

**TIOGA COUNTY PLANNING  
BOARD MEETING MINUTES**

**December 20, 2023**

**Tioga County Health & Human Services Building, Room #2139**

**I. CALL TO ORDER AND INTRODUCTIONS**

- Chairman D. Chrzanowski called the meeting to order at 7:02 PM.

**II. ATTENDANCE**

A. Planning Board Members:

**Present:** Art Cacciola, Doug Chrzanowski, John Current, Vicki Davis, Bryan Goodrich, Pam Moore, Grady Updyke, James Marzen arrived 7:07

**Excused:** Joseph Budney, Chelsea Robertson

**Absent:** Georgeanne Eckley

B. Ex Officio Members: None

C. Local Officials: Charles Davis, Town of Richford Supervisor

D. 239m Review Applicants: Anthony Paniccia with Delta Engineers, Architects, Land Surveyors – Engineer for Upstate Shredding; Doreen Simmons with Hancock Estabrook – Attorney for Upstate Shredding; Teresa K. Dole

E. Guests: None

F. Staff: Elaine Jardine, Karen Warfle

**III. APPROVAL OF AGENDA**

- Approval of agenda as presented:

J. Current/D. Chrzanowski/Carried  
None Opposed  
No Abstentions

**IV. APPROVAL OF MINUTES**

- Approval of November 15, 2023 minutes as presented:

J. Current/P. Moore/Carried  
None Opposed  
No Abstentions

**V. PRIVILEGE OF THE FLOOR**

- None

**VI. NEW BUSINESS**

**A. 239 Reviews**

**1. County Case 2023-024: Town of Owego, Rezoning from Residential B (RB) to Agricultural (AG)**

The applicant wishes to rezone their entire 5.1-acre property, located on E Campville

Road to Agricultural. The parcel is currently zoned mostly Residential B with the small southeast portion only zoned Agricultural. The purpose for this rezoning is to expand uses of the property and increase value. Surrounding parcels are enrolled in the NYS Agricultural Districts Program, so the Town is going through the Ag Data Statement process. Update: The Town of Owego found that this entire parcel is actually zoned RB, so the entire parcel will be rezoned from RB to AG. There is Agricultural zoning adjacent and, in fact, within this property, so the rezoning request is logical. There are also surrounding properties enrolled in the NYS Agricultural Districts Program.

Staff advises the County Planning Board recommend approval of the Rezoning request.

**Q. B. Goodrich** – The purpose of the rezone is to expand uses? What type of uses?

**A. T. Dole** – The property is for sale. A number of people have looked at it, and one wanted to open a dog daycare there, with more than 5 dogs. They weren't allowed to do that because it is a business. My original intent for purchasing the property was to provide an above-the-garage apartment for my mom. I have been remodeling it and planned to live on the property as well. My mother lives independently and is not ready to move in here.

**C. E. Jardine** – In a Residential B zone, you can't have a dog kennel so that's why the business cannot be located there, however it is a permitted use, requiring a Special Use Permit in an Agricultural zoning district.

**C. T. Dole** – My other thought was to rent the apartment to a veteran that requires some accessibility modifications, and I was in the process of remodeling. Money for renovations became an issue, but I continue to make repairs to bring it up to code. The property has been reassessed to reflect the market value. It can be used as a single-family home, but if it is rezoned Ag, both my mother and I could live on the property in separate living quarters. My intent is not to bring chickens or other animals.

**Q. B. Goodrich** – You can't have both living there in a Residential B zone? You can't have a duplex?

**A. E. Jardine** – Yes, you can have a duplex, but you can't have a dog kennel.

**A. T. Dole** – You can't rent it out to two separate families; it's single-family residential. So if I wanted to rent it out to someone else until my mom needs to be there with me, I can't do that. I can do Air bnb, but I can't do an actual rental.

**C. E. Jardine** – Correct, she can't rent it.

**Q. B. Goodrich** – It would have to be Residential C?

**A. E. Jardine** – Correct, as far as I know. I don't have the zoning code in front of me. But what it comes down to is you can't have a dog kennel in Residential B.

**Q. D. Chrzanowski** – The Town is accepting this?

**A. E. Jardine** – Yes, they've accepted the request made to them but have not yet made a decision.

**C. D. Chrzanowski** – If the decision is to move forward to change the zoning to Agricultural, animals will show up. It is a heavily populated road with many

houses. I anticipate issues with the neighbors who purchased their property as it is currently zoned.

**Motion to recommend approval of the Rezoning:**

**J. Current/P. Moore/Carried**

**Yes 6**

**No 2 (D. Chrzanowski, B. Goodrich)**

**Abstentions 0**

**2. County Case 2023-025: Town of Owego, Zoning Board of Appeals, Special Use Permit, Upstate Shredding**

EPA guidelines require that Upstate Shredding enclose the shredder, which includes a stack not to exceed 125 feet high. Please see attached drawings. A surrounding parcel is enrolled in the NYS Agricultural Districts Program, so the Town is going through the Ag Data Statement process. If EPA requires this, Upstate Shredding must comply.

Staff advises the County Planning Board to recommend Approval of the Special Use Permit request with the following condition:

1. That the applicant obtains all required federal, state, county and local permits, licenses and registrations.

**Q. P. Moore** – If they have to do this to comply, what would the alternative be if it isn't approved? **A. E. Jardine** – I don't know. **A. A. Paniccia** – Then this board would have to fight the EPA.

**Q. D. Chrzanowski** – The building height is 45 feet, but the concern is the exhaust stack, right?

**C. D. Simmons** – We will attend the February or March 2024 meeting with a full site plan for approval, but what we're looking for today is a recommendation to proceed with the special use permit. Then on January 4<sup>th</sup> it can go before the zoning board and to the planning board on December 26<sup>th</sup> as we proceed with the project. Up until February 2021, there was an exemption for shredders throughout the entire United States which allowed them to not have any controls on their air emissions. Upstate Shredding was notified of the rule change by the EPA in late 2021, and immediately cooperated with the EPA and has been working toward complying with this new mandate. Ms. Simmons explained the planned air emissions control process. It is anticipated that construction will begin in early 2024, with the completion of the actual structure by mid-2025 and full compliance with all of the requirements by the end of December.

**Q. J. Current** – So at the end of this, the EPA certifies that it is in compliance? **A. D. Simmons** – It's done by two agencies: The EPA will certify compliance with the testing we will be doing October-December 2025, but also the DEC requires we have a regulatory air permit with DEC. So between these two agencies, we will be constantly monitored.

**Q. D. Chrzanowski** – When did the EPA put this law in place? **A. D. Simmons** – It's more that the State of New York had an exemption that shredders did not have to have air control devices on their systems.

**Q. D. Chrzanowski** – But what changed it from the exemption to now compliance? **A. D. Simmons** – Because the DEC changed their rule and required that there would need to be controls put on shredder operations.

**Q. D. Chrzanowski** – And they gave how long to do this? Is there a timeline? **A. D. Simmons** – We have a timeframe that we’ve agreed to with the EPA through an order that we will do it according to a schedule they sent. Our date to comply is December 31, 2025.

**Q. J. Current** – So that’s an agreement than Upstate reached independently, it’s not a mandate for all of them? **A. D. Simmons** – It will eventually be. All of the shredders are being contacted and Upstate stepped up immediately.

**Q. B. Goodrich** – On the schematic, this colored system is the whole air monitoring structure?

**A. A. Paniccia** – Mr. Paniccia explained the drawings and parts of the system/air emission filtering process.

**Q. B. Goodrich** – So this system is for the shredding that is already there? **A. A. Paniccia** – That is correct. There is no additional shredding occurring other than what is already there.

**Q. B. Goodrich** – What is the height of the stack? **A. A. Paniccia** – We don’t know that. We do know it’s not going to exceed 125’; it will probably be between 90-105. We are looking at several systems and none exceed 125’. But we are being conservative and asking for the 125’ so we don’t have to come back.

**Q. B. Goodrich** – Is an aeronautical light required on it? **A. A. Paniccia** – We don’t know yet, but we will work out those issues during the design. **A. E. Jardine** – I think that’s only for 200’ high and higher structures.

**A. D. Simmons** – General guidance from the DEC is that it can’t be less than 1.5 times the building height. Beyond that, it’s based on modeling to see how far up the stack has to go in order to meet air quality requirements. Another engineering firm is involved in the design to manage the air quality.

**Q. J. Current** – What do they do with the stuff that is captured? **A. D. Simmons** – What is captured is particulate and gaseous materials some of which will be disposed of through wastewater, which is not significantly generated. Other is captured in carbon in the regenerative thermal oxidizer, which will periodically be changed out.

**Motion to recommend approval of the application for special use permit as presented with no exceptions or modifications:**

**J. Current/B. Goodrich/Carried**

**Yes 8**

**No 0**

**No Abstentions**

**3. County Case 2023-026: Village of Owego, Planning Board and Zoning Board of Appeals, Special Use Permit, Site Plan Review, Floodplain Special Use Permit, Rage Cage**

The applicant is requesting site plan approval and a floodplain special use permit to establish a rage cage entertainment business with offices in the existing building on the property. Construction and alterations will occur inside the building only. This property was previously the site of the old Owego-Apalachin Central School District bus garage. Applicant states hours of operation will be 2:00 PM to 10:00 PM Wednesdays through Sundays. There will be one

employee on site. This property is located within FEMA’s 1% annual change Special Flood Hazard Area or 100-year floodplain. The applicant has not demonstrated that the first-floor elevation of this non-residential structure will be equal to or higher than that of the documented high-water level as the Village’s zoning code requires.

Staff advises the County Planning Board recommend Disapproval of the Site Plan Review and Floodplain Special Use Permit.

**Q. D. Chrzanowski** – What is a rage cage? **A. E. Jardine** – It’s a room where you take a sledgehammer and smash things. **A. B. Goodrich** – It’s a room you go into with PPE on and break things. It would be a local attraction that is an outlet for venting; it’s unique. It might draw people from local universities and give something different for people to do.

**Discussion ensued** regarding the type of business and the applicant’s potential loss of investment due to flooding.

**C. A. Cacciola** – It doesn’t comply with the village requirements. **Q. D. Chrzanowski** – Right. The issue isn’t what infrastructure is being put there, but that infrastructure doesn’t meet the requirements. That’s the issue, correct? **A. E. Jardine** – Correct. The applicant was requested to fill out a flood plain development permit application. The applicant did not fill out the application. No documentation has been provided for where the floor level will be.

**C. B. Goodrich** – As far as the Special Use Permit – it’s meant for entertainment? **A. E. Jardine** – No, it’s a Special Use Permit for an area subject to flooding.

**C. D. Chrzanowski** – No matter the type of business, they have to meet the flood requirements.

**C. E. Jardine** – This is not even flood plain requirements, it’s zoning – a zoning special use permit for areas subject to flooding. It hasn’t yet reached the flood plain review stage.

**E. Jardine** referred the board to the distributed documents that explain the charter and code of the Village of Owego that pertain to the zoning requirements relative to this case and reiterated that required documentation needed to approve the request was not provided.

**Motion to recommend disapproval of the Site Plan Review and Floodplain Special Use Permit:**

**J. Current/P. Moore/Carried**

**Discussion:** **Q. A. Cacciola** – Do we require an engineer’s drawing? **A. E. Jardine** – Not if the Village doesn’t. **C. A. Cacciola** – Ok, because there’s a disclaimer on the drawing provided. **C. B. Goodrich** – To establish flood elevation, it will take a surveyor’s stamp. **C. E. Jardine** – Right, exactly. Chairman Chrzanowski agreed and called for a vote.

**Roll Call:**

**Yes     8**

**No     0**

**No Abstentions**

**VII.     REPORTS**

**A. Local Bits and Pieces**

- 1.     Town of Barton (G. Updyke)**
  - No report.

2. **Town of Berkshire**
  - No report.
3. **Town of Candor** (A. Cacciola)
  - Cornell Design Connect analyzed the results of the survey and created graphs & charts for the board. We had over 400 responses. In the past, reports from code enforcement officers have lacked addresses. Design Connect researched and added additions, new farms, etc. Now we're working on the actual comprehensive plan, using a template they provided. Individual Graduate students may be available to help develop the plan further.  
B. Goodrich noted that the County has aerial imagery from 2022 down to one-foot pixels in rural areas and six-inch pixels in the villages. Additional detailed modeling is available. All the municipalities have access to this information, as does the Sheriff's Dept.
4. **Town of Newark Valley** (J. Marzen)
  - No report.
5. **Town of Nichols** (P. Moore)
  - The owner of the property in the Town of Newark Valley that the proposed solar project was going to go on is now suing the farmer who was renting the field, for all of the property owner's losses resulting from the project not being approved.
6. **Town of Owego** (J. Current)
  - No report.
7. **Village of Owego** (G. Eckley)
  - Not in attendance. No report.
8. **Town of Richford** (Vicki Davis)
  - The town received a surprise grant from the Triad Group (Ithaca) for Rawley Park.
  - Congressman Molinaro gave a USDA 60/40 grant for a \$250,000 new plow truck.
9. **Town of Spencer** (Joe Budney)
  - Not in attendance.
10. **Town of Tioga** (D. Chrzanowski)
  - Cases may potentially come before this board next month.
11. **Village of Waverly** (vacant)
  - No report.
12. **Alternates** (B. Goodrich, C. Robertson)
  - No report

**B. Staff Report:**

E. Jardine distributed the 2024 Roster, Meeting Schedule, and Mileage claim form. She will

also send to all board members electronically.

**VIII. OLD BUSINESS**

- None

**IX. ADJOURNMENT**

- A. Next Meeting January 17, 2024, @ 7:00 PM at HHS Building Room #2139.
- B. Motion made to adjourn at 7:54 PM. D. Chrzanowski/J. Current/Carried.

Respectfully submitted,

Karen Warfle, OSII  
Tioga County Economic Development and Planning