

TOWN OF ONONDAGA

ZONING BOARD OF APEALS

JOHN ELLEMAN, CHAIRMAN
MITCHELL CARMODY
BÉNÉDICTE DORAN
RONALD RYAN
CAROL SCHATTNER
NADINE BELL, ATTORNEY
ROSEMARY RILEY, SECRETARY

Minutes of August 5, 2025

PRESENT:

John Elleman, Chairman	
Ron Ryan	Nadine Bell, Town Attorney
Carol Schattner	Rosemary Riley, Secretary
Mitchell Carmody	

Robert DeForest, Applicant Cordelle Development

ABSENT:

Bénédicte Doran

Chairman Elleman called the meeting to order on August 5, 2025 at 7:07 p.m.

DISCUSSION

1. Cordelle Development, East Seneca Turnpike (Tax Map No. 032.001-09.3)
Application for Special Permit.

Chairman Elleman began acknowledging that the first item on the agenda is for discussion only. A representative from Cordelle Development (Robert DeForest) appeared to discuss the project and confirm what information is required to proceed. To assist the discussion, Mr. DeForest distributed a Site Plan, an Overall Plan and a Subdivision Plan to the Board.

Attorney Bell confirmed that the Zoning Board of Appeals had intended to schedule a public hearing for the application to begin the land use approval process. However, because the legal notice, which was sent electronically to the Post Standard, was not “opened” by the Post Standard employee until after the deadline for submissions, the Post Standard refused to honor a timely publication of the notice for a public hearing.

Mr. DeForest provided a history of the approvals obtained for the property, explaining that after he purchased the land in 2014 Nice 'n East Grocery Store to build a convenience store on Lot #1 of the approved Subdivision Map. Mr. DeForest obtained a zone change for Lots 1 and 2 for neighborhood shopping in 2015 and did a traffic study and the convenience store would trigger a traffic light and turn lanes on Rt. 173 and that was done in 2015. In 2016 Mr. MacDougall of Nice and Easy passed away and that was assigned to Valero, which is CST, and they decided to proceed so Mr. DeForest went ahead in getting the plans done for Lots 1 and 2. Then Nice & East bought CST and they said they are not interested in doing this project and that's when it the project went back on the shelf in 2015. The Planning Board had given us preliminary approval for that, and we had final plan approval, and we had the contract drawings ready to go to the Town Board to obtain their final approval but Nice & Easy kind of pulled the rug out from under me. The project then went back on the shelf.

I am back here seeking to build the apartments which are behind Lots 1 and 2 where we are seeking to do 60 apartments and one duplex, which is on the map, we might not do it, but it's on the map. The entire parcel is 16.5 acres, and the subdivision was done for Lots 1 and 2 but the map was never filed. Then it went back on the shelf. The intent is to subdivide 4 parcels, 4 lots, 1, 2, 3 and 4. Lot 1 is retail, Lot 2 is the convenience store, Lot 3 are the apartments and Lot 4 is office space which is shown on there. Right now, I am concentrating on building six 10-unit apartment buildings and 1 duplex which is shown on the maps, does everyone know where I am at. Ron Ryan asks if Mr. DeForest is scrapping the retail that is out by the road right now? Mr. DeForest replies no. I'm not scrapping it, I'm just going to do this first. Ron Ryan further asks whether Mr. DeForest has any immediate plans to do that. Mr. DeForest says no. Mr. Ryan continues asking Mr. DeForest when you said you are going for another subdivision, you are dividing out the area that the office area will be in. Are you proposing to do that right now? Attorney Bell asks if Lots 1 and 2 were previously approved but not filed? Mr. DeForest confirms that yes, they were approved but not filed. Those lots are not changing. It is the back 12 acres that will change. Mr. Ryan continues saying that Lot 3 is going to be re-subdivided into Lots 3 and 4. Mr. DeForest points to the Lots on the map for the Board to see. Mr. Ryan asks Mr. DeForest to clarify that this plan was never filed. Mr. DeForest confirmed that that plan was not filed. Attorney Bell asked if Mr. DeForest had that Subdivision Plan prepared yet. Mr. DeForest answered that he did not. He didn't know he needed it. Attorney Bell added that the first step for Mr. DeForest would be to get the Subdivision Plan. She continued that once you get the subdivision and then you would come back here to the town to get your Special Permit for the multi-family housing. Mr. DeForest asks where he goes to get the subdivision plan approved and Mitchell Carmody told him that he would go before the Town of Onondaga Planning Board. Ron Ryan interjects that what he would do simultaneously ... you're going to be back here and asking to do those apartments, and we are going to be looking at the drainage, the lighting, etc. just about everything relating to those apartments. You may want to get started on those logistical things. You could do it simultaneously. Attorney Bell adds that she would recommend that you do those logistical things because SEQR should be done. You know what your plan is, you know that you want to do the Special Permit, and you know you want to subdivide it and you are not supposed to segment SEQR, so the SEQR should be one for both of these

applications so to Ron Ryan's point that I would recommend filing both. I know you already have the application for the Special Permit but filing the Subdivision Application getting that map prepared and getting the supplemental materials you will need for your Special Permit. Ron Ryans asks Mr. DeForest if that makes sense? Mr. DeForest replies "kind of". He continues by saying that he's been doing this a long time and never gets it right. To which Ron Ryan adds that makes two of us. Mr. DeForest confirms that he would need to show subdivision of the two other lots (the commercial area and the apartments). Mr. DeForest continues saying that he would go to the Town Planning Board and talk to Marc (Malfitano) ... Ron Ryan interjects that you are going to get the subdivision and then you going to have this area where you are going to have the apartments and that's when you will be coming back here and asking for the Special Permit. Ron Ryan continues saying that this is where he disagrees with the process. The process is that we are supposed to make a determination on the environmental significance of having those apartments there and sometimes we can't necessarily do that without of having a lot of detailed information that we should have initially because we are going to take the whole packet that you are going to prepare, for example, your drainage calculations, your updated traffic study, your lighting, your plan and we are going to package it up and send it to the County Planning Board and we are going to send it to the Town of Onondaga Planning Board because we have to refer the Special Permit to the Planning Board and the more information we can give them to start with is going to help you as you go through the details ... then they might not pick it apart ... get the technical aspects of it. Attorney Bell adds that she is going to make it a little more complicated because this will also need a Site Plan review and that's the Town Board. Because there are apartment buildings, so you need Site Plans. Procedurally, this is what needs to happen. You going to first need to get your Subdivision Plan. Once you get your subdivision, you're going to get your Special Permit and once you get your Special Permit you will go to the Town Board for the Site Plan. Now just having said that Ron Ryan just referenced the SEQR and the environmental review I would submit that when you have all three taking place, one of the things we had a conversation internally with the Town on another application and that required subdivision, site plan and special permit and that discussion was that the Town Board would be appropriate with the Site Plan to be Lead Agency because it captures a little bit more. I defer to whether the ZBA wants to try and circulate Lead Agency or whether its recommended perhaps the Town Board do that because they will have Site Plan which gets more into some of the other issues. Ron Ryan interjects saying doesn't it seem logical that something when you have multiple boards that are going to be involved just like this one, you're going to have the Zoning Board, the Town Planning Board involved and the Town Board involved because of the Site Plan and everyone is really doing the same thing they are looking at the same aspect, doesn't it seem logical that the 3 boards would get together and say okay we have these projects that all 3 of the boards are going to be involved with, let's not confuse the applicant any more, let's put together one packet that is going to serve all of us. Does that make sense? Attorney Bell answers yes and continues I will submit to you that's the reason why some municipalities have consolidated the planning and zoning boards to prevent applicants from going from one to the other because you have one board that's looking at the project in its entirety. But each municipality gets to determine who has jurisdiction over what. Attorney Bell continues so how we have it structured this is the format we have. Ron Ryan has some questions about the logistics of the boards.

Attorney Bell asks Mr. Ryan if he wants to discuss this now or after the meeting has concluded. Mr. Ryan has some questions and continues saying that when he takes a look at the Zoning Ordinance and follow me with this ... then a discussion was had whether they wanted to continue the discussion now or after the meeting. Mr. DeForest adds that he came to the Zoning Board because Marc (Malfitano) told him he needed to come here. Attorney Bell asks whether Mr. Malfitano knew you were going to subdivide? Mr. Ryan adds that he doesn't think that Mr. Malfitano knew that Mr. DeForest wanted to subdivide. Attorney Bell asks whether Mr. Malfitano knew (1) that you never filed the last subdivision plan and (2) because he may not know that you have Lots 3 and 4 planned. Mr. DeForest says that Mr. Malfitano probably doesn't know that information. Mr. DeForest adds that he doesn't know what to ask him. Attorney Bell continues saying that if Mr. Malfitano doesn't know that you hadn't filed the last Subdivision Plan then he may look at this as Lots 1, 2, 3 and you are developing Lot 3 with multifamily and if that had happened that way, Bob, then yes Special Permit and Site Plan and you would get the Special Permit first and then the Site Plan before the Town Board. Ron Ryan asks Mr. DeForest why he wants to subdivide Lot 3? Aren't you doing the offices? Mr. DeForest says that he wants to reserve Lot 3 in case he wants to do more apartments there. Attorney Bell said that Mr. DeForest could add apartments to that same lot later on, right? Mr. DeForest says yes, he could. Attorney Bell continues that Mr. DeForest still has a problem from a technical standpoint because if you don't file your plan, it becomes null and void. Chairman Elleman adds its simply taxes, right? The taxes go up because it's no longer one big parcel it is now 3 parcels. Attorney Bell appreciates the reasons behind it but the reality is because that subdivision essentially disappeared without having a map filed you have to go through the process again simply because you had it done previously and that's why I'm wondering that the previous subdivision was 3 lots and it could stay that way. This is just a development plan showing the apartments and the offices. The offices are permitted use; you don't need anything for that. Attorney Bell interjects that he would need Site Plan approval. Mr. Ryan states that the apartments mean you have that one more step. Mr. DeForest asks if he leaves it just the 3 lots what do I have to do? Attorney Bell explains you still have to go back to the Planning Board to get the Subdivision Plan approved and filed. Ron Ryan adds "reacknowledged". Attorney Bell reiterates that the current Subdivision Plan is null and void. She explains that she's not saying that this needs to be a months and months long process but I will tell you right now you will appear the first time, you make the Board aware of this and, if I were in your shoes, I would come back with what I had before and explain that you just didn't file the subdivision map and I would essentially try to recreate what took place previously so that with any hope that it is an appear, present, schedule a public hearing. Now it will require a referral to the County Planning Board. You can't get around that because it's a subdivision. Mr. Ryan asks even if the subdivision was approved and simply the map not filed is there a time limit that the map has to be filed by? Attorney Bell answers yes it has to be filed within 3 years and beyond 3 years it becomes null and void. Mr. Ryan confirms with Mr. DeForest that it's been more than 3 years and Mr. DeForest confirms that it has been more than 3 years. Attorney Bell adds that all of our Resolutions end with this is required to be filed within three years. Now having said that if you don't change the subdivision from what it was before, I'm going to take back what I said before, you actually don't have to go to County Planning for a 3 lot subdivision for 2 reasons I believe

(1) and most important there is now, which did not exist when you were there previously, there is an agreement with the county that subdivisions of less than 4 lots or 3 lots do not require referral. So you don't have to go to County referral for that and I think that there would be an argument even if you did, which I'm talking about something that is moot, but if you came back with the same exact plan my comment to the County would be do you have to review before and nothing has changed do you need to re-refer it. Usually, County takes the position of referral is necessary if changes are significant enough from the last referral that you feel is warranted to review again. If it were identical, my argument would be no. Again, I'm bringing this up to cloud the waters and I shouldn't because I feel the agreement with county it's irrelevant. Ron Ryan asks that the reason you didn't file it in 2016 or 2017 is when Mr. MacDougall passed is that you didn't want to get stuck with the taxes? Is that right? Mr. DeForest confirms that is correct. Mr. Ryan continues now you are ready to get this filed because you are ready to go and you know you are going to suffer the tax burden. Mr. DeForest responds "when you have the money you don't have the time and when you have the time you don't have the money". Attorney Bell adds that if your long term plan and, I don't know what that means, I don't know when you say you would like the opportunity to reserve that Lot to develop that in some other way and, this is just a question for you to think about on your own, but, if you think you know what that 4th lot will be, my thoughts are in 2 years from now I would be developing it? It may be worthwhile to just do it with this process now so that you are not going through this whole process again. But that's up to you. But if you think it's going to be more like 5 years or I'm not sure its ever going to happen or if it could potentially be more apartment uses that I want on that lot which you could add to with an additional Special Permit then it may not be worth it because there may not be the need. Does that make sense? Mr. DeForest answers that he thinks that he is going to do just 3 lots so I will go and get a Subdivision Application from the Code office and call Marc Malfitano. Mr. Ryan adds that Mr. DeForest would say to Marc Malfitano that you are picking up where you left off in 2016 and I didn't file the map and I want to file the map. Nothing has changed everything is the same as it was in 2016. Attorney Bell adds that now Mr. DeForest will also have to file the Site Plan Application if you want everything to go forward at the same time. If you want to be running on all cylinders so to speak and get approvals as soon as possible because if you file the Site Plan Application you can then have both the Special Permit, and your Site Plan referred to County because they will both need to be referred to County because of your location all of that can be referred at the same time. Now the Planning Board, for what this is worth, can ratify and reaffirm the SEQR determination from previously. So, you don't necessarily need to get sucked into who is declaring lead agency over what yet. You could just go before the Planning Board, and have they can ratify and reaffirm the SEQR determination that was rendered in 2016 because it is the same subdivision. But then that just leaves the Town Board and the ZBA as to who has lead agency status. Chairman Elleman adds but because often for site plan approval the Town Board will seek the assistance or review of the Planning Board, my preference would be that the Planning Board be lead agency but I think that is a matter of deference if they say they don't want to do that, okay we will do that. Attorney Bell adds that a conversation has to be had with the Town Board and find out who prefers it and that may be by rock, paper, scissors but you need to figure out who takes the lead agency. It can be on an uncoordinated or a coordinated review if they want to offer any comments. Usually,

when it's the Board's internal, if it's all within one municipality, one kind of takes it and goes with it. Ron Ryan adds that Mr. DeForest will need a lot more technical information than a piece of paper with squares for apartments. You will have to have the drainage study, you will need the SWPPP. Mr. DeForest says that he knew he needed all that but he thought it was after this. Mr. Ryan says that this Board has been criticized for not requiring it up front. This Board would try to make our referrals to the Planning Board, and we would get criticized that we are not looking at the project in its entirety. I get it. Rightfully so. There is no reason we can't tell you right up front that this Board is going to need the lighting schematics, the drainage, etc. Mr. Ryan's argument is that you are preparing this stuff, and you don't have approval to do it yet. Attorney Bell interjects and says to play devil's advocate; it's Special Permit and Site Plan. So it's not real discretionary. As opposed to seeking an area variance or a use variance, and it's 'really a I hope I get it, it's a lot of investment but the Board may say no.' A Special Permit is legislation that's tantamount to saying it's a permitted use, you just have to meet these criteria. The Site Plan and Special Permit is a check the box. Mr. Ryan says that he agrees with that and if we go through and get this check list and say yes, we are good with Special Permit then they can go and do their technical review of the Site Plan before the Planning Board. Mr. DeForest says that's what he thought would happen and Mr. Ryan agrees that this is the way it should happen. Attorney Bell adds except that with the environmental, the environmental is going to require, for what you are proposing you should submit a long EAF, you have 60 apartment units that should be a full EAF and you will have to look at what's the storm water, what's the traffic, what's the lighting; all of that is part of the environmental review. Then by the time it gets to the Town Board for Site Plan then it's all done. Mr. DeForest acknowledges that he knew he had to do all this, but he thought he had to do it after this. Mr. DeForest adds that he thought he would come in here and this Board would say okay 'hey this is zoned right go on to the Planning Board'... then go to the Town Board. Mr. Ryan acknowledges that the process needs to be streamlined. As it stands right now, you need to go back and file the subdivision map, site plan and then get the development plan together. Meaning how are these sitting, what's the infrastructure ... Mr. DeForest interjects asking that's all for Special Use permit. Attorney Bell recommends that you file your Site Plan and your Special Use Permit at the same time because you get them referred to the County at the same time and because of SEQR being performed for both at the same time. Mr. Ryan adds if you were going to ask if you were going to get the Special Permit to have apartments there ... this Board would have to say we have to see the Development Plan as we sit here doing this. Chairman Elleman adds that it is hard for this Board to conceive how we wouldn't be issuing a permit but because of our current referral circumstances we are going to need all those investments and studies and development plan. But as Ron Ryan was saying there is no reason that anyone can foresee as to why you can't have the permit ... it's just you have to spend the money up front. Mr. DeForest confirms that there is a Site Plan Application and a Subdivision Application? Ron Ryan adds that Mr. DeForest's development plan will already be done. All that technical information that we just talked about is going to be done and we are going to pick it up all in one pile and we are going to hand it over to the Planning Board for their recommendation because we can't pass a Special Permit until we get a recommendation back from them. Attorney Bell adds that the good thing is that by the time the Planning Board, because they will take a look at the Special Permit, often if a developer or

applicant submits a Site Plan to the Town Board typically the Town Board refers it to the Planning Board for their review. But if the Planning Board has already reviewed the Special Permit application often the Town Board, then doesn't need to have another review. Mr. DeForest asks if there is another Special Use Permit application after that. Attorney Bell answers that you will need to supplement the information, but you don't need another application. Mr. DeForest asks so I need the Subdivision application and Site Plan application. The Site Plan goes to the Town Board, and the Subdivision Plan goes to the Planning Board. Mr. Ryan adds the Subdivision Application is just for the 3 lots and just tell them you forgot to file the map in 2016 and you want to file the map for the Lot #3 subdivision. Mr. DeForest confirms that he wants to make a 3rd lot and he wants to file the map. Mr. Ryan continues that Mr. DeForest will then do a Development Plan and get into the details that are going to look like ...Mr. DeForest interjects that they will want a SWPPP and all that. Mr. Ryan continues saying that Mr. DeForest will submit that to this Board and also the Site Plan. Mr. Ryan adds that it should be complete enough so that he could go up there and build it himself. Chairman Elleman adds that Mr. DeForest would not be duplicating anything ... if you were to not need a special use permit you would be producing everything that Ron Ryan is talking about for the Site Plan approval. Attorney Bell adds that Mr. DeForest need SEQR determination and Subdivision approval. Mr. DeForest asks if he can use the SEQR determination he received in 2016? The Planning Board may ratify and reaffirm the prior SEQR determination from 2016 however, because the SEQR determination from 2016, however, would have been exclusively for, at least that's my understanding, you didn't have Special Permit, you didn't have Site Plan so you will still need to do SEQR for that but you could go to the Planning Board now and start the process without worrying about first getting all your SEQR done. Ron Ryan adds that Mr. DeForest has a lot of this already done. Mr. DeForest says that he will stop at the Codes office and get the Subdivision Application and the Site Plan Application and talk to Marc Malfitano about it. Just let Mr. Malfitano know that you didn't file the map.

PUBLIC HEARING, CONTINUED

2. 173 Enterprises, 5865 East Seneca Turnpike (Tax Map No. 032.-01-03.0)
Application for Special Permit

Attorney Bell starts by saying that the Applicant did not appear. The record should reflect that we have received the 239 Referral from Onondaga County Planning and that the County Planning Referral did recommend modifications that requires certain information from the Applicant. Specifically, it required (1) that the applicant coordinate East Seneca Turnpike access plans with the NYS DOT and that the Town ensure mitigation is reflected on the plans and that (2) that the delineated wetlands have been confirmed by the Army Corps of Engineers and the NYS DEC shown on final plans, and any necessary permits are obtained for any proposed development or placement of fill in a wetland.

Attorney Bell continues that those are the modifications that we have requested comments from the applicant on and that to date we have not yet received any response. I would acknowledge that we have reached out to them, and they have not replied with any information whatsoever. Chairman Elleman asks that we include the date that Stacy Marris, Esq. requested the applicant's comments. Attorney Bell advises that the applicant's comments were first requested on July 22, 2025, and then requested a second time on August 5, 2025. Chairman Elleman adds that because this Board just sent out a request today that we will wait for a

response and if this Board does not receive a response, we will notify them that we will discontinue the matter? Attorney Bell responds I think what the correspondence should do is reiterate the need to address the modification that were recommended and also request a status update on the application. Chairman Elleman adds for clarity that the request made today did not address the recommendations from the County because that was a follow-up from July ... Attorney Bell advises that the email in July to Keplinger Freeman and it was acknowledgement of the 239 review and the 2 modifications and confirmation of (1) that making them aware of the modification and they are working with NYS DOT and (2) that they are working with NYS DEC for the parcel jurisdictional determination ... that was back on July 22nd. The 239 Referral was July 2nd. The email on August 5th started off by saying that this is a follow-up on the July 2nd email request. Chairman Elleman says what he thinks this Board should do it is request an update on the status of the project. We don't need to ask them the same things that we asked them before. This Board thinks that it's fair that the applicant explains things to this Board. They may have very good reasons that what they are doing would require more time. Attorney Bell adds that without those items being addressed the record should reflect that this Board which has been by consent of other interested and involved agencies designated lead agency that this Board is not able to complete SEQR without having the wetlands and traffic addressed. Attorney Bell asks for clarification as to who the above referenced letter should come from ... from Chairman Elleman and the Zoning Board or from Costello Cooney & Fearon as representative of this Board saying that they are reaching out to the applicant and depending on who you want to send it and do you want this letter to go from Costello Cooney & Fearon to Tom Fuccillo or do you want the letter from this Board to Keplinger Freeman? Chairman Elleman wants to have the letter sent from this Board to the applicant. At that point they will need to respond either in writing or to come before this Board and let us know. Attorney Bell confirms that the letter is to confirm the status of the application. Chairman Elleman states that he expects that when they come to give a status update to also give us an update on the two agencies and the modifications requested in the 239 Recommendation. That is the essence of what we need to know.

The hearing concluded at 8:00 p.m.

Respectfully Submitted,

Rosemary Riley
Secretary