

**TOWN OF MARCY  
COUNTY OF ONEIDA  
STATE OF NEW YORK  
PLANNING BOARD**

**JULY 26, 2010**

The Town of Marcy Planning Board held a Regular Meeting on Monday, July 26, 2010 at 7:00PM at the Marcy Municipal Building, 8801 Paul Becker Road, Marcy, New York.

**THOSE PRESENT:** Planning Board Chairman Robert Lambe  
Planning Board Member Carl A. Annese  
Planning Board Member Michael Pawloski  
Planning Board Member Frank J. Pinnisi  
Planning Board Secretary Lori A. Wrobel

**ABSENT:** Planning Board Member Stephen Zywiak

Planning Board Chairman Robert Lambe called the Regular Meeting to order with the Pledge of Allegiance at 7:00PM.

Planning Board Member Stephen Zywiak had noted that he would be unable to attend the Meeting this evening.

Planning Board Member Frank J. Pinnisi made a motion to dispense with the reading of the July 12, 2010 Planning Board Minutes; seconded by Planning Board Member Carl A. Annese.  
All Members Present Voting: Aye

Planning Board Chairman Robert Lambe asked if there were any corrections.

Planning Board Member Frank J. Pinnisi made a motion to approve the July 12, 2010 Planning Board Minutes as written; seconded by Planning Board Member Michael Pawloski.  
All Members Present Voting: Aye

**GREG JOHNSON, 5501 Flanagan Road**  
*Plan Review of a Home Occupation*  
Tax Map Number 306.007-1-51  
**Zoned R-20/Residential 20,000**

**Application Number 2010-00-00**

A 239 Review was not required for this application. A Legal Notice was published in the Observer Dispatch as required by General Municipal Law. A copy of the Public Hearing Notice was mailed to all property owners within 500' of the proposed project. Notices were mailed on June 23, 2010. Clerk to the Assessor verified that the names of all property owners within 500' of the project were provided.

Mr. Johnson was asked to provide an MSDS (Material Safety Data Sheet). The Material Safety Data Sheet was forwarded to the Maynard Volunteer Fire Department for review.

Planning Board Chairman Robert Lambe stated that he will follow up with the Maynard Fire Department.

Planning Board Member Frank J. Pinnisi made a motion to table any action on this application for a Home Occupation of an on-line oil distributor until the Planning Board Chairman has a follow up with the Maynard Fire Department; seconded by Planning Board Member Michael Pawloski.

All Members Present Voting: Aye

**CARL TUZZOLINO, 5488 Woodlawn Place**

*Site Plan Review*

Tax Map Number 306.007-2-16

**Zoned R-20/Residential 20,000**

**Application Number 2010-00**

Mr. Tuzzolino attended the June 14, 2010 Review Panel Meeting. Mr. Tuzzolino would like to have a Gunsmith business in his home. This would be a new business. Mr. Tuzzolino is currently attending college for Master Gunsmithing.

Mr. Tuzzolino would be selling ammunition and cleaning supplies as well as guns by order from his home.

A Site Plan Review will be required by the Planning Board.

Planning Board Members reviewed a letter prepared by Mr. Tuzzolino, which states:

"I am interested in receiving a home occupation permit for a gunsmith business. In this business, I repair, restore and sporterize firearms. The work would take place in my workshop, attached to my home, and customers would drop off or mail their firearms to me at this location. Customers would never enter my home. The workshop has its own entrance and includes two exits for safety.

I would also like to have a small supply, for customers picking up their firearms, of cleaning supplies and ammunition for sale. This is not meant to attract customers only looking for these goods, but only as a convenience to those existing customers picking up their firearms.

I am interested in selling, but not stocking, firearms as well. As a convenience to the customer, they could look through catalogs I would have on hand and I would order the firearm for them. Again, nothing would be stocked at the home location.

The workshop space is always kept clean, organized and uncluttered. Guns that I am working on would be kept inside the center of the house in a walk-in closet with a solid wood door and a keyed lock. Money, documents, and handguns would be kept in the same closet in a safe bolted to the floor. I also have two large dogs that would alert me to unwanted company inside the house and deter intruders when I am not home.

I would not have more than three vehicles a day (including services such as UPS or FedEx) at my house on one day. I have a full time job that I work at during the day, fifty hours a week, so the times that a customer would drop off a project would be limited and minimal.

I would have no sign on or around the house, minimal traffic, and no showroom. None of the tools I use in the business make loud noises or produce strong odors. I would have no employees and would only ever be working on a minimal amount of firearms at one time.

I am currently enrolled in college studying Advanced Mater Gunsmithing. I hope you grant my request for approval, as I consider this a vital part of families future.”

Mr. Tuzzolino stated that he has a meeting tomorrow with the ATF and that he must have a permit within thirty (30) days showing that he complies with all zoning regulations.

Mr. Tuzzolino stated that he works fifty (50) hours a week at Utica General Truck and that he wants to make sure everyone in his area is safe.

Mr. Tuzzolino stated that he will have no retail sales, just gunsmithing service, catalog sales, and selling small amounts of cleaning supplies and ammunition.

Mr. Tuzzolino stated that there will be no showroom and no traffic.

Mr. Tuzzolino stated that he would not have more than two (2) to three (3) guns every week or two, probably less than that.

Mr. Tuzzolino stated that he has a keyed lock, a safe and two (2) large dogs.

Planning Board Member Carl A. Annese noted that according to Mr. Tuzzolino, customers would not enter the home since there is a shop in the garage with a separate entrance. Mr. Tuzzolino stated that he works out of his garage similar to Frank’s Guns on River Road. Planning Board Member Carl A. Annese noted that Frank’s Guns is located in a General Commercial District.

Mr. Tuzzolino stated that when he is not in his workshop, the guns would be brought into his home and locked up.

Mr. Tuzzolino stated that his garage/workshop is approximately 15’ – 20’ from his neighbor’s home and that his garage/workshop is fully insulated with paneling.

Planning Board Chairman Robert Lambe questioned how Mr. Tuzzolino tests the guns. Mr. Tuzzolino stated that he would test the guns at a location on Airport Road in Oriskany.

Planning Board Chairman Robert Lambe questioned if the guns are loaded on site. Mr. Tuzzolino stated that if someone brings him a loaded gun, they are immediately asked to leave.

Planning Board Member Michael Pawloski questioned if ordering guns through a catalog if considered retail sales. It was agreed that since Mr. Tuzzolino orders the gun and receives it at his home and distributes the gun from his home, this would be considered retail sales.

Planning Board Member Carl A. Annese stated that this sounds like a business, not a Home Occupation.

Mr. Tuzzolino stated that he is not here to argue, he just wants to support his family.

Mr. Tuzzolino stated that a hair salon in a home that sells shampoo is more of a retail sales than what he is proposing.

Planning Board Chairman Robert Lambe asked if the business would still work if Mr. Tuzzolino only serviced the guns. Mr. Tuzzolino stated that this would limit his income.

It was noted that Mr. Tuzzolino's business license has his home address listed.

Planning Board Member Frank J. Pinnisi asked what if Mr. Tuzzolino delivers the guns which would circumvent customers coming to his home. Mr. Tuzzolino stated that is against Federal regulations.

Mr. Tuzzolino stated that he will not advertise that he is selling guns.

Mr. Tuzzolino stated that if he cannot have cleaning supplies and ammunition, then so be it.

Planning Board Member Carl A. Annese asked if there was sales tax charged for servicing the guns. Mr. Tuzzolino stated no. Mr. Tuzzolino stated that the sales of parts and guns require sales tax.

Planning Board Chairman Robert Lambe explained that customers visiting Mr. Tuzzolino's home is a boundary line.

Mr. Tuzzolino stated that there are other Home Occupations in the Town of Marcy that have gotten through this process. Planning Board Chairman Robert Lambe noted that those businesses may pre-date the Zoning Ordinance.

Planning Board Member Carl A. Annese stated that the Home Occupation regulations specifically state no toxic, flammable, combustible materials, etc. and that the gun cleaning may be considered same. Mr. Tuzzolino stated that he could say that about a can of WD-40. Planning Board Chairman Robert Lambe explained that stocking ammunition will also be an issue.

Planning Board Chairman Robert Lambe suggested that the Planning Board proceed with this application, with the understanding that there be no retail sales, no ammunition and no supplies on site. Planning Board Member Michael Pawloski stated that he agrees.

Planning Board Member Carl A. Annese noted that he does not see how this application meets #1 of the Home Occupation regulations since a habitable space meeting all codes must be provided. Mr. Tuzzolino stated that he has everything in his workshop except running water. Planning Board Chairman Robert Lambe stated that this may require a separate conversation and that the Codes Enforcement Officer may be asked to provide an interpretation.

Planning Board Member Carl A. Annese questioned what would be the bare minimum required in order for Mr. Tuzzolino to obtain his license. Mr. Tuzzolino stated that he would have to be able to do the gunsmithing.

Mr. Tuzzolino explained the process of purchasing a gun.

Mr. Tuzzolino stated that the gunsmithing is a large part of his business and that he has an opportunity to make a lot of money selling guns.

Although Woodlawn Place is a Town Road, this property borders the City of Utica line, therefore a 239 Review will be required.

Planning Board Member Michael Pawliski made a motion to accept the application for a Site Plan Review to have a Gunsmithing business at 5488 Woodlawn Place, with the condition that no retail sales be allowed, and to forward plans and paperwork to the Oneida County Department of Planning, the Maynard Volunteer Fire Department, and the City of Utica for a 239 Review; seconded by Planning Board Member Carl A. Annese. All Members Present Voting: Aye

Planning Board Member Michael Pawloski made a motion that the Board finds the proposed application is a Type II action not subject to Environmental Conservation Law Article 8 (SEQR) under Part 617.5 (c)(7), construction or expansion of a accessory non-residential facility involving less than 4,000 SF of gross floor area and not involving a change in zoning or a Use Variance; seconded by Planning Board Member Frank J. Pinnisi.

All Members Present Voting: Aye

Planning Board Member Carl A. Annese suggested that Mr. Tuzzolino re-write his letter and remove all mention of retail sales. Planning Board Members agreed.

Planning Board Chairman Robert Lambe explained to Mr. Tuzzolino that the sooner he revises his letter and it is received, the sooner his 239 Review will begin.

Mr. Tuzzolino will be notified by mail of his Public Hearing date.

**MICHAEL CANDELLA, 9262 River Road**

*Area Variances*

*Site Plan Review*

Tax Map Number 292.004-1-43.2

**Zoned CG/General Commercial**

**Appeal Number 2010-01-01**

**Application Number 2010-00**

Mr. Candella attended the January 4, 2010, February 8, 2010, March 8, 2010 Zoning Board of Appeals Meetings, as well as the April 26, 2010 and June 28, 2010 Planning Board Meetings. Mr. Candella was granted Area Variances to construct an addition to the rear of the existing fruit stand on River Road which has an existing non-conforming front yard setback.

Area Variances were granted by the Zoning Board of Appeals to construct an addition to the rear of the existing fruit stand which has an existing non-conforming 26' front yard setback as well as 20,500 square feet rather than the required 30,000 square feet; 105' of lot width rather than the required 125' and a 26' front yard setback rather than the required 75', with the condition that (1) gutters be provided on two gable ends on the eaves side of the addition which will bring the water to the back of the property; and (2) the project be completed within twenty-four (24) months of the approval date.

On May 10, 2010 the Planning Board Members reviewed Mr. Candella's plans. It was noted at that time that Mr. Candella will need to clarify where the property lines are and to provide three (3) additional copies for a 239 Review.

It was also asked that Mr. Candella provide parking details and the traffic pattern for the Marcy Beverage Center. All outdoor sales areas, greenhouses and any other storage area(s) will also need to be shown on the plan.

Mr. Candella was also asked to provide a plot from the Town Assessor showing how the parcel is configured.

Mr. Candella called and stated that he was not ready to present his revised plans and that he would call when he has the required information.

**ROBERT WILLIAMS for PROPERTY OWND BY ELEANOR WILLIAMS, 9832 Luke Road**

*Property Line Change*

Tax Map Number 263.000-1-57.1 and 57.2

**Zoned AG/Agricultural**

**Application Number 2010-00**

Ms. Williams attended the July 12, 2010 Review Panel Meeting. Ms. Williams' son lives next door to her and she would like to give him additional property in order to make his lot larger. The property will be combined into one (1) deed.

A Property Line Change from the Planning Board will be required.

Planning Board Members reviewed the plans and paperwork.

At the Review Panel Meeting, Planning Board Chairman Robert Lambe had informed Ms. Williams that a note must be shown on the plans stating that the two parcels will be joined.

Planning Board Members agreed that Ms. Williams will need to revise her plans to show the entire parcel, a location map and a note stating that two parcels will be joined.

Planning Board Chairman Robert Lambe gave Ms. Williams another checklist and explained the requirements.

A 239 Review and Public Hearing are not required for a Property Line Change.

Planning Board Chairman Robert Lambe asked the Planning Board to consider approving the application contingent upon the plans being revised.

Planning Board Member Frank J. Pinnisi made a motion to accept the application for a Property Line Change, with the condition that the plans be revised to show all requirements; seconded by Planning Board Member Michael Pawloski.

All Members Present Voting:

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|--|---------|
| Planning Board Chairman Robert Lambe   | Aye     |
| Planning Board Member Carl A. Annese   | Abstain |
| Planning Board Member Michael Pawloski | Aye     |
| Planning Board Member Frank J. Pinnisi | Aye     |
| Planning Board Member Stephen Zywiak   | Absent  |

Planning Board Member Carl A. Annese stated that he would like to see the revised plans prior to them being signed by the Planning Board Chairman and the Planning Board Secretary.

Planning Board Member Michael Pawloski made a motion that the Board finds the proposed application is a Type II action not subject to Environmental Conservation Law Article 8 (SEQR) under Part 617.5 (c)(12), granting of individual setback and lot lines; seconded by Planning Board Member Frank J. Pinnisi.

All Members Present Voting: Aye

Once the revised plans are received, if they are acceptable and show all requirements, they will be stamped by Planning Board Chairman Robert Lambe and Planning Board Secretary Lori A. Wrobel.

The approved plans will need to be filed with the Oneida County Clerk within sixty (60) days of the approval date, otherwise they will become null and void.

### **BILL WILLIS for PROPERTY OWNED BY VAUGHN LEWIS, 9565 River Road**

*Site Plan Review*

Tax Map Number 293.003-3-29

**Zoned CG/General Commercial**

### **Application Number 2010-00**

Mr. Lewis attended the July 12, 2010 Review Panel Meeting. Mr. Lewis would like to rent space from Mr. Lewis in an existing building on River Road. Mr. Willis would occupy 27' across the newly constructed accessory building.

There is currently a U-Haul business and auto dealer located on this property. Mr. Willis is proposing to have a small trucking company and would sign and letter trucks, equipment, etc.

A Site Plan Review by the Planning Board will be required. A detailed plan to scale showing the existing businesses, where his business will be located, ingress/egress, parking, etc. will need to be provided.

Mr. Willis was not present for the Meeting.



**MATTHEW SCIALDONE, 9130 Shelley Drive**

*Plan Review of a Home Occupation*

Tax Map Number 277.002-3-28

**Zoned R-20/Residential 20,000**

**Application Number 2010-00**

Mrs. Scialdone attend the July 12, 2010 Review Panel Meeting. Mrs. Scialdone's husband has filed for an LLC for a Personal Trainer business. The address used for the LLC was the home address on Shelly Drive.

Mr. Scialdone receives phone calls at home and sets up an appointment to meet his clients at a gym or at their home. In addition to this personal training business, Mr. Scialdone will maintain his full-time job in Syracuse.

This business would primarily be by appointment only. Only the phone number is advertised, not the home address.

A Plan Review of a Home Occupation will be required.

Planning Board Members reviewed the plans and paperwork.

Mr. Scialdone presented a letter stating the following:

"Scialdone Personal Fitness Training and MMA is a small business that is used to set appointments with clients out of the home at their gyms or homes. It does not have any training equipment in it. The address is used as a place to receive phone calls. There are no signs or advertisements on home or property. No changes will be made to property. No deliveries out of the ordinary are made. There will not be anymore traffic than reasonably occur for residence."

Mr. Scialdone stated that there is no gym or equipment in his home and that this business will consist of the use of the telephone only from the residence.

Shelly Drive is a Town Road, therefore a 239 Review will not be required.

Planning Board Member Frank J. Pinnisi made a motion to accept the application for a Home Occupation (Personal Training Business) at 9130 Shelley Drive, and to schedule a Public Hearing for Monday, August 9, 2010; seconded by Planning Board Member Frank J. Pinnisi.

All Members Present Voting: Aye

Planning Board Member Michael Pawloski made a motion that the Board finds the proposed application is a Type II action not subject to Environmental Conservation Law Article 8 (SEQR) under Part 617.5 (c)(7), construction or expansion of a accessory non-residential facility involving less than 4,000 SF of gross floor area and not involving a change in zoning or a Use Variance; seconded by Planning Board Member Frank J. Pinnisi.

All Members Present Voting: Aye

Mr. Scialdone will be reminded by mail of his Public Hearing date.



**ROBERT SALERNO, Mulaney Road**

*Area Variance*

*Property Line Change*

Tax Map Number 293.000-1-24.1

**Zoned R-20/Residential 20,000**

**Application Number 2010-00**

Mr. Salerno attended the May 3, 2010 and the June 7, 2010 Zoning Board of Appeals Meetings. Mr. Salerno has purchased property on Mulaney Road from a tax sale. Mr. Salerno was granted an Area Variance from the Zoning Board of Appeals in order to construct a single family home on an existing non-conforming lot with 60' of frontage.

An Area Variance to construct a single family home on a lot with 60' of existing non-conforming frontage was approved on June 7, 2010 by the Zoning Board of Appeals with the following conditions:

1. The two (2) parcels be consolidated to a single parcel;
2. Any new construction must have the side yard facing Mulaney Road, with a minimum of 60' and 15' for side yard setbacks;
3. The applicant agrees that should the Town of Marcy decide to make Gramatyka Terrace a Town Road, the applicant/owner of the property consents to providing property to the Town of Marcy for \$1.00. The applicant/owner of the property must provide sufficient land to the Town of Marcy to provide all properties ingress/egress on the westerly side of the property.
4. The owner/applicant agrees to maintain the common right-of-way (Gramatyka Terrace), used by adjoining parcels, to a passable condition suitable for standard passenger vehicles and that the condition of the drive surface not be permitted to degrade from it's current state.

Planning Board Members reviewed the plans and paperwork.

Planning Board Chairman Robert Lambe questioned the power easement and suggested that Mr. Salerno talk to the power company prior to constructing his home.

Planning Board Member Carl A. Annese noted that the house is shown at an angle and questioned why it would not be constructed straight.

Planning Board Members noted that the property owners along the right-of-way have the right for ingress/egress.

Planning Board Member Frank J. Pinnisi stated that Mr. Salerno should extend the right-of-way 60' to include all properties along the right-of-way. Mr. Salerno stated that he would then have to maintain an additional 60' of road/driveway.

A 239 Review and Public Hearing are not required for a Property Line Change.

Planning Board Member Frank J. Pinnisi made a motion to accept the application for a Property Line Change, with the condition that Gramatyka Terrace right-of-way is extended an additional 60'; seconded by Planning Board Member Carl A. Annese.

All Members Present Voting: Aye

Planning Board Member Frank J. Pinnisi made a motion that the Board finds the proposed application is a Type II action not subject to Environmental Conservation Law Article 8 (SEQR) under Part 617.5 (c)(12), granting of individual setback and lot lines; seconded by Planning Board Member Michael Pawloski.  
All Members Present Voting: Aye

Once the revised plans are received, they will be stamped by Planning Board Chairman Robert Lambe and Planning Board Secretary Lori A. Wrobel.

The approved plans will need to be filed with the Oneida County Clerk within sixty (60) days of the approval date, otherwise they will become null and void.

## **OTHER BUSINESS**

Planning Board Member Michael Pawloski will attend the August 26, 2010 Town Board Meeting.

Planning Board Member Michael Pawloski will attend the September 23, 2010 Town Board Meeting.

Planning Board Chairman Robert Lambe will attend the October 28, 2010 Town Board Meeting.

Planning Board Member Stephen Zywiak will attend the November 18, 2010 Town Board Meeting.

Planning Board Member Carl A. Annese will attend the December 23, 2010 Town Board Meeting.

The next Planning Board Meeting will be held on Monday, August 9, 2010.

Tentative Agenda:     Greg Johnson, Decision  
                               Frank DeBias, Public Hearing  
                               Matthew Scialdone, Public Hearing  
                               Sam Celia, Final Site Plan Review  
                               Camille Kresa, Site Plan Review

## **CALVIN ANACKER for the UTICA MAENNERCHOR, 5535 Flanagan Road**

Mailing Address: P.O. Box 441, Marcy, New York 13403

*Area Variances*

*Site Plan Review*

Tax Map Number 306.000-2-19

**Zoned R-20 and OD/Residential 20,000 and Overlay District**

**Application Number 2010-00**

**Appeal Number 2009-43-06**

Mr. Anacker attended the April 26, 2010 and June 14, 2010 Planning Board Meetings. The Utica Maennerchor would like to construct a 60' x 160' open pole barn on a concrete slab. The trusses would be 11' in height. The maximum allowed height in this District is 20'.

On June 14, 2010 the Planning Board approved the application for a Site Plan Review to construct a 60' x 160' open pole barn on a concrete slab, with the conditions that the Army Corp of Engineers be contacted for a jurisdictional determination and that the project comply with all local flood plain development regulations.

Planning Board Chairman Robert Lambe stated that he received a phone call from the NYS Department of Environmental Conservation who informed him that FEMA would be involved with this project, not the Army Corp of Engineers.

It was noted that Public Works Administrator Timothy Russell would be responsible for the issuance of the Flood Plain Development Permit.

Planning Board Chairman Robert Lambe explained that he would like to approval for this project to be updated and accurate.

Planning Board Member Frank J. Pinnisi made a motion to approve the application for a Site Plan Review to construct a 60' x 160' open pole barn on a concrete slab at 5535 Flanagan Road (Utica Maennerchor), with the condition that the Flood Plain Development Permit be obtained from Town of Marcy Public Works Administrator Timothy Russell; seconded by Planning Board Member Michael Pawloski.  
All Members Present Voting: Aye

Having no further business, Planning Board Frank J. Pinnisi made a motion to adjourn the meeting at 8:45M.; seconded by Planning Board Member Michael Pawloski.  
All Members Present Voting: Aye

Respectfully submitted,

Lori A. Wrobel  
Planning Board Secretary  
August 1, 2010