

**Planning Board/ARB  
Minutes  
December 2, 2014**

**Present**

**Absent**

Chairman Wohlers  
Denny Marra  
Joseph Slominski  
Craig Byham  
Liz Venezky  
William Rutter

Attorney Eric Stowe  
Electric Superintendent Owen McIntee  
DPW Superintendent Tom West  
Planning Board Secretary Donna Stassen  
Village Engineer David Willard

**Others Present**

Carol Nellis Ewell  
Joan Quigley  
Kris Schultz  
Patrick Laber  
David Pelusio  
Terry and Roberta West  
Al and Barb Pittman  
Andrew Spencer  
Dale Kellerson  
Charles Hopson  
Gary Penders  
Richard Holtzberg

At this time Chairman Wohlers led the Pledge of Allegiance.

**Planning Board**

**Unfinished Business**

Mavis Tire  
26 Slayton Ave  
Spencerport NY

Chairman Wohlers stated that on November 4, 2014 the application of Mavis Tire was tabled with the consent of the applicant until the next meeting.

Attorney Holtzberg: We tabled this meeting extensively to provide information relative to requirements also to provide answers to various concerns. There have been some new developments but before we get into that my client David Pelusio would like to say a few words.

David Pelusio: I have been to some of these meetings over the years and it seems like everything was going great until we had some hurdles with the other project that we are not doing now. I would just like to mention that especially at the last zoning meeting which concerned me a little bit is that the owner of the plaza is a bad guy and that is just not the case. When I moved into Spencerport I never realized what a great village this was and I was so proud to be involved with a project that made the village better because to reflect everyone's memory that plaza was a ghost town and the parking lot used to flood. The only thing you really had was Rite-Aid and a couple other little tenants the rest were gone. Rite Aids lease just came up it finally expired from 1976 and we re-negotiated another two 5 year options so they are staying.

I would like to give you a little bit of history that some of you may not know. When Top's opened they had a five year lease they were open 2 months and they came to me and said if you fix some of this parking lot because there were a lot of pot holes they would exercise their second option; so instead of being a 5 yr lease it would turn into a 10 yr lease immediately because it was such a success. The Village of Spencerport and the residents should be proud that was a proto type for all the new stores except for one thing the other stores are about 10,000 sq ft bigger. At the time Tops was owned by a huge conglomerate out of New York City the employees bought it in my opinion that Top's saved Top's I am proud of that and you should be too. They came back to me 2 years after they were in business and said they wanted to exercise their other option for another 10 years so that means they are locked in for 20 years until 2030 with some more options so theoretically they will be here until 2050. They are providing a service and they are making money the amount of sales tax that plaza generates today is about from my estimate it generates over 2 million dollars in sales tax I don't know the percentage the village gets from that and Mavis alone will bring in another 120,000 dollars in sales tax.

I am not the bad guy we are not looking for something it is not zoned for I am not making it to look like something that doesn't belong in that plaza if you remember even when the plaza was finished the back buildings were brown and the first thing I did was make it blend in with the rest of the plaza. I paved and sealed the rest of the parking lot that parking lot benefits not just the plaza but also is used for Canal Days and to walk along the canal path. We were going to donate a big parking lot at the end by making a deal with the ambulance but unfortunately that didn't happen.

But today we don't have any more floods, even the sidewalks have been redone, the landscaping is taken care of at least 20 hours a week and the parking lot is deaned up no cigarette butts etc. no graffiti. At one of the meetings you didn't like the way the building looked we put the tops with angles on those same angles can go on the rest of the buildings they are very inexpensive to do.

I lowered the rent at Lamont's to keep him there he needs activity in that corner there is nothing down there except for BOCES and there are only 20 students and they are gone by 3:00. BOCES is looking to renew they want some remodeling done inside and we are considering it very much because I think it is a good part of the community those are god's children and you have to help them out a little bit.

The reason they like that place is because they like activity they want the young adults to go and shop and be around normal life the benefits that plaza has for the community is a lot. People have their little side comments I am not the bad guy. I have approached the owners of the other stores and asked them what they thought of Mavis they are sure that the customers will use Top's and the restaurants and other stores in the plaza. This is the concept of having a plaza is multi stores with retail and Mavis is retail.

I know you have concerns I hope that the professionals that I hired and the professionals that you hired can guide you in the right direction, and I thank you for your time.

Chairman Wohlers: We don't consider you a bad guy and as members of the Planning Board we are just trying to listen to our residents and follow the code.

Pat Laber addressed the comments from the Village Engineer David Willard dated November 10, 2014 in a letter dated November 19, 2014.

**Such documents are filed.**

Kris Schultz: I did want to talk a little about the change that we are going to go through with. Typically when you fill out a SEQR short form you log into a NYS DEC website and as you answer the questions that website is tied into databases and if you have something where you need to give the location it will search to see if you are near a wetland etc. which helps to make sure you are not missing anything. When we did the modified short form one of the questions asked if you are adjacent to any archeological significant landmark at that time we checked no and the database agreed with it and we didn't have an issue. Today if you do that it will come back and say you are next to the Canal which means SHPO is the agency that looks at what those potential impacts would be to historic sites. Fortunately for us when we did the project for the Village of Spencerport Park we actually took the entire park plan and we were doing modifications right on the canal property so it wasn't even adjacent to the canal. Even though we weren't required to notify SHPO it was prudent to send it out and make sure there wasn't an issue. Part of that project we actually did a full submission to SHPO with photos and everything they need on their form sent it in December 2012 and they sent back a letter basically saying your fine that there was no adverse or impact on historic cultural resources. Even though for today on this project we have to now go back and do the long form and provide a SEQR packet it will be the same agency looking at the same thing so them coming back and saying there is a problem won't happen. What it does to us is it delays us we were hoping to come in tonight and have a good discussion about your concerns. Now we are in a situation that because of timing we won't be able to get to that point tomorrow morning we will fill out the long form and get it out to SHPO and hopefully they will look at it before Christmas this one took 2 months this new one could be the same thing. We are handicapped at the standpoint this board only meets once a month. We are very confident that there isn't going to be anything else of issue. The key to this is we are redeveloping a site we are not going into a virgin site proposing a Mavis building we are in a plaza basically replacing blacktop with a building a lot of things that could potentially be issues are not issues. No issues with floodplains or wetlands none of those things that typically cause this board to reach out to other agencies. That is where we are with this whole thing. There may be cause that this is grandfathered we haven't even looked into that. With all

that said I just wanted to ask this board if there is anything else we may have missed or that you need additional information on.

Chairman Wohlers: Do we proceed with our comments now at this time?

Attorney Stowe: You are free to proceed with comments the board can't take any action until SEQR is complied with. The grandfather issue is something Attorney Holtzberg and I are going to look into. If it is grandfathered certainly that will change the tone for the board. From our perspective SEQR is something that we want to get right. It is important to keep in mind that this is not a determination that it does have an impact it is a determination that it could have an impact.

Attorney Stowe stated that with the research he has done the scenario where the parcel of land touches the canal would fall under substantially contiguous.

Attorney Stowe: My recollection of the last meeting is that we didn't take any SEQR action other than declaring lead agency status given the new information it would likely be wise to rescind our determination of lead agency status and upon the submission we would send out a request to be designated lead agency notifying all interested agencies. The canal is owned by the Thruway Authority so I believe they would certainly be interested not necessarily involved there are a number of parties that would have to be notified. It would make the most sense for this board to be lead agency in my estimation. They have a comment window of thirty days and if they don't respond we are the lead agency.

Kris Schultz: We have done this many times the whole key to moving the process is getting a list of agencies to ask if they want to be lead agency. I have never had an agency say yes they want to do it they always give it back to the Planning Board. Usually we come up with a list that we think is sufficient and then we provide it to the Village Attorney to review and see that we have everyone. We want to do that this week if that makes sense as far as logistics.

Attorney Stowe: The only issue I have with that is that they would have to make the determination to adopt and send it.

Kris Schultz: Which in essence is what I am asking what I want you to do tonight is say we will allow you to send out and ask all the agencies if they want to be the lead agency to allow us to proceed.

Attorney Holtzberg: One of the reasons we wanted to continue with the meeting tonight is because there were these 5 or so items that were of a major concern to all of you. We were hoping that we satisfied you so you can say ok we are comfortable with those issues as far as the planning board is concerned as far as site plan issues. Obviously environmentally it has a life of its own and that will happen but because of this delay we really want the board to satisfy itself that there is nothing further that you need from us via the site plan approval regardless of SEQR Attorney Holtzberg repeated again the few outstanding items that were addressed earlier. We want to put those items to bed tonight so that we don't have to go down the road 2 or 3 months from now and be asked to address other issues and have another meeting or two. At some point these matters have their own life people aren't

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standing around waiting for us to do things they move on and we want to try as best as we can to answer your questions so that you don't have any unanswered questions that will come up later on and that is why we are here tonight. I don't know what more we can do as you know the village law allows you to appoint experts your experts are here and I think to some degree they have spoken I know MRB has given you a letter with some comments and I think we have addressed those tonight. We understand you can't approve anything tonight but to hear you say I think that we have all the information that we need or if you need something else let us know now so we can start working on it so that we are not delayed anymore than we have to I don't think that is a lot to ask of this board.

Chairman Wohlers: Do we have to rescind and then do another resolution before the comment period?

Attorney Stowe: You would have to rescind the lead agency determination the procedural issue I have is we haven't seen a full EAF to act upon. Without a full EAF what are we acting on that is my issue I don't know that we can act on it without seeing the full EAF. Without having a full EAF to consider and to have the interested agencies determined by the board I don't know if we can declare and start the 30 day window without the materials in front of you to make that determination. It is upon you to make that determination if the agencies involved are sufficient.

Attorney Holtzberg: Eric I understand we can have that information to you within a day. We don't want to delay it another month.

Attorney Stowe: The issue becomes for the board they don't have anything to review and act upon.

Kris Schultz: All the information necessary to do it can be put together very easily. Lets cut to the chase can we potentially schedule another meeting just for that purpose it would probably only last for a few minutes and would basically allow us to start that 30 day window. We could do that as soon as tomorrow night.

Attorney Stowe: That is up to this board.

Chairman Wohlers: Unfortunately because of the time of the year it will have to wait until our next meeting.

Kris Schultz approached the board asking permission to temporarily table this application until the end of this meeting at such time we will provide the board with the completed long form.

The board agreed to such request.

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Resolution No 12/12/a  
December 2, 2014

Introduced by Chairman Wohlers  
Seconded by Craig Byham

Motion made by Chairman Wohlers seconded by Craig Byham and carried unanimously to rescind the designation of the Village of Spencerport as lead agency for the Mavis Discount Tire proposal. Such designation was made on November 4, 2014.

At this time the board tabled the application of Mavis Tire until the applicant's engineer returns with the long EAF for the board to review.

Next on the agenda is the following:

Village Pines Section 3  
Cursory Review for Proposed Re-Zoning  
Application from R-1 to PRD

At this time Chairman Wohlers recused himself from the board.

Craig Byham explained to the audience that the Planning Board will be doing a cursory review for the proposed rezoning of Village Pines Section 3 to Planned Residential Development.

Andrew Spencer of BME Associates provided the board with the background of this property. This property was annexed from the Town of Ogden to the Village of Spencerport in September 2014. This project was rezoned from R-1 to Senior Citizen District in 2005 pursuant to the Town of Ogden code. In 2006 the project was given site plan approval by the Town of Ogden Planning Board.

Andrew Spencer stated that the proposal is for the rezoning of the parcel for development of an 80 lot single family and townhome community under the Village of Spencerport Planned Residential Development (PRD) district. The following are points he made in regards to the proposed project.

- Utility connections will be made to existing utilities in the general area of the site and would include connection to municipal sanitary sewer.
- RG&E would service gas and electric
- Monroe County Water
- Homeowners Association will be created
- Significant landscaping, buffering, street trees and street lighting would be provided.
- Not proposing sidewalks
- Proposing 42 single family homes and 38 townhomes
- This is the last section of the project and will be done in 3 phases
- This project has already had 3 SEQR reviews all determinations were a Negative Declaration.
- No disturbance to wetland
- Will follow all smart growth principals
- Smaller homes on smaller lots are market driven

- Hope to start construction spring 2015 homes will start at \$190,000.00

Village Engineer Dave Willard stated that he has concerns with water pressures in that area and the sewer capacity.

Andrew Spencer stated that those issues had been reviewed already with the Town of Ogden.

Tom West also has concerns with water pressure and flows he stated that the earlier study done was for proposed senior citizen housing not for what is proposed in front of this board now.

Owen McIntee stated that any electric would be with RG&E a street lighting district would be established.

Denny Marra stated that the lot sizes are small and should be increased and concerned that there will be traffic problems.

Joseph Slominski also had concerns with the small lot sizes and that a few of the townhomes would back right up to RT 531.

William Rutter stated that his biggest concern is that the density is too high for the acreage.

William Rutter: Will the drainage ponds be dry?

Andrew Spencer: I expect that there will be water periodically in ponds.

William Rutter: Has there been a review on ingress and egress for emergency vehicles?

Andrew Spencer: yes

William Rutter stated that Coventry will be the main access road and will significantly increase the traffic flow.

William Rutter: Will townhomes be sold or leased?

Andrew Spencer: sold

Liz Venezky asked if there would be sidewalks installed.

Andrew Spencer no there weren't any provisions in the plans for sidewalks.

Mr. Spencer was advised that the Village of Spencerport development regulations require sidewalks.

Liz Venezky asked if LEED practices would be used.

Andrew Spencer assured the board energy star products would be used.

Craig Byham asked why this project was never built in the Town of Ogden as senior development.

David Wohlers stated that the senior citizen zoning had become saturated.

Craig Byham stated that he also thought the density was too high and would like to see sidewalks put in as the Comprehensive Plan recommends a walk able community.

Attorney Eric Stowe reviewed the section of the code 340-17 that the Planning Board needs to follow when making their decision.

After further discussion the following resolution was offered.

**Resolution 12/12**  
**December 2, 2014**

**Introduced by Craig Byham**  
**Seconded by Denny Marra**

Resolved, that the Village of Spencerport Planning Board hereby renders a favorable report to the Village of Spencerport Village Board to schedule a public hearing for the purpose of rezoning property known as Village Pine Section 3 from R-1 to PRD.

Such recommendation based on the following facts of findings:

- a. The proposal conforms to the Comprehensive Plan.
- b. The proposal meets the intent and objectives of the planned residential development as hereinabove expressed in Section 340-17 of the Village Code.
- c. The proposal meets all the general requirements of Subsection B.
- d. The proposal is conceptually sound in that it meets a community need and it conforms to accepted design principals in the proposed functional roadway system, land use configurations, open space system, drainage system and scale of the elements, both absolutely and to one another.
- e. There are adequate services and utilities available or proposed to be made available in the construction of the development.

Furthermore, the Planning Board voiced the following concerns with such proposed development.

1. Density
2. Increase in traffic flow
3. Water pressure
4. Sewer capacity
5. Would like sidewalks

Ayes: Marra, Byham, Slominski, Venezky

Nays: Rutter



**ARB**

**Mavis Discount Tire  
26 Slayton Ave  
Building**

Kris Schultz provided assurance to the Board that the colors for Mavis will match the rest of the plaza. Kris Schultz stated the drawing from the Architect calls out that the colors will match.

The Board asked Mr. Schultz to submit colors for their review they want to see the colors and material samples that are being proposed.

**Hollink Motorsports  
380 S Union Street**

Mr. Hollink submitted a request dated November 19, 2014 asking for fast track approval for a minor alteration to replace the existing roof with a metal roof.

After discussing such request the board has determined that they would like to see samples of the roofing before granting any approvals.

At this time the application for Mavis Discount Tire was untabled to review the SEQR which Schultz Associates had just submitted.

Attorney Stowe began to review the form and came across inconsistencies and stated that it would take some time to review the SEQR and advised putting such review on the agenda for next month.

The applicant Mr. Pelusio along with the Planning Board agreed and tabled the application until the next meeting.

**Approval of Minutes**

Motion made by Chairman Wohlers seconded by Craig Byham and carried unanimously to approve the meeting minutes of November 4, 2014 as written.

**Adjournment**

Motion made by Chairman Wohlers seconded by Joseph Slominski and carried unanimously to adjourn the meeting at 9:10 PM

