space for turnaround.	
Streetscape	Three shrub/three evergreen plantings along SR 14				
Building Façade	No image provided				
<b>Stormwater Management</b>			<b>Parks, Recreation, Open Space</b>		

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SWWP	No stormwater management information was provided.	Outdoor Recreation	No
Green Infrastructure	No	Linkages	No
Other		Dedicated open space	No

**Code Compliance**

Setbacks	No notation was made by the town that variances are required.
Lot Size	The parcel survey lists a 105’ road frontage. The Site plan indicates a 265’ frontage.

**COMMENTS**

- **Access Management** A shared driveway will be used which will reduce curb cuts on along the SR 14 corridor.
  - To avoid any future legal issues, the Town should document that a cross access easement indicating shared use of the driveway is in place prior to considering final approval
  - The driveway to the south is not delineated by a curb cut allowing open access. It should be separated through some means to prohibit cars from just pulling off anywhere along the frontage.
  
- **Stormwater Management**
  - Given the history of drainage problems in this area, if no SWPPP the Town should require that the applicant work with the OCSWCD to develop appropriate measures that will address drainage issues prior to final approval
  - The Town should also consult with NYSDOT regarding any impact on road drainage that could be associated with this project.
  
- **Onsite Wastewater Treatment/Potable Water** The soil type on this site (Morocco Mn and Berrien Bc) classified in the Interpretive Soil Report for Ontario County as having severe limitations for septic tanks and absorption fields. Before any approval is considered, the applicant should consult with the OC SWCD to determine the requirements for an onsite system and provide engineered (stamped) plans.
  - The well is located roughly 150 feet (to the east) from the septic system. The location of the well should be verified by the NYS Board of Health given their sandy composition.

**Streetscape** Some plantings are indicated along Rt. 14. Given the significance of this corridor as a regional gateway to the Finger Lakes, additional attention should be given to landscaping along the road. Enhanced landscaping will also serve as a barrier to vehicles that want to pull off the road and not use the driveway. No general site lighting is noted.

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**65 - 2012                      Town of Canandaigua    Zoning Board of Appeals                      Class: AR2**

Type: *Area Variance*

Related Referrals: *n/a*

Applicant: *Cheshire Community Action Team*

Property Owner:

Representative:

Tax Map Parcel #: *125.12-1-40.000*

Brief Description: *Area variance for sign at the Cheshire Grange located at 4270 SR 21 in the Town of Canandaigua.*

**66 - 2012                      Town of Canandaigua    Zoning Board of Appeals                      Class: AR1**

Type: *Area Variance*

Related Referrals: *n/a*

Applicant: *James and Mary Keenan*

Property Owner:

Representative:

Tax Map Parcel #: *70.16-4-36.000*

Brief Description: *Rear and side setback area variances to construct a detached garage at 5095 North Rd. in the Town of Canandaigua.*

**67 - 2012                      Town of Canandaigua    Zoning Board of Appeals                      Class: AR2**

Type: *Area Variance*

Related Referrals: *n/a*

Applicant: *Design Works Architecture*

Property Owner: *Edward and Suzanne O'Connor*

Representative:

Tax Map Parcel #: *98.13-1-30.000*

Brief Description: *Variations to exceed setbacks on all sides and lot coverage in order to tear down a cottage and build a single family residence on at 3497 Lakeview Lane on Canandaigua Lake in the T. of Canandaigua*

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**68 - 2012**

**Village of Phelps Village Board**

**Class: 1**

Type: *Text Amendment*

Related Referrals: *n/a*

Applicant: *Village of Phelps*

Property Owner:

Representative:

Tax Map Parcel #:

Brief Description: *Amendment to Section 175-4 of the Village zoning code to ad "laundromat" as an allowed use in the C-2 Zoning District in the Village of Phelps.*

**Project Description:**

The text amendment adds **Laundromat** and **Dry Cleaning Pick-Up Station** as Permitted Principal Uses in the C-1 and C-2 Zoning districts.

The following Permitted Principal Use, “ Other places of business similar in nature to the above uses, provided that any processing or manufacturing of goods is incidental to the business conducted on the premises” is deleted and replaced with,

“ Other places of business similar in nature to other places of business permitted by this Schedule in the C-2 District provided that any processing or manufacturing of goods is incidental to the business conducted on the premises”

**Comments**

At the April, 2012 CPB meeting, an application for a micro-brewery located in the C-2 District was reviewed by the Board. Since ‘processing’ (brewing) was the primary permitted principal use would it be allowed under the proposed revisions to C-2 since processing (brewing) is not incidental to another permitted principal use in the Schedule such as a restaurant that has a microbrewery on site that makes beers for consumption or sale at the restaurant?

**69 - 2012**

**Town of Hopewell Town Board**

**Class: 2**

Type: *Moratorium*

Related Referrals: *n/a*

Applicant: *Town of Hopewell*

Property Owner:

Representative:

Tax Map Parcel #:

Brief Description: *Establish a one year moratorium on horizontal and directional gas drilling and hydraulic fracturing in the Town of Hopewell.*

**Abbreviations**

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**Project Description:**

Proposed moratorium that prohibits the review, approval or creation of any new wells, project or businesses involving the practices of horizontal or direction drilling or hydraulic fracturing anywhere within the Town of Hopewell by any action of the Planning Board, Zoning Board, or Building Inspector.

**Comments**

§800.1 Statement of Intent (for the Industrial District) states that the districts are for light and heavy industrial uses only without detriment to public health, safety, etc. §801.4 does allow the ZBA to allow “any other uses which it determines to be of the same general character as the permitted uses.

The Town’s current Industrial Zoning District prohibits (§803.3) “Production from raw materials of chemicals, cement, explosives, fertilizer, paint products, rubber, soaps and the by-products of coal, coke, petroleum and natural gas.”

While it may seem to prohibit activities related to “hydro-fracking”, there is substantial ambiguity in the current law which the Town can address during the moratorium.

**70 - 2012**

**Town of West Bloomfield Town Board**

**Class: 2**

Type: *Moratorium*

Related Referrals: *n/a*

Applicant: *Town of W. Bloomfield*

Property Owner:

Representative:

Tax Map Parcel #:

Brief Description: *Establish an eighteen month year moratorium on natural and petroleum exploration and extraction activities, underground storage of natural gas, and disposal of natural gas or petroleum extraction, exploration and production wastes in the T. of W. Bloomfield.*

**Project Description:**

Proposed 18 month moratorium that prohibits gas and petroleum exploration and extraction activities, underground storage of natural gas and disposal of natural gas or petroleum extraction exploration and production wastes. This moratorium is not limited to horizontal drilling and hydraulic fracturing as other moratoriums have been.

Any existing operations permitted by the NYS DEC may continue.

**Comments** The current code does not specifically allow any of these activities or uses. However, the definition of “Light Industrial” does mention could be interpreted to allow activities that would support the petroleum and natural gas production.

The Town’s draft comprehensive plan does call for the prohibition of such uses subject to the moratorium. This moratorium will give the town time to make sure the zoning code accurately reflects that goal.

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71.1 - 2012

Town of Geneva Zoning Board of Appeals

Class: 2

Type: *Special Use Permit*

Related Referrals: *n/a*

Applicant: *Dan and Rachael Long*

Property Owner: *IMB Properties, LLC*

Representative: *Dan Long, RA N & ARD*

Tax Map Parcel #: *90.16-1-19.000*

Brief Description: *Renovation of an existing building and site improvements to operate the Kidventure Dome Kidventure Dome which is an existing nonconforming use at 214 State Route 14 N. in the Town of Geneva*

[Site Plan](#)

[71-12 Aerial.pdf](#)

**Project Description:** The project is located on two separate tax parcels. The building is located on the north parcel on a .3 acre lot in the Town of Geneva. The southern parcel is a .7 acre parcel which is used for parking and is in the City of Geneva. No referral was submitted by the City of Geneva for this portion of the site plan this month.

Site Characteristics		Adjoining Land Use/Land Cover		Infrastructure	
<b>Acres:</b>	1 ac. (both parcels)	North:	Auto service business	Public water:	Yes
<b>Land Use:</b>	Roller rink w/ Parking	South:	Vacant commercial. Incidental vegetation.	Public sewer:	Yes
<b>Land Cover</b>	Developed	East:	Vacant commercial. Incidental vegetation. Parked vehicles	Municipal stormwater:	None in the town. Unknown for the city.
+		West:	Warehouse, single family residence	Public road:	Rt. 14
				Existing subsurface existing drainage	No information
Water Resources		Wetlands		Agriculture	
<b>Major watershed</b>	Upper Seneca River	NY DEC	No	Prime etc soils	No
<b>Sub-watershed</b>	Castle Creek	NWI	No	In NY Ag. Dist.	No

**Abbreviations**

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<b>Stream/Lake</b>	No	Hydric soils	Odessa and Eel-Potentially Hydric	Active Ag.	No
<b>Aquifer</b>	No information			500 ft. of Ag. Dist.	No
<b>Well Head study</b>	No				
<b>Drainage</b>		<b>Cultural/Historic Resources</b>		<b>Scenic Views/Viewshed</b>	
Slope	<5%	National	<b>Eligible for designation</b>	From Site	No
Soil permeability	Low	State		To Site	No
Erodibility	Moderate	Local	No		
<b>Transportation Corridor</b>					
CPB Gateway	Yes				
Corridor Study	Yes				
<b>SITE PLAN ELEMENTS</b>					
<b>Community Character Elements</b>			<b>Vehicle &amp; Pedestrian Circulation</b>		
Lighting Plan			Access Management	Unlimited access to the T. of Geneva parcel. City parcel has two curb cuts.	
Signage Plan	Sign indicated on front of building. No directional signage indicated		Internal Circulation	Internal circulation plan indicated by arrows.	
Noise	Not applicable		Pedestrian Linkages	The public sidewalk ends at the City/Town line. No pedestrian access plan.	
Landscape Plan	Two trees at the ends of the parking lane divider. Applicant states there is no room for landscaping.		Parking	Located on south parcel. .No handicapped spaces are indicated.	
Streetscape	No streetscape enhancements.				
Building Façade	Street view elevation provided				
<b>Stormwater Management</b>			<b>Parks, Recreation, Open Space</b>		

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SWWP	No information	Outdoor Recreation	No
Green Infrastructure	None indicated	Linkages	Public sidewalk on city parcel.
Other		Dedicated open space	None

**Code Compliance**

Setbacks	<ul style="list-style-type: none"> <li>The parcel is located in an industrial zoning district. The current recreational use is non-conforming. The applicant is seeking a special use permit to change non-conforming uses.</li> <li>The Town of Geneva Comprehensive Plan recommends a change of use from Industrial to commercial. The proposed use is compatible with the current comprehensive.</li> </ul>
Lot Size	

**COMMENTS**

**Gateway Parcel** This is a high visibility project located at the gateway to the City/Town of Geneva. The City of Geneva has made sidewalk and curb improvements on the end at these parcels. The renovation of this building and change of use provides a significant opportunity to significantly improve vehicular and pedestrian access and safety, and improve the streetscape.

**Vehicular/Pedestrian Access Management** The current situation which allows vehicles to pull off anywhere and drop off persons and then exit at will from the RollerDrome is very dangerous. The proposed use will have more attract more children whose smaller stature makes them harder to see.

- Except for the curb cuts on the City parcel, there is no information regarding how access to the town parcel will be controlled or limited. It is unlimited presently. Will the road frontage side of the building still be accessible to vehicles?
  - Currently, there is no barrier to accessing the parcels to the north and south of the project parcels. A short and long term access management plan should be prepared for the adjoining parcels. (See comments below on access parcels to the east.
- No basic traffic analysis is provided.
- The internal circulation ‘sketch plan’ does not indicated pedestrian crosswalks.
- How will the dumpsters be accessed by the trucks?
- Handicapped parking spaces are not delineated.
- The Town and City should work with NYSDOT to determine the optimal access point(s) from Rt. 14.

**Access to Adjoining Parcels to the East**

- The adjoining parcels to the east do not have direct access to Rt. 14 and are landlocked. What provision is being made to provide access should the owner want to develop the parcels. This needs to be resolved prior to any approvals being granted.
- The eastern parcel boundary is not delineated with landscaping, fencing, curbing or other measure. As designed, cars could enter (or exit) the auto service business on the parcel to the north and drive around the back to enter/leave the parking lot. It will also encourage illegal parking on the adjoining parcels.

**Community Character/Gateway**

- Lighting** The street elevation drawing indicates lighting over the sign. No other lighting is indicated. If lighting for the parking lot or wall mounted fixtures are to provided on the sides of the buildings, they should be fixtures that provide complete cutoff to minimize light spillage.

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- **Signage** No other building or directional/entrance/exit signs are indicated. A signage plan should be included in the site plan.
- **Streetscape** No landscaping or decorative fencing (i.e.) faux wrought iron style), etc is provided along the street/sidewalk to create both physical and visual separation from Rt. 14. The area in front of the building is currently black top. Is this to remain or will it become a landscaped area with outdoor seating?
  - The sidewalk should be extended on the town parcel to enhance safety and improve pedestrian access.
- **Landscaping** No landscaping is indicated along the south end of the parking lot or along the east side of the parcel.

**Consideration for Special Use Permit v. Site Plan Approval** The site plan is more of a sketch plan that provides a general concept of the project but does not provide the detail as would be found in a preliminary site plan. The information provided may be sufficient to make a decision regarding the change of nonconforming use special use permit but it is not sufficient to grant site plan approval.

71.2 - 2012

Town of Geneva Planning Board

Class: W

Type: *Site plan approval*Related Referrals: *n/a*Applicant: *Dan and Rachael Long*Property Owner: *IMB Properties, LLC*Representative: *Dan Long, RA N & ARD*Tax Map Parcel #: *90.16-1-19.000*

Brief Description: *Renovation of an existing building and site improvements (parking, entrance, lighting,) of the Kidventure Dome which is an existing nonconforming use at 214 State Route 14 N. in the Town of Geneva*

**NOTE:** The comments provided above included those applicable to the site plan application. The Town has withdrawn the site plan referral for this month, and will focus on the special use permit first. The Town has been advised that the site plan comments have not been edited out so that the issues identified can be addressed as more detailed site planning is done.

72 - 2012

Village of Phelps Planning Board

Class: 1

[\*Aerial\*](#) [\*Site Plan\*](#)Type: *Site Plan*Related Referrals: *n/a*Applicant: *Al DePorter*Property Owner: *Dean Williamson*

Representative:

Tax Map Parcel #: *47.08-2-42.000*

Brief Description: *Site plan approval to expand the Wine Bar to provide meeting room facility within the existing building along with additional parking at 125 Main St. (State Route 96) in the Village of Phelps.*

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<b>Project Description:</b>					
<b>Site Characteristics</b>		<b>Adjoining Land Use/Land Cover</b>		<b>Infrastructure</b>	
<b>Acres:</b>	.47	<b>North:</b>	Rt. 96	<b>Public water:</b>	
<b>Land Use:</b>	Commercial	<b>South:</b>	Wooded/shrub/scrub	<b>Public sewer:</b>	
<b>Land Cover</b>	Buildings, parking. Vegetation along the creek.	<b>East:</b>	Flint Creek floodplain	<b>Municipal stormwater:</b>	No
		<b>West:</b>	Vacant. Shrub/scrub	<b>Public road:</b>	Rt. 96
				<b>Existing subsurface existing drainage</b>	
<b>Water Resources</b>		<b>Wetlands</b>		<b>Agriculture</b>	
Major watershed	Flint Creek	NY DEC	No	Prime etc soils	Yes
Sub-watershed	Lower Flint Cr.	NWI	No	In NY Ag. Dist.	No
Stream/Lake	No	Hydric soils	No	Active Ag.	No
Aquifer	No			500 ft. of Ag. Dist.	No
Well Head study					
<b>Drainage</b>		<b>Cultural/Historic Resources</b>		<b>Scenic Views/Viewshed</b>	
Slope	< 5%	National	No information	From Site	There is a view of Flint Creek and waterfalls from the site.
Soil permeability	Rapid	State	“	To Site	
Erodibility	Low	Local	“		
<b>Transportation Corridor</b>					
CPB Gateway	Yes – Rt. 96				
Corridor Study	Yes				
<b>SITE PLAN ELEMENTS</b>					

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Community Character Elements		Vehicle & Pedestrian Circulation	
<b>Lighting Plan</b>	None indicated	<b>Access Management</b>	The parcel is accessed from the adjoining parcel to the west. Access agreement is noted on site plan. There is no physical boundary with the next parcel so cars could enter off site and cut across to the parking area.
<b>Signage Plan</b>	None indicated	<b>Internal Circulation</b>	Confusing. See below
<b>Noise</b>	Existing outdoor patio area.	<b>Pedestrian Linkages</b>	Public sidewalks are provided but no delineation of pedestrian walkways or cross walks.
<b>Landscape Plan</b>	Some trees indicated but not sure if they are new or existing.	<b>Parking</b>	9 new parking spaces are provided on the adjoining parcel. Two spaces are ‘floating’ on the west side along the adjoining parcel. Vehicles can cross over from the next lot that is not part of the parking agreement. lots
<b>Streetscape</b>	No improvements identified.		
<b>Building Façade</b>	No change		
Stormwater Management		Parks, Recreation, Open Space	
SWWP		Outdoor Recreation	No public recreation. A gazebo that is on the parcel that adjoins the creek and has been used by the public informally as a park will be removed for the parking lot.
Green Infrastructure		Linkages	None
Other		Dedicated open space	None
Code Compliance			
Setbacks			
Lot Size			
COMMENTS			
<b>Site Access and Parking</b> Due to the configuration of the lot lines, the current site plan would encourage people to use any of the adjoining driveways ‘cut over/or exit from to the parking lot. The configuration of the parking lot should be reconsidered in order to eliminate the two floating create controlled access, and a better defined internal circulation pattern.			

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73 - 2012

Village of Naples Village Board

Class: 1

Type: *Text Amendment*

Related Referrals: *n/a*

Applicant: *Village of Naples*

Property Owner:

Representative: *David P. Miller, Esq.,*

Tax Map Parcel #:

Brief Description: *Local law entitled, "Prohibition of Gas and Petroleum Exploration and Extraction Activities, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes".*

**Project Description:** This is submitted as a stand-alone local law and not an amendment to the zoning code.

**Comments**

**Appendix A. Section 1. Authority and Intent** and **Section 3. Purpose** should not be an appendix but incorporated directly in the body of the local law. These are integral parts of local laws and **NOT** accessory data or information which is what an appendix is suitable for. **Section 3. Findings of Fact** should be incorporated into the SEQR document prior to issuing a negative declaration. They can also be included in the formal adoption resolution/action taken by the village board. As appropriate elements can be incorporated into the purpose statement in the body of the local law.

**Relationship of Proposed Local Law to the Zoning Code**

- Is this local law outside of the zoning code (stand alone law)? If yes, what is the rationale for creating a stand-alone law that has a separate ‘hardship’ provision?
- Created a land use regulation outside the zoning code can be very confusing to local boards as well as residents. NYS Village Law Sec. 7-700 creates the mechanism to regulate land uses. It establishes procedures for communities to prohibit uses in all zoning districts and has a clearly established five step test for granting of a use variance. In that test, hardship is only one of five criteria that must be met to grant a use variance.
- **Standards for review-Section 8** (last paragraph) then says that if the hardship variance is granted, the applicant shall comply with all applicable zoning laws, etc. How does this work? If you are going to do it this way, there need to be specific cross reference to the zoning code for precisely how this is to be reviewed – what standards apply to a use that is a use that is not allowed in the zoning code? --setbacks, lot coverage, structural dimensions, lighting, wastewater treatment, parking, etc.

When a use variance is requested, it is generally for a use that is allowed in another zoning district but the applicant wants permission to do it in a district where it is not allowed. Standards for that use are found in the zoning code.

If the ZBA grants a use variance, at a minimum, a special use permit and site plan approval should be required which will have a full set of detailed standards and requirements tailored to the respective use the hardship was granted. Since so many uses or activities are prohibited that can take place as a stand alone independent use, standards will be need that are tailored to the

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discreet uses.

**SECTION 10 SUPERCEDING INTENT AND EFFECT** What does this mean and why is it in here? *The mechanism for a village to “supersede any inconsistent provision of local laws resolution, ordinances, local laws, or policies to amend repeal that particular provision.*

- Before the Village Board takes any action, all local laws resolutions and ordinances, policies should be reviewed to find provisions that are inconsistent with this local law and change everything at once.

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