

Regular meeting of the Planning Board and Zoning Board of Appeals, Village of Lyndonville was held on Wednesday, April 21, 2021 at the Village Hall. Meeting by teleconference via Zoom, the meeting opened at 6:00 PM

PRESENT: Planning Board Chairman: Steven Vann - via Zoom
Planning Board Members: Terry Chaffee
Kelly Cousins - Absent
Patricia Gawne
Virginia Hughes

Zoning Board of Appeals Chairman: Carla Woodworth
Zoning Board of Appeals Members: George Avery - via Zoom
Benjamin Holland

Clerk-Treasurer/Planning/Zoning Clerk Teri Woodworth
Supt. of Public Works Terry M. Woodworth
Code Enforcement Officer Dan Wolfe
Public – Dialed in to Zoom: Chris B
Public – In person Tara Mathias, Jon Hinman, Darren Wilson

APPROVAL OF THE MINUTES

ON MOTION of Planning Board Member Gawne, seconded by Planning Board Member Chaffee, to accept the minutes of the February 24, 2021 regular meeting and the March 9, 2021 special meeting.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

ON MOTION of Zoning Board of Appeals Member Avery, seconded by Zoning Board of Appeals Member Holland, to accept the minutes of the February 11, 2021 meeting.

Vote: 3 Ayes (Avery, Holland, Woodworth); 0 Nays; 0 Abstain

- Project Manager Jon Hinman from MRB Group noted Code Enforcement Wolfe has received and is ready to approve flood plain, demolition and building permits with some conditions that still need to be met yet. Project Manager Hinman noted the building permit would not be issued until the conditions are met. Project Manager Hinman noted the access easements need to be review by both sides attorney’s and filed prior to any work starting. Project Manager Hinman noted there are some water and sewer relocation agreements that need to be completed as well. Project Manager Hinman noted MRB Group will have an inspector on site during the water and sewer line relocation to ensure everything is done to the Orleans County Health Departments approval.

ON MOTION of Zoning Board of Appeals Member Holland, seconded by Zoning Board of Appeals Member Avery, to open the Zoning Board of Appeals meeting and continue the public hearing from February 11, 2021 for an application for the Broadway Group, LLC for 30 North Main Street, Lyndonville, NY at 6:08pm.

Vote: 3 Ayes (Avery, Holland, Woodworth); 0 Nays; 0 Abstain

- ZBA Chairman Woodworth inquired if the Village has received any comments back from the public since the public hearing. Clerk-Treasurer Woodworth noted the Clerk’s office has received no comments from the public.

ON MOTION of Zoning Board of Appeals Member Avery, seconded by Zoning Board of Appeals Member Holland, to close the public hearing from February 11, 2021 for an application for the Broadway Group, LLC for 30 North Main Street, Lyndonville, NY at 6:09pm.

Vote: 3 Ayes (Avery, Holland, Woodworth); 0 Nays; 0 Abstain

- Project Manager Hinman recommended that the Zoning Board of Appeals acknowledge receiving comment from the Orleans County Planning Board. Project Manager Hinman explained the Orleans County Planning Board comments and approval.

ZONING BOARD OF APPEALS - RESOLUTION 2021-3

**NEW RETAIL STORE PROJECT 30 NORTH MAIN STREET – CENTRAL BUSINESS ZONING DISTRICT
TM# 25.13-1-43/44 - AREA VARIANCE - SEQR RESOLUTION – TYPE II ACTION**

WHEREAS, the Village of Lyndonville Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering an Area Variance approval to allow a Retaining wall fence heights in Zone "A" of +/- 9 feet above ground level and in Zone "B" of +/- 7 feet, No vegetative screening separating the commercial district and the residential property line, and a rear setback of 30-feet from the residential district lot line (the current application); and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

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ON MOTION of Zoning Board of Appeals Member Holland, seconded by Zoning Board of Appeals Member Avery, to approve the new retail store project at 30 North Main Street – Central Business Zoning District TM# 25.13-1-43/44 area variance and SEQR resolution type II action.

Vote: 3 Ayes (Avery, Holland, Woodworth); 0 Nays; 0 Abstain

- **Zoning Board of Appeals Decision Sheet – Area Variance:**

 - Variance of +/- 3 feet for the retaining wall in Zone “A” and requiring a variance of +/- 1 foot for the retaining wall in Zone “B”
 - Exemptions from requiring vegetative screening to separate the commercial district and the residential property line to the East.
 - Variance of 19.5 feet for the rear setback from the residential district to the East.

Subject Property Address: 30 North Main Street **Tax Account #:** 25.13-1-43/44
Zoning District: Central Business District (CBD)

Agenda Item:

- Retaining wall height and fence heights in Zone "A" of +/- 9 feet above ground level and in Zone "B" of +/- 7 feet, requiring a variance of +/-3 feet for the retaining wall in Zone "A" and requiring a variance of +/-1 foot for the retaining wall in Zone "B", pursuant to §604.C - Fence Building and Maintenance Regulations of the Zoning Regulations of the Village of Lyndonville.
- Visual Screening is not proposing any vegetative screening to separate the commercial district and the residential property line to the East. There is a 20-foot waterline easement that is at the eastern section of the property line that does inhibit the ability to place screening on the Eastern Lot line. Requiring to allow the applicant to be exempt from this regulation pursuant to §502. E.1 - Other Provisions and Requirements - Buffer Strip of the Zoning Regulations of the Village of Lyndonville. Applicant will install and maintain a fence in lieu of a vegetative screen due to the relocated Village water main.
- Setback from Residential District is proposed that a 1 story retail building be built 30.5 feet from the residential district requiring a variance of 19.5 feet for the rear setback from the residential district to the East, pursuant to §502. E.3 - Other Provisions and Requirements - Residential Lot Line of the Zoning Regulations of the Village of Lyndonville.

ZONING BOARD OF APPEALS - RESOLUTION 2021-4
AREA VARIANCE FOR THE 30 NORTH MAIN STREET TAX ID #25.13-1-43/44

ON MOTION of Zoning Board of Appeals Member Avery, seconded by Zoning Board of Appeals Member Woodworth, to approve the area variances as stated pending the project must receive approval from the flood plain manager of the Village of Lyndonville, New York, failure to receive this approval will render this decision void.

Vote: 3 Ayes (Avery, Holland, Woodworth); 0 Nays; 0 Abstain

ON MOTION of Planning Board Member Hughes, seconded by Planning Board Member Chaffee, to open the Planning Board meeting and continue the public hearing from March 9, 2021 for an application for the Broadway Group, LLC for 30 North Main Street, Lyndonville, NY at 6:16pm.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

- Project Manager Hinman asked if the Planning Board had any questions on the project.

ON MOTION of Planning Board Member Hughes, seconded by Planning Board Member Gawne, to close the public hearing from March 9, 2021 for an application for the Broadway Group, LLC for 30 North Main Street, Lyndonville, NY at 6:17pm.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

- Project Manager Hinman noted all concerns regarding storm water have been met. Project Manager Hinman noted the retaining wall has been slightly relocated in the plans to accommodate the flood plain concerns. Project Manager Hinman noted the request to place a yard hydrant was agreed to. Project Manager Hinman noted the Village Attorney is reviewing all the legal documents at this time.

PLANNING BOARD - RESOLUTION 2021-11
30 NORTH MAIN STREET NEW RETAIL STORE PROJECT PRELIMINARY SITE PLAN APPLICATION
SEQR RESOLUTION – DESIGNATING LEAD AGENCY

WHEREAS, the Village of Lyndonville Planning Board (hereinafter referred to as Planning Board) has on Wednesday, February 24, 2021 declared its intent to be designated the Lead Agency for the 30 North Main Street-New Retail Store Project under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has provided written notices to this effect to the involved and interested agencies; and

WHEREAS, the Planning Board has not received any written objections from the involved agencies to the Board’s being designated as the lead agency under the SEQR Regulations; and

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WHEREAS, the Planning Board has previously determined that it is the most appropriate agency to ensure the coordination of this Action and for making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as the lead agency for the Action identified above herein;

ON MOTION of Planning Board Member Chaffee, seconded by Planning Board Member Hughes, to approve the 30 North Main Street new retail store project preliminary site plan application SEQR resolution designating lead agency.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

- Project Manager Hinman explained parts 1, 2 and 3 of the SEQR.

PLANNING BOARD - RESOLUTION 2021-12

**30 NORTH MAIN STREET NEW RETAIL STORE PROJECT PRELIMINARY SITE PLAN APPLICATION
SEQR RESOLUTION – DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE**

WHEREAS the Village of Lyndonville Planning Board (hereinafter referred to as Planning Board) has determined the above referenced Action to be an Unlisted Action pursuant to Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has reviewed and accepted the completed Full Environmental Assessment Form Parts 1, 2, and 3 on the Action prepared by the MRB Group; and

WHEREAS, the Planning Board has completed the coordinated review and public comment period provided for under the SEQR Regulations; and

WHEREAS, the Planning Board has designated itself as lead agency under the SEQR Regulations for making the determination of significance upon said action; and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in Full Environmental Assessment Form Parts 1, 2, and 3.

NOW THEREFORE BE IT RESOLVED, that said Action **WILL NOT** result in any significant adverse environmental impacts based on the review of the Short Environmental Assessment Form; and

BE IT FINALLY RESOLVED that the Planning Board does hereby make a Determination of Non-Significance on said Action, and the Planning Board Chairman is hereby directed issue the Negative Declaration as evidence of the Planning Board determination of environmental non-significance.

ON MOTION of Planning Board Member Hughes, seconded by Planning Board Member Chaffee, to approve the 30 North Main Street new retail store project preliminary site plan application SEQR resolution determination of environmental significance.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

- Project Manager Hinman presented the Planning Board with the site plan resolution.

PLANNING BOARD - RESOLUTION 2021-13

**30 NORTH MAIN STREET NEW RETAIL STORE PROJECT PRELIMINARY SITE PLAN APPLICATION
SITE PLAN APPROVAL RESOLUTION**

WHEREAS, the Village of Lyndonville Planning Board (hereinafter referred to as Planning Board), is also considering a Site Plan approval for the demolition of the existing structure and redevelopment of the site, including a 7,500 square foot retail store, new parking lot, relocating and connection to public utilities, and stormwater management on approximately 1.03-acre property. The property will include the lot consolidation of parcels 25.13-1-44 and 25.13-1-43 located on North Main Street (New York Route 63) in the Village of Lyndonville, Orleans County, New York, and as described in the Site Plans dated August 25, 2020 and last revised March 16, 2021 and all other relevant information submitted as of February 11, 2021 and April 7, 2021 (the current application); and

WHEREAS, this application was required to be forwarded to Orleans County Planning Board for review and comments were received; and

WHEREAS, the Planning Board has classified the above referenced Action to be an Unlisted Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Village Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Planning Board on April 21, 2021; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approve the requested Site Plan with the following conditions:

1. The Applicant shall obtain a Building Permit and Certificate of Appropriateness within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void.
2. Village approval of and proof of filing of all easements with the County Clerk is required prior to issuance of permits.
3. Flood Plain Administrator Permit is required for site plan approval.

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4. Site Plan approval is conditioned on the Drainage Calculations for the project having addressed all comments of the Village Engineer letter dated February 23, 2021.
5. After completion, the Applicant shall provide to the Village of Lyndonville Code Enforcement Officer a post-construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
6. All consultants' fees for review of application are to be reimbursed by the applicant to the Village prior to the issuance of permits.
7. NYSDOH and NYSDOT permits are to be obtained and provided to the Village of Lyndonville prior to issuance of permits.
8. Agreement completed between Village and applicant for inspection of relocated water main.

ON MOTION of Planning Board Member Hughes, seconded by Planning Board Member Chaffee, to approve the 30 North Main Street new retail store project preliminary site plan application site plan approval.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

PLANNING BOARD – NEW BUSINESS:

- 29 South Main Street – Site Plan Review Application – Nothing was submitted

ZONING BOARD OF APPEALS – NEW BUSINESS:

- 87 South Main Street – Area Variance – Side setback of 5' instead of 10' – The Zoning Board of Appeals set May 5, 2021 at 2:00pm for the public hearing.
- The Planning Board set the next meeting for May 19, 2021 at 6:00pm.
- Chris from the Broadway Group inquired who gives the approval on the certificate of appropriateness and if any action needed to be taken this evening. Code Enforcement Wolfe noted it's a joint effort with Planning Board and Code Enforcement.

PLANNING BOARD - RESOLUTION 2021-14

APPROVE THE CERTIFICATE OF APPROPRIATENESS FOR THE 30 NORTH MAIN STREET

ON MOTION of Planning Board Member Chaffee, seconded by Planning Board Member Hughes, to approve the certificate of appropriateness for 30 North Main Street.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

- Project Manager Tara Mathias from the Broadway Group thanked the Planning Board, Zoning Board, Clerk-Treasurer Woodworth and Project Manager Hinman and everyone involved with the project. Planning Board Member Hughes inquired what the timeline was for the project. Project Manager Mathias noted they plan to break ground in June or July and hope to have the store operational by the end of the year. Zoning Board of Appeals Chairman Woodworth thanked Project Manager Hinman and Project Manager Mathias for assisting the Boards through this project. Code Enforcement Wolfe thanked MRB Group and Clerk-Treasurer Woodworth for everything through the project.

ON MOTION of Planning Board Member Chaffee, seconded by Planning Board Member Gawne, to adjourn the meeting at 6:39PM.

Vote: 4 Ayes (Chaffee, Gawne, Hughes, Vann); 0 Nays; 0 Abstain

ON MOTION of Zoning Board of Appeals Member Holland, seconded by Zoning Board of Appeals Member Avery, to adjourn the meeting at 6:39PM.

Vote: 3 Ayes (Avery, Holland, Woodworth); 0 Nays; 0 Abstain

Teri M. Woodworth
Clerk-Treasurer, Planning/Zoning Clerk