



January 21, 2025

**Opening:**

The regular meeting of the Town of Chautauqua Zoning Board of Appeals was called to order at 3:30 pm, on Tuesday, January 21<sup>st</sup>, 2025, by Zoning Board Chairman, Troy Smith.

**Board Members Present:**

Troy Smith, Roberta Tenpas, William “Bill” Titus, Ed Seebald (Alternate), SandraLee Wagner (Alternate)

**Board Members Absent:** Stanley Marshaus, L. James Lewellyn

**Others Present:** Frank Watson (Code Officer), Rick Walczak (Code Officer), Nicole Yacklon (Code Clerk), Joel Seachrist (Town Atty.), Joseph Calimeri (Esq.), William Wright, David Milo, Sandra Milo, Michael Coburn, Russell Gifford, Susan Gifford, Greg Bacon (Observer/Post Journal), Jill Singer (CHQ-Conewango Consortium), John Jablonski (Chautauqua Watershed Conservancy), Rosalie Hewitt, Margaret Chambers, Jane Davino Hicks, Carolyn Barnes, Jason Mathews, Anthony Falcone, Rose Ann Falcone, Ray Seebald (CLE), Sean Hopkins, James Backlas, Jane Conroe (Chautauqua Conewango Consortium), Chuck Barnes, Krishan Gren, Karen Engstrom, Emmett Tenpas (Mayshark Builders).

**Agenda:**

**Case 1:** To act on the appeal of Allen Gillespie for new construction of a 5 x 15 single story addition onto existing single family home structure. The property is located at 5903 North Drive, Dewittville, and designated on the official Chautauqua County tax map as Section 246.18 Block 1 Lot 50 which is in a residential lakeside district, this project requires a variance for lot size, side yard setback distance.

**Public Comments:**

**Board Comments:**

Second by Roberta Tenpas

**Vote:** Chairman, Troy Smith – yay  
Member, Roberta Tenpas – yay  
Member, William “Bill” Titus - yay  
Member, Ed Seebald – yay  
Alternate – SandraLee Wagner – yay

**Case 2:** To act on the appeal of 1200 Group, LLC c/o Ellicott Development Company for establishment of a Planned Unit Development (PUD), requiring a Special Use Permit. The property is located at 5621 E. Lake Road and designated on the official Chautauqua County tax map as Section(s) 263.15 Block 1 Lot 22, 263.10-2-2.3, 263.10-2-2.1, 263.15-1-22 which is the location of the former Golf Course. The ZBA will be reviewing the Site Plan for this meeting.

Ellicott Development Corporation representative Sean Hopkins, with presented a Power Point Presentation with the site plan for the development of this site.

## **Public Comments:**

Meg Chambers resident of the Villas asked if Ellicott Development Corporation was also the owner of Mickey Rats and Sean Hopkins deferred to Jeremy Wassail from Ellicott Development Corporation who confirmed that they were also the owners of the Mickey Rat's site. Meg Chambers asked if any of the condo/homes at that site had been sold to date and Mr. Wassail stated they had not and that some of the units are being used as Air B & B's. Meg Chambers stated that the area of the beach where they are currently developing is rather unsightly with a big empty lot with a fence around it. Sean Hopkins stated that comparing that site to the site of the former Golf course that the sites are much different, with this project being much larger in scope as well as being surrounded by residential areas. Mr. Hopkins stated that the project is different in the fact that Mickey Rat's area to this area has a higher demand that they see as being successful. He expressed appreciation for the comments. They will not be building to such a demand that the project will have areas that sit empty for years to come, the building will be in phases as the demand will be.

Michael Colburn asked for clarification based on the original design and plan of the multi-use building. It appears that now the site plan is for condo's, single family homes, short term rentals, has this concept been defined. Mr. Hopkins stated it has not been defined because originally it was a 40-unit building, however based on feedback from August 25<sup>th</sup>, the project was scaled back to 24 units as well as setback's being increased from the nearby neighbors, ultimately it could be the combination of the two.

Chuck Barnes, resident of Pt. Chautauqua asked if the developer could divorce their idea of sharing the road (Leet Avenue) with Pt Chautauqua residents and move a road 150 ft to the left and back to self-contain their site making the traffic flow around and up and down to not interfere with the traffic of Pt. Chautauqua and The Villa's residents. Mr. Barnes spoke about how there would be semi-trailers, amazon trucks, Maple vale servicing these residents that create a lot of traffic. Mr. Hopkins replied that a traffic study had been conducted by Passafaro Associates, a traffic engineering firm, and that one of the goals of the hearing today is to receive input and that is why Ellicott Development Corp. brought an associate to take notes on the input, comments, concerns to take detailed notes. Then Mr. Barnes asked about the Tap Room and Brewery as stated in the site plan description of the proposed project, Jeremy Wassail (EDC) stated that those were speculative plans at this point and that it would be too early to enter any kind of leases at this preliminary stage of the project. As the information becomes available the developer will make the information available publicly.

There was concern about the amount of water that would be needed for a brewery, and the developer is talking to would purchase bottled water, the water would be outsourced for the brewery because of the quality needed. It was also stated that any entity that would be interested in such a business would have to get all other necessary permits from The State Liquor Authority as well as The Town of Chautauqua. Mr. Hopkins atated that the process involving the sale of any alcohol is an intensive process and when the time came for that they would undertake all those processes.

Joan Hicks, resident of Pt. Chautauqua, asked where the parking would be, and Mr. Hopkins clarified on the site plan that it would be upslope. She asked if parking was part of greenspace, and the reply was that it was not part of the greenspace, he clarified that anything that is impervious surface which would be considered parking spaces, a building, a sports court that would be excluded from the greenspace 63 % calculation. then asked if you get the variance before those Associations have reviewed the project and Mr. Hopkins stated that The Town Board, which is the decision maker is not able to decide on the project until the coordinated environmental

review has been completed and again that is a matter of State Law. Joan Hicks responded with a reminder that because of the Olmstead design that they are on the Historic Register which adds a different element to the project. Mr. Hopkins stated that the element that it adds is part of the coordinated environmental review pursuant to the State Environmental Water Quality Review Act. The New York State Parks and Historic Preservation Department will provide comments as well as further discussion with nearby associations.

Karen Engstrom Karen stated that the Developers must be aware of the other projects in the area that have not sold and have sat empty for years so what makes the Developer think that they will get interest from anyone for this project. Mr. Hopkins said he was aware of one but not the other but stated that the difference with this project is that the Developer can make this happen, they have a track record that shows they can get it done. If compared to three previous projects those would pale in comparison to this project in terms of expertise and financial ability, they successfully have undertaken the complexities of these large-scale projects.

Q - If the Storm Water Pollution Prevention Plan has been submitted, and Mr. Hopkins stated it had not been submitted as of yet. We have a reputable engineering firm; Carmina Wood Design would be undertaking the project, and the Developer did receive a letter today with the drainage plans and this will be part of the submission to the Town as part of the environmental review also the Town's engineering firm will need to approve those plans as well as the DEC. An on-site storm water management system per the current newer and much stricter standards of storm water quality implemented by the New York State Department of Environmental Conservation, the system would meet the standards of what is known as the 100 Year storm management as well as the Town's engineers and the State agencies, including DEC. it was also asked if that included the greenspace, Mr. Hopkins stated that it would include the greenspace. Mr. Hopkins reminded the group that anything that is impervious doesn't count.

It was asked if there will be any impact on tax payers for the sewer and water, Mr. Hopkins deferred to the Town for this answer, with his respect to the infrastructure there would be an increase in cost, there should be a decrease to tax payers as there is more paying into the system. Someone spoke to say in their experience there should be a decrease in what's called as brown water bill that you receive quarterly, however most in the room were on septic systems.

Don Emhardt, Town Supervisor, stated that the sewer project is complete. The wet basin was just put in below Chautauqua Lake Estates. They are part of this district, which will be pumped to the North Chautauqua Lake sewer district in Mayville. The Town had a pre bid meeting this morning to take an 8-inch water main up the hill to the tower. This will also be part of the district along with Pt. Chautauqua, Town Supervisor Emhardt stated that Chautauqua Lake Estates and the Villa's would be interested to understand that the Town will be doubling the number of residents so the price should be cut in half.

Q – To the Town Supervisor and Town Board Member in attendance, Tom Carlson, what is the proposed tax increase to the Town for this project and Town Supervisor Emhardt stated there would not be an increase for residents it would be an offset. Mr. Hopkins replied that the taxes would be paid directly to the taxing jurisdictions.

Ray Seebald with Chautauqua Lake Estates asked about the use of sidewalks as the project proceeds the sidewalks for single family homes as well as the Townhomes would be considered whether on one side or both sides of the street. Mr. Hopkins stated that it would be details that would need to be worked out as the project moves forward.

Q - Clarification was asked by the audience if all the homes on Leet and Lookout would be accessed via Leet Avenue. Mr. Hopkins stated that the homes would be accessed by those roads, and it was not in the current plan to have a separate road. Residents from Point Chautauqua and the Villa's spoke that they would not like to share the roads with another community and its residents and called for the Developer to think about putting in a private road for their residents.

Dan Hicks a resident of Pt. Chautauqua asked if the retention pond going to be serviced during the construction phases, Mr. Hopkins clarified that the Storm Water Pollution Prevention Plan will ensure that the strict standards established by the DEC will be met during this project. To ensure there is no run off from the site during the construction phase. Mr. Hopkins stated that anytime you disturb an area that is 1 acre, you must make sure the standards are implemented, and that no run-off goes into the lake during the construction phase of the project.

Q – What is the slope from Route 430 down to the Storm retention pond. Mr. Hopkins stated that they would follow up with the group regarding the slope/elevation.

Q – What are the price points for these units, Price points could not be discussed until the Developer was further along in the project design documents, comment was made that in the proof of concept spoke to square footage costs plan from the Preliminary information that a one-bedroom home could start at 300,000.00, with the average 3-bedroom home at 500,000.00.

Q – What is the total square footage of the impervious areas, Mr. Hopkins stated that it is most likely 100%-63.7%, 32.3 %.

Douglas Conroe – asked why do you believe the Town should issue a negative declaration. Mr. Hopkins replied that with the amount of environmental research they have done and based on the reports and studies that have been submitted today, as well as in the future, we can demonstrate that the project will not significantly impact the environment. There was a clarification from Mr. Hopkins that this would not be a decision the ZBA Board will determine and that the Town Board will be the issuing government entity.

Rosalie Hewitt a resident of Pt. Chautauqua stated that this project would fundamentally change the character of the neighborhood, she further stated that the project was essentially cutting greenspace in half by cutting down trees and replacing the greenspace with a one story, 2 story 200 units in a space that currently is a golf course her home being directly across from the project would have a significant impact on the character of her neighborhood. Mr. Hopkins stated that while everyone in the room can understand that it was no longer financially feasible with the previous operators and the property was put up for sale, Ellicott Development Corp recognized that it was an attractive site so there will then be a change in the character, yes no one can deny that fact. When looking at the other areas surrounding this site all the other areas are residential and follow along the character they are trying to develop. Mr. Hopkins also stated that while some in the room would like for this property to stay undeveloped it is not a realistic vision. Someone in the audience stated that they could donate the property and Mr. Hopkins stated Ellicott Development paid full market value, and that donating is not a viable option.

SandraLee Wagner Alternate Member asked the gentleman that earlier had concern about the traffic of Maple Vale Farms, Amazon, at Leet and Lookout if he noticed that the traffic is heavy now with deliveries versus in the summertime and he stated that from Friday night to Sunday is when he notices the traffic, and Ms. Wagner said probably due to people coming in for the weekend to stay in their homes.

SandraLee asked for clarification from the gentleman that if what he was saying was that he felt that he had a lot of traffic now and adding more homes would adversely increase that traffic and he stated absolutely.

There was opposition from Pt Chautauqua residents again that those residents do not want this development to be associated with their roads. Again, the audience called for Sunset View to develop their own private road for this development and stay away from utilizing Leet and Look out Avenue's.

William "Bill" Titus Board member asked who pays and maintains the roads the group is speaking about, the road is maintained by The Town of Chautauqua, meaning this is a Town road not a private road for Pt. Chautauqua residents. Mr. Hopkins also responded that with all the concerns they would go back to their engineers and further discuss these issues.

Q- Why do we enact Zoning laws? Mr. Hopkins stated that if you go back to the first Zoning Laws that were enacted in Euclid Ohio, they were to promote Health, Safety and Welfare. One of the basic premises of Zoning Code was to regulate uses, density, setbacks, and landscaping but as time has passed the zoning and codes much like this Town have gotten more comprehensive with more and more stricter standards.

John Jablonsky, representing the Chautauqua Watershed Conservancy, asked if the Town's Attorney was in attendance, Mr. Joel Seachrist the Town's Attorney, was present, because some of his questions he felt pertained to the Town Attorney. Mr. Jablonsky claimed that Chautauqua Lake is a class A drinking water lake, it's impaired for Phosphorous, it suffers from harmful algae blooms, with enhanced sediment coming off of development sites, he claimed that the project does not comply with the adopted waterfront plan for the community. The current site has a long-standing greenspace that's historically been there. There will be views off of 394 that would be severally compromised or lost completely and is totally changing the character of the community that was one of the oldest golf courses in the County. Changing the underlying through the PUD process, secondly according to Section 142.80 20 B UNDER Article 4 should not be treated as a PUD. Subdivision, Mr. Jablonsky spoke to the project exceeding the laws of zoning, the lots being created within the subdivision are substandard, so he is recommending that the ZBA board and Town Board look closely at the overall number of units that is allowed under the zoning to make sure that the board is not compromising the whole community concept along with the Local Waterfront Revitalization Plan and the Zoning. The Conservancy recognizes that a Positive environmental declaration under the SEQR requires the complete the full EIS, the traffic concept should be addressed. Mr. Jablonsky used the Chautauqua Lake Estates as an example of the worst Development to have impacted the lake by having an entire layer of topsoil wash into the lake washed off the shore from the hillside making this a serious concern. Attorney Seachrist asked Mr. Jablonsky for clarification of his position with the Chautauqua Watershed Conservancy and Mr. Jablonsky stated he was their Special Projects Coordinator. He clarified that he was speaking on behalf of the Conservancy.

Michael Coburn, a resident of the Villa's thanked Sean Hopkins for the information that has been shared with them prior to the meeting today. He is the President of the HOA and is representing the 20 owners who live in the Villa's when he stated that over 275 households within Chautauqua Lake Estates, The Villa's and Point Chautauqua have met and/or have corresponded and all have the same concerns with regard to this project. In

asking for a Beer Garden/ Restaurant, when we have so many failed in the area they don't think the code should be amended to bring in another Restaurant when we have so many that have failed. It also doesn't fit with the surrounding communities, asking for a business that would have 108 impervious parking spaces would increase the run off to the lake, noise pollution, , given that the property was zoned Residential when the developers purchased the property the group is asking that the Board not grant the variance but if they did grant the variance the group also suggests that the business be moved up to the frontage of Route 430 where it could benefit from exposure. In Villa's by-laws were passed that make it almost impossible to operate a B&B and short-term rentals, to rent in the Villa's for one week someone from the Villa's must sponsor you, they felt that this would prohibit transients from allowed to come in and out. Furthermore, the Villa's would not like the variances for the lot sizes, the "boathouse" structure to be approved, this group recommends that the Board

Joe Calimeri, Attorney suggested that because the board does not have a final copy of the site plan, Mr. Calimeri suggested that the board consider slowing down any decision, take consideration of all the items brought up at this meeting today. He referenced a letter that was sent from his office to the Developer and the Town Supervisor, Town Board that had numerous concerns on behalf of the residents of Point Chautauqua. The SEQR review process was started in November and to date there have not been any updates to the submission, there hasn't been any collaborative effort with any other organizations. He praised the Developer for being great to work with, they have answered all of their questions, they have been responsive, and they also are still looking into the traffic impact on the density, so at this time it is asked that the ZBA board not decide today.

SandraLee Wagner asked Mr. Calimeri if he had anything positive to say about this project, Mr. Calimeri stated that he doesn't live here and is simply representing his clients with their concerns and feels that the board should be prudent in pumping the brakes on this project at this time. Mr. Hopkins responded that he did also agree based on the comments and concerns brought about today. Mr. Hopkins asked if all comments from the meeting today be sent to them directly so they may work on answers to the concerns raised here today.

He also stated that their team will go back and collaborate with each other to address each of the concerns and comments brought about at this meeting by way of a letter to the Town Board and the Zoning Board. Mr. Hopkins stated that keeping in line with the open communication for this project he would like to see the project kept open and resume with updated plans for the next ZBA meeting.

**Board Comments:**

The board agreed to keep the case open and will schedule the next review of the project for the February 2025 ZBA meeting.

**Meeting was adjourned at 5:37pm.**