

Village of Geneseo
Planning Board

October 26, 2016
Regular Meeting & Public Hearing

Members Present:

David Woods, Chair
Susan Richardson, Member
Dori Farthing, Member
Stewart Leffler, Member
Michael Venturino, Member
Claren Kruppner, Alternate Member

Other Village Representatives Present:

Code Enforcement Officer Ron Maxwell
Attorney J. Thomas Reynolds
MRB Group Engineer Kurt Rappazzo

Applicant(s)/Representative(s) Present:

Richard Calnan, Special Use Permit Request Home Occupation, 1 West Seneca Circle
Brian Burri, Bergmann Associates, Goddard Development, Dunkin' Donuts', 4181 Lakeville Road

Public Present:

Rick & Deb Wiechec, 6 Seneca Ave
Douglas & Diana Harke, 2 Seneca Ave
Tom & Donna Preston, 12 W. Seneca Cir
Tom & Donna Kleinhans, 11 W. Seneca Cir
Rodney & Vicki Lown, 6 W. Seneca Cir
James & Cheryl Lynch, 4 W. Seneca Cir
Paul & Barbara Schmied, 4 Seneca Ave
Bob & Roberta Irwin, 10 Groveland Rd
Maureen Root, 7 W. Seneca Cir
Kathryn Sheffield, 15 Seneca Ave
Erin Henry, SUNY Geneseo student
Timothy Prezlock, SUNY Geneseo student
Jacob

Aprile Sanders, 5 Seneca Ave
Amy Braun, 25 Tuscarora Ave
Mary Coniglio, 1 Seneca Ave
Denise Gambino, 14 W. Seneca Cir
Robert Kreger, 13 W. Seneca Cir
Cindy Hicks, 15 W. Seneca Cir
Louise Zipp, 5 Mohawk Ave
Theodore Scott Diem, 3 Mohawk Ave
Dan Rumfola, 7 W. Seneca Cir
Austin Hancock, Avon NY
Brianna Allison, SUNY Geneseo student
Stephanie Resila, SUNY Geneseo student
Noah Haber, SUNY Geneseo student

1. Meeting Opened:

Chair Woods opened the meeting at 4:30pm.

2. Meeting Minutes:

The September 28, 2016 meeting minutes were reviewed. S. Leffler moved to approve the minutes as presented. D. Farthing seconded the motion and the motion passed with ayes from S. Richardson, D. Farthing, S. Leffler & M. Venturino. D. Woods abstained as he was not present at that meeting.

3. Richard Calnan – Special Use Permit – Home Occupation at 1 West Seneca Circle:

Chair Woods stated that the public hearing had been advertised for 4:35pm, however Chair Woods asked Attorney Reynolds if it would be okay to begin a few minutes early. Attorney Reynolds did not have a concern with this. Therefore, Chair Woods opened the Richard Calnan, Special Use Permit for a Home Occupation Public Hearing at 4:31pm.

Chair Woods stated that Mr. Calnan operates a small graphic printing business out of his home at 1 West Seneca Circle. The legal notice had been published and Mr. Calnan sent the legal notice certified return receipt to all property owner's within 100' of all of his property boundary lines as required by Village Code.

Chair Wood read the following from the Village Code §130-59 Home Occupations:

A. The occupation or profession shall be carried on wholly within the principal building, unless the Planning Board grants a special use permit to allow the home occupation in an accessory building, subject to the requirements of § 130-20D.

B. No more than two persons not residing in the household shall be employed in the home occupation.

C. There shall be no exterior display, other than a sign, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building. Signage regulations for home occupations are listed in § 130-89B.

D. In accordance with the standards set forth in § 130-67, no offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced, nor will the storage or handling of hazardous material be allowed.

E. No more than 40% of the floor area of the residence will be allowed for the use of the home occupation.

F. The home occupation shall be conducted without substantial change in the appearance, character, or generation of pollution and traffic of the residence. All home occupations are subject to the special use permit process (see § 130-8C). Such special use permit shall be subject to review and revocation at the Planning Board's discretion.

Chair Woods explained that in order to allow anyone who wishes to speak he would like for comments to be held to three minutes each if possible, that before speaking please state your name and address for the record, the comments will start from his left in a clockwise motion. He asked that if there was anyone in the breakroom and/or hallway that wished to speak or hear, to please come forward. Each person will be given an opportunity to speak and he will go around the room more than once.

Before moving ahead with hearing from the public, Chair Woods asked if Richard Calnan, the applicant would like to speak first. Mr. Calnan stated that at this time he would just like to let the Board and public know that his business is 100% online. He receives an order via the internet, prints the order and then he or one of his two employees take the finished orders to the post office every day to be mailed.

Hearing nothing further from Mr. Calnan the public comment/question period began.

Theodore Scott Diem – 3 Mohawk Ave ~ Mr. Diem stated that he has resided in the neighborhood for over 60 years. He is not against business but pro residential. Mr. Diem also stated that if this is allowed now what would be considered in the future.

Louise Zipp – 5 Mohawk Ave ~ Ms. Zipp stated that she is concerned about noise, potential smells and traffic. Noting that the intersection at Tuscarora Ave and Mohawk Ave is already very busy.

Donna Preston – 12 West Seneca Circle ~ Mrs. Preston stated that they have a group speaker.

James Lynch – 4 West Seneca Circle ~ “Good evening, my name is Jim Lynch and I reside at 4 West Seneca Circle. My wife and I had our home built in 1992 in the residential area affectionately called Seneca Pines. I have been authorized to speak on behalf of those who signed the petition to oppose the application of Richard Calnan for a special use permit for a home occupation: small business, graphic printing at 1 West Seneca Circle, Geneseo, New York. All of the parties signing the petition share the same opinions regarding the application and similarly have had to endure the same negative consequences of Mr. Calnan’s commercial activities in what is, by law, a single family zoning district. The opposition is due to the following issues that do not conform to Geneseo Village Code. Geneseo Code defines “Home Occupation” as one that “can be conducted without substantial change in appearance, character, or generation of pollution and traffic of the residence.” We intend to show that the business in question fails to do this. Our opposition is based not only the negative impacts of running a full time business enterprise in a residential neighborhood, but also on the basis that the actual application filed by Mr. Calnan fails to contain even the most basic criteria enumerated in the Zoning Code for such an application.

The application deficiencies are as follows:

- 1) Section 130-59 of the Code provides that “All home occupations are subject to the special use permit process.”
- 2) Code Section 130-10.b. (4) requires that an application for a special use permit be accompanied by an application for site plan approval. No application for site plan approval has been filed by the applicant.
- 3) Code Section 130-10.b. (5) requires that an application for a special use permit contain a written statement addressing “each of the standards set forth in Section 130-20D of the Code and stating specifically how the proposed special use permit relates to and meets each standard.” The application does not contain any written statements addressing the Section 130-20D criteria and is therefore incomplete and inadequate.
- 4) Code Section 130-8. C. governs special use permits and provides that the Planning Board is empowered to issue special use permits “after site plan review”. Since Mr. Calnan’s application was not accompanied by an application for site plan review, as required by Section 130-10.b. (4), the Planning Board is unable to undertake the required site plan review.
- 5) Section 130-59. D. limits the amount of floor space used in the business to no more than 40%. The application fails to contain a floor plan or other type of information showing the percentage of the building dedicated to the business.
- 6) Further there is no material in the application which remotely addresses the standards and criteria for site plan consideration and approval specifically required under Article XIV of the Code.

Our Factual evidence:

- 1) Article 130-59 Home Occupations paragraph B states that, “No more than two persons not residing in the household shall be employed in the home occupation.” The business being carried on clearly has more than 2 non-household employees. The residence at 1 West Seneca Circle, Village of Geneseo, NY usually has the following vehicles parked in the driveway:
 - Black Cadillac Escalade (full-size SUV)
 - Red Dodge Viper (2 door sports coupe)
 - Silver enclosed trailer (approximately 8 feet wide and 15 feet long with tandem axles) with “Ride Dirty” lettering on the sides.

These vehicles are parked at this residence most times except when they are in use but sometimes are parked on the street in front of the residence. During normal weekday working hours (8:30 AM to 5:00 PM every Monday through Friday), an additional three vehicles are also parked either in the driveway or on the street in front of the residence.

These vehicles are:

Black Ford F-150 full size pickup truck

Black Volvo compact sedan

White Ford Fusion compact sedan

These additional vehicles are not usually parked at this residence except during normal working hours. We believe that the presence of these additional vehicles establishes the fact that the number of workers or employees working on the premises exceeds the allowed amount. It should also be pointed out that in his application Mr. Calnan indicated that no parking was necessary. This statement is extremely inaccurate.

2) Article 130-59 Home Occupations paragraph C states that, "...no other exterior indication of the home occupation or variation from the residential character of the principal building." The addition of the three aforementioned vehicles and the physical presence of the employees in the vicinity of 1 West Seneca Circle indicates that there is a business in operation and therefore changes the residential character of the home.

3) Article 130-59 Home Occupations paragraph F states that, "The home occupation shall be conducted without substantial change in appearance, character or generation of pollution and traffic of the residence." The additional three employees cars listed above, parked in the street or loaded into the driveway as well as the increased traffic due to their passage to and from work, lunch and delivery, adversely affect the appearance, character and traffic of our cul-de-sac. It appears that we live in a commercial zone and therefore our quiet peaceful neighborhood looks unappealing. Residents and visitors have to drive around these vehicles when they are in the road. Plow drivers, village workers, mail delivery drivers, UPS, FedEx and the like have to maneuver around them as they perform their duties. When in the driveway, pedestrians, bicyclists' etcetera cannot use the sidewalk and the jockeying of cars to let those employees who are parking-in the ability to exit the property, blocks one lane of the street. Also, what do we know about this business? Are there dangerous chemicals involved in the production? Are they stored properly? Are there adhesives applied? Do they emit dangerous vapors?

4) Article 130.20 paragraph "a" states, "The proposed building or use will be in harmony with the general purpose, goals and objectives and standards of the Village's long-term planning goals and this chapter." The use of a structure for commercial purposes, when it is located in a single family residential neighborhood/zoning district is not harmonious with the general purpose, goals, objectives and standards of the Village's long-term planning goals. We don't believe that it is in the best interest or the goal of the Village of Geneseo to convert residential neighborhoods into commercial zones.

5) Article 130.20 paragraph "b" states that the use will not have an "...undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting public health, safety and general welfare." Many of these items have previously been spoken of but in addition, we believe that the safety and welfare of those using the sidewalk is an issue because it is blocked by vehicles when they are parked in the driveway forcing pedestrians to

enter the street where they may not be seen by oncoming traffic. IN addition, are the employees safe? Is the neighborhood safe? Are there any flammable adhesives or chemicals used in the process of this business? Is there machinery that is used and has there been an electrical inspection of that? Are vapors from adhesives and chemicals adequately ventilated? Will these harm those in the vicinity of the home?

6) Article 130.20 paragraph "c" states that the proposed use will not, "...devalue the development and use of neighboring property in accordance with the applicable district regulations." From its inception this neighborhood has been a residential neighborhood and is zoned accordingly. We believe that the business use of this address will have a negative impact on the surrounding properties and their value.

7) Article 130.20 paragraph "h" states that, "In the review and approval of special use permits the following factors will be considered:

1-General conformance with the Village of Geneseo Comprehensive Plan and its long term planning goals and guidelines for development associated with them.

2-Consistency with the development standards and guidelines of the zoning district in which it is located.

3-Criteria for the review of site plans enumerated in Article XIV of this chapter."

We believe that the goal of the village board is to maintain our residential neighborhoods as residential and that it is important to stick to the standards and guidelines of the zoning of these areas in order to keep them safe, comfortable and places we can call home.

In summary, allowing this business enterprise to be conducted in this residential neighborhood would be contrary to the Village's Zoning Code and would also be inconsistent with the goals, principles and purposes of the Village's Comprehensive Plan.

For the above reasons, we oppose this issuance of a special use permit for this property.

Thank you.

Mr. Lynch also made reference to an article from the Rochester Business Journal from October 2012, where Mr. Calnan stated "our entire basement is the show, and I am outgrowing it." At that time Mr. Calnan resided in Woodbine Park and did put an addition onto that house.

Amy Braun – 25 Tuscarora Ave ~ Ms. Braun asked if the special use permit goes with the person or the property. Attorney Reynolds stated that in most cases the Board puts a time limitation on the special use permit but that special use permits go with that specific business. In other words, if the Planning Board approves this special use permit and Mr. Calnan sells the property another home business exactly like this could open. Taking note that the new business would need to fit like a glove.

Bob Irwin – 10 Groveland Road ~ Mr. Irwin stated that he is here as a member of the Town of Geneseo Planning Board. He has heard complaints regarding this property for at least two years. As a member of the Town Planning Board he would vote against this proposal. He believes that based on the number of people present in opposition of the proposal, the Village Planning Board should not grant the home occupation.

Robert Kreger – 13 west Seneca Circle ~ Mr. Kreger stated that he moved to 13 West Seneca Circle approximately six years ago. He stated that he has noticed the number of vehicles parked in the driveway and/or in front of the house on the street on many occasions but that has not been bothersome to him. Mr. Calnan's property is the first house on the south side of the cul-de-sac; therefore the cul-de-sac sidewalk ends within the front of his property. Since there are no sidewalks in Indian Meadows, people have to exit the sidewalk in that location anyways and walk into the street, so he thinks that the neighbors that have signed the petition have no justification in using the blockage of the sidewalk as an excuse. He commented that this whole thing is ludicrous and reminds him of what the Salem Witch Trials might have been like. Mr. Kreger asked how many neighbors went directly to Mr. Calnan to meet him and ask him questions. Mr. Kreger finished by stating that he is appalled and ashamed by his neighbors and their small mindedness that has no place in the neighborhood.

Chair Woods asked that all should stick to the facts and all comments and questions should be directed towards the Board, not each other or the applicant. Chair Woods also stated that the Code Enforcement Officer Ron Maxwell would like to make a statement.

CEO Maxwell stated the NYS Building Standards and Codes 2016 Uniform Code Supplement published in March 2016 and went into effect on October 3, 2016 is more restrictive than the Village Code. Chapter 2: Amendments to the 2015 IRC, Appendix J: Existing buildings and structures, AJI: Administration, Section AJ102: Compliance states the following:

AJ102.5 Home occupations. It shall be prohibited to conduct a home occupation in a dwelling unit except as provided for in Section AJ102.5.1. A home occupation shall be conducted wholly within the primary structure on the premises. No provision of this section shall be construed to repeal, modify or constitute an alternative to any lawful zoning regulation which is more restrictive than this section.

AJ102.5.1 Conditions.

1. The home occupation shall meet all requirements for habitable space and shall not exceed 15 percent of the floor area of the primary structure.
2. No more than one person not residing in the dwelling unit may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
4. The home occupation shall not involve any operation considered to be hazardous.

Chair Woods stated that the Planning Board received a Memo from Police Chief Eric Osganian dated October 6, 2016 regarding 1 West Seneca Circle which stated the following:

"We have received complaints regarding parking at 1 West Seneca Circle. Due to fear of retaliation, these complaints have been anonymous. The complaints involve Mr. Calnan parking his vehicles overnight on the street, leaving his trailer on the street at all hours, and vehicle traffic coming in and out of his residence; allegedly workers from his business.

Mr. Calnan has called on several occasions to the County Dispatcher and requested to park on the street overnight. He also leaves his trailer on the street. Overnight parking is prohibited in the Village. We normally provide permission to park overnight on the street if someone is having repair work done to their driveway or having their driveway sealed; however this does not seem to be the issue here.

On October 4, Officer Daniel Piedmonte had a conversation with Mr. Calnan about the parking issues. Eric"

Roberta Irwin – 10 Groveland Road ~ Mrs. Irwin stated that she lives near the area in question, on many occasions she takes the opportunity to run in the neighborhood around 9:00am-9:30am and she stays in the street where there are no sidewalks, but she does use the sidewalk when a sidewalk is available. She continued by stating that when she runs on West Seneca Circle she usually stays in the street because on most occasions the sidewalk is blocked in front of 1 West Seneca Circle and she would need to go around the vehicles and run into the middle of the road.

Theodore Scott Diem – 3 Mohawk Ave ~ Mr. Diem stated that he was not aware that Mr. Calnan was running a business out of his home until he received the official notice stating that there would be a public hearing which he didn't mind, but wonders why Mr. Calnan never came over to tell him especially since their backyards back up to one another. Mr. Diem is worried about noise, the use of chemicals and traffic.

Denise Gambino – 14 West Seneca Circle ~ Ms. Gambino stated that she is one of the ones that spoke with Chief Osganian regarding the parking issues. There are many children that love using the sidewalk on West Seneca Circle, but because the sidewalk is blocked they need to come out into the street. She has learned to travel very slowly on the street, but it became an increasing concern when Mr. Calnan was parking his trailer and four to five vehicles on the road in front of his house as she missed hitting a child on a bicycle by 12 inches because the visibility had become so poor.

Louise Zipp – 5 Mohawk Ave ~ Ms. Zipp stated that after listening to all the comments previously made she is even more concerned then she had been and hopes that the Planning Board does not allow this.

Donna Preston – 12 West Seneca Circle ~ Mrs. Preston commented that Mr. Calnan was running his business out of his Woodbine Park home without a special use permit and has been continuing to run that same business at this location on West Seneca Circle since he moved in two years ago. Mrs. Preston stated that she had called the Code Enforcement Office to complain about Mr. Calnan running his business out of his home without a permit. She stated that she was told by CEO Maxwell that he had spoken with Mr. Calnan regarding the matter. She continued by stating that she took Mr. Maxwell for his word, but that nothing changed. CEO Maxwell commented that he had spoken with Mr. Calnan and Mr. Calnan asked about running a home business, but never stated that he was actually already running a business out of his home.

Amy Braun – 25 Tuscarora Ave ~ Ms. Braun stated that she is opposed to Mr. Calnan's request.

Kathryn Sheffield - 15 Seneca Ave ~ Mrs. Sheffield stated that she did not sign the petition but would have. She continued by stating that she walks and bikes in that area and has the same concerns others do. She stated that the Articles and Guidelines of the Village Code should not be overruled.

James Lynch – 4 West Seneca Circle ~ Mr. Lynch stated that for the Planning Board's reference he did include photos to give an idea of what they have been looking at for the past few years.

Douglas Harke – 2 Seneca Ave ~ Mr. Harke stated that he resides diagonally across from Mr. Calnan. As part of the neighborhood meeting, he was authorized to drafting the cover letter presented by Mr. Lynch tonight.

Diane Harke – 2 Seneca Ave ~ Mrs. Harke stated that she agrees with what Mr. Lynch said.

Rick Wiechec – 6 Seneca Ave ~ Mr. Wiechec stated that he has previously spoken directly to Mr. Calnan about his employees speeding and even though he had spoken to Mr. Calnan, nothing has changed. Mr. Wiechec continued by stating that he has young grandchildren so his primary concern is safety.

Cindy Hicks - 15 West Seneca Circle ~ Mrs. Hicks stated that she believes the property should stay residential and any other residential street in the Village should remain residential.

Donna Kleinhans - 11 West Seneca Circle ~ Ms. Kleinhans stated that she had brought Mr. Calnan cookies when he first moved in and like Mr. Wiechec she has young grandchildren. She continued by stating that one of the reasons she moved to West Seneca Circle was to get away from a busy street in Lakeville and wanting very little traffic. Ms. Kleinhans stated that she is really concerned about how things will go from here.

Dan Rumfola – 7 West Seneca Circle ~ Mr. Rumfola asked if Mr. Calnan applied for a permit. He continued by commenting that Mr. Calnan thinks he is above the law. Stating that this is a Witch Hunt is far from the truth. He believes that Mr. Calnan tries to bypass the laws. Mr. Rumfola stated that there are lots of store fronts available and wonders why Mr. Calnan could not rent one of those.

Chair Woods stated that he has asked for comments and questions from the public twice and asked if there was anyone present that did not speak previously that would like to do so now.

Mr. Calnan asked if he could speak. Chair Woods stated that he could. Mr. Calnan commented that the key word he heard tonight was traffic: “The creation of traffic and the removal of traffic.” He continued by stating that he is the only one on West Seneca Circle that has elementary school aged children. He only has two employees that come to work at 9am, leave for lunch, return from lunch and then leave at the end of the day. The red car, white ford and trailer are not employees. The neighbors think they have “won” as the trailer is now gone. He stated that upon his request when the red car, his personal car is in the driveway, he asked his employees to park in the street. He stated that his business is 100% online. He has no customers coming to his home. Regarding a blocked sidewalk, Mr. Calnan stated that it is not uncommon for a sidewalk to be blocked in the Village. As a father of young children, he is also concerned. There are no chemicals, no dumping, the ink cartridges are certified by the state of California, purchased from a retail company and recycled. The ink cartridges are the same as one would use in their printer at home or at work. There is no use of extra electricity. This is a cookie cutter graphic printing business.

Mr. Calnan continued by stating that yes he had a lot of stuff in his basement at the Woodbine Park house and yes he wanted a bigger home to run his business. As to why he does not have a store front, one is not needed, there is no need to, the business is 100% online. He commented that his home is a wonderful place, there is no extra noise generated, he pays his mortgage and taxes. He thought this was going to be a nice street to settle down in, but has learned differently. He admitted that he did not apply for a home occupation permit as he did not think he needed one. The story is exactly as it has been documented; the business started out very small, but has grown and grown and grown. Mr. Calnan stated that he is very proud of his success. Mr. Calnan stated that he has nothing to hide.

Chair Woods asked if there was any further discussion. Mr. Calnan continued by stating that what the neighbors have said in regards to vehicles is true, but he has no plans to do anything different. He asked if the community has nothing better to do than to attack him. He stated that many people think that it is fantastic to run a successful business like this out his home.

Chair Woods asked if anyone else would like to speak.

Theodore Scott Diem – 3 Mohawk Ave ~ Mr. Diem asked if the ink canisters from California are legal everywhere else. He asked the Board if they know whether or not the ink canisters are approved for New York. CEO Maxwell stated that he would need to look at them, but from past experience knows that California is usually more restrictive than New York.

Roberta Irwin – 10 Groveland Road ~ Ms. Irwin stated that the canisters should have been listed on the special use permit application. Mr. Calnan commented that they are not canisters of ink, but ink cartridges.

Deb Wiechec – 6 Seneca Ave ~ Mrs. Wiechec stated that everyday there are three extra cars at the residence, but Mr. Calnan has stated he only has two employees. Who does that third car belong to? She commented that she just thinks this is very strange. Mr. Calnan stated with hesitation and emotion that the third vehicle did not belong to an employee but to a young man that does not have a great home life, so he spends his days with Mr. Calnan.

Donna Kleinhans – 11 West Seneca Circle ~ Ms. Kleinhans asked if Mr. Calnan moved to the neighborhood to expand his business or become a resident of the neighborhood.

Kay Sheffield – 15 Seneca Ave ~ Mrs. Sheffield stated that she does not feel like this is an attack. She continued by stating that Mr. Calnan has a right to ask for a Special Use Permit for a home occupation, but as an old school teacher, she likes to go by the rules. She stated that hardly anything has been mentioned about the business itself. She does not believe that there are any venomous intentions but a rule is a rule.

Mr. Calnan stated that per Police Chief Osganian's memo, each time he left a vehicle in the road he was working on one of his other vehicles; he would contact the 911 Dispatcher and was told every time that it was okay.

Robert Kreger – 13 West Seneca Circle ~ Mr. Kreger commented that more and more people are retiring or are close to retiring, good jobs are hard to find in New York, so many people are leaving the state. Mr. Calnan has created jobs and is building a family in Geneseo. Mr. Kreger stated that he believes that these items should be taken into consideration when making a decision. Mr. Kreger asked if a retired architect or engineer working out of their home need this same type of permit. Chair Woods stated that it would.

With no further comments from the public, M. Venturino moved to close the public hearing at 5:18pm. S. Richardson seconded the motion and the motion passed with ayes from all.

Chair Woods asked for discussion among Board Members.

S. Richardson asked what the length of the trailer is as trailers over twenty-feet in length are not allowed. Mr. Calnan replied that he was not sure how long the trailer is but that he considers it a recreational vehicle not related to his business and that the trailer has now been moved off site.

M. Venturino commented that things that the Village Planning Board needs to take into consideration when reviewing an application like this is the total number of vehicles, not just the business-owned vehicles affecting the character of the Village.

D. Farthing is curious to know what percentage of the floor area of Mr. Calnan's home is being used for his business if the update to the State Uniform Fire Prevention and Building Code that went into effect on October 3, 2016 states that the home occupation shall not exceed fifteen percent of the

floor area of the primary structure. Mr. Calnan stated that the business is located in the basement of his home and takes up approximately 300 square feet. The Board asked CEO Maxwell if a second means of egress was then required. CEO Maxwell stated that it was. Mr. Calnan stated that he did not have one.

S. Leffler stated that personally he appreciates the successfulness of businesses like Mr. Calnan's and believes they should be fostered, but also believes that neighborhood boundaries need to be maintained and this type of business should not be conducted in a residential area. He continued by stating that the communities concerns are a huge consideration in approving or disapproving an application like this. S. Leffler also believes there are outside regulations such as OSHA that need to be taken into consideration. S. Leffler feels like there are a lot of items about this business that the Planning Board does not know and he personally would need to have those questions answered prior to rendering his opinion.

CEO Maxwell stated that if the Board was to approve this application, Mr. Calnan would need to comply with the State Uniform Fire Prevention and Building Code. The Board once they make their decision for or against, Mr. Calnan would be given thirty days to comply. Mr. Calnan stated that he would not be able to do this.

The Board asked about SEQR review. Chair Woods clarified that SEQR review and a negative declaration would need to be granted prior to the motion if the Board plans to make the motion to approve. Otherwise, SEQR does not need to be reviewed.

S. Richardson moved to deny the special use permit request from Richard Calnan for a home occupation: small graphic printing business out of his home at 1 West Seneca Circle based on the following:

1. The request does not meet the criteria.
2. Neighbor concerns.
3. Traffic.
4. No second means of egress out of the basement.
5. Trailer that may be over the allowed twenty feet in length.

S. Leffler seconded the motion. Chair Woods asked if there was any further discussion. The Board asked if in the future if Mr. Calnan meets all the criteria this decision would prevent him from applying to the Board again. Attorney Reynolds stated that Mr. Calnan could always apply again. CEO Maxwell stated if the Board is denying the application, Mr. Calnan has thirty days to disband and then an inspection of the premises would need to be scheduled. With no further discussion the motion passed and the application was denied.

4. Goddard Development – Phase II – Two Lot Subdivision, Site Plan Review and Special Use Permit request for Dunkin’ Donuts’ – 4181 Lakeville Road:

Brian Burri, Bergmann Associates appeared before the Board on behalf of Goddard Development for Phase II of the Mavis Discount Tire site at 4181 Lakeville Road. As previously discussed with the Planning Board, their proposal includes a two lot subdivision, site plan review and special use permit request for an approximately 2100 square foot building for a Dunkin’ Donuts’.

Goddard Development agreed to eliminating the retail portion of the building, therefore reducing the size of the building to 2100 square feet for a stand alone Dunkin’ Donuts’ with drive-thru. Goddard Development is also proposing to subdivide the property into two lots, allowing Mavis and Dunkin’ to have their own individual lots. Mr. Burri explained that with this new proposal each lot will meet all Zoning requirements for parking, there will be sufficient stacking for the drive-thru and heavy landscaping is proposed to block the view of the drive-thru lane on the west side of the building. As discussed at the September Planning Board Meeting, the dumpster has been relocated to the east. With a two lot subdivision sharing one ingress/egress, multiple easements between the two properties will be necessary.

The building now includes a peaked roof with cupola; stone veneer has been added to the building similar to that on the Mavis building and goose neck dark sky compliant lighting has been added. Submitted also upon the Board's request is a photo simulation of the proposed elevation of the building on the lot shown from the Kwik Fill driveway looking northwest.

The Board asked if the patio area had been eliminated. Mr. Burri stated that it had not but was not depicted on this elevation. The patio area is proposed for the 20A/Lakeville Road side of the building, surrounded by a 4' colonial aluminum fence and approximately 12' x 30'. Due to the location of the drive-thru the Board has some reservations about a patio being located in this area. However, Mr. Burri stated that the area will be curbed and fenced and an additional bollard can be installed if need be. The Board asked if there are other Dunkin' Donuts' locations with patios. Mr. Burri was not sure. CEO Maxwell asked if there would be an egress out of the patio area. Mr. Burri believed that there would be.

At 5:45pm D. Farthing excused herself from the meeting and Alternate Member C. Kruppner was now considered a voting member.

Mr. Burri asked about the proposed signage as submitted. CEO Maxwell stated that what has been submitted is over the allotment. Businesses are allowed to have one wall sign plus one additional directory sign, perpendicular sign or freestanding sign, with a maximum not to exceed one square foot per linear foot of building frontage or 100 square feet in total.

The Board asked how much business was drive-thru compared to eat in. Mr. Burri believed the ratio was 70% drive-thru to 30% eat in. The Board asked about the proposed guide railing on the west side of the building. Mr. Burri stated that it is being used to screen the HVAC units. The Board questioned the use of the goose neck lighting over the awnings as it appeared that the light is shining on top of the awning itself which serves no purpose. Mr. Burri stated that he would need to look into this further and a lighting plan with photo metrics would be forth coming.

The Board asked about the white lettering on the awnings. Mr. Burri stated that they are words such as: "quality, boost, joy, cream & sugar, icy, rich, indulge" etc...The Board asked if this would be considered signage. Mr. Burri commented that Dunkin' Donuts' consider it branding and not signage. CEO Maxwell stated that he would need to review the Code further in regards to this type of wording/lettering.

The Board was very appreciative of the new design elements and colors and does understand that some of it is branding, but wondered if the bright orange of the awnings could be toned down to more of an earth tone color.

Chair Woods asked Engineer Rappazzo for his comments. Engineer Rappazzo stated that many of the site details with this project have already been addressed through Phase I or the Mavis Discount Tire approved site plan. However, because this plan calls for the property to be subdivided, the future cross access easement that the Village required to the National Realty Property line may need to be amended. Other easements will need to be added for both parcels to access each others lots and for maintenance of the properties. Chair Woods asked that the proposed easements be reviewed by Attorney Reynolds for proper wording. Also, because the property will be subdivided into two lots, each lot will need their own sanitary sewer lateral. Mr. Burri had some technical questions regarding sewer lines, water lines and storm water management drains that Engineer Rappazzo and he will need to speak with Jason Frazier and Dan Quinlan of the Village's Department of Public Works and Water/Sewer Department. Chair Woods asked if Engineer Rappazzo had any other comments. Engineer Rappazzo stated that a backflow prevention device and grease trap will be required.

Chair Woods asked if the Board had any further comments or questions. S. Richardson stated that D. Farthing that had to leave asked about the change in the subdivision line to what it was on the first submittal. Engineer Rappazzo stated that the line had been moved to allow for the required

number of parking spaces for each parcel. Engineer Rappazzo stated that each parcel will also need to meet their individual setback requirements.

The Board noted that in order to proceed, they would like to see paint samples and construction samples as they did with the Mavis Discount Tire building. The Board also asked if they could proceed with preliminary review/approval prior to scheduling the public hearing due to the question about the signage. Chair Woods stated that the Board could proceed, but would not be able to make a final decision until something was submitted that met the signage requirements or the Zoning Board of Appeals made a decision on what Dunkin' Donuts' wants.

The Board asked about the menu board and any directional or other signage that is proposed. Mr. Burri distributed proposed menu board design and proposed direction signage cut sheets. The directional signage presented were 58" in height when only 48" in height is allowed. The Board also asked that future submittals contain specified locations for the directional signs and which ones will be used.

A Unilock retaining wall is proposed for the west side of the drive-thru lane which is proposed to be no larger than 12" in height. Mr. Burri also presented the Board with a cut sheet for the retaining wall. The Board asked about the overall landscaping. Mr. Burri stated that it is their plan to go beyond what landscaping is currently there. He continued by stating that some plantings will remain while others will be removed and replanted elsewhere or replaced. Mr. Burri stated that there will be heavy landscaping on the south and west side of the building to block the view of the drive-thru lane.

With no further discussion, S. Leffler moved to grant preliminary approval for the site plan, two-lot subdivision and special use permit request for Dunkin' Donuts' on the property located at 4181 Lakeville Road. The public hearing is to be scheduled for November 30, 2016 at 4:35pm. M. Venturino seconded the motion. Chair Woods noted that the Board will be considering final approval at the November 30th meeting if the project fully complies with the Code (including signage), comments from Engineer Rappazzo and any other previous discussions. SEQR will be reviewed after the public hearing. Sample materials and colors are to be submitted prior to the Public Hearing. All outstanding fees owed to the Village for this parcel including Phase I (Mavis Discount Tire) are to be paid in full. The motion then passed with ayes from all.

5. Code Enforcement Office Report:

CEO Maxwell stated that he and Engineer Rappazzo met at the Mavis Discount Tire site and are very pleased with the results of the wet weather. Engineer Rappazzo is ready to sign off on the site plan. The silt fence needs to be taken down and any outstanding fees due to the Village need to be paid. CEO Maxwell stated that when those two items are taken care of he will issue the permanent Certificate of Occupancy for the Mavis building.

CEO Maxwell reported that the update to the State Uniform Fire Prevention and Building Code went into effect on October 3, 2016. Therefore any new applications received must comply. This has been an adjustment for him and applicants.

CEO Maxwell stated that the Village is still waiting for the Cedarwood Estates Subdivision Phase II Letter of Credit. The Letter of Credit is taking much longer to obtain than Mr. VanEpps and the Village anticipated. Attorney Reynolds stated that from what he has discussed with Mr. VanEpps and his Attorney's the bank Mr. VanEpps is utilizing was not familiar with issuing a Letter of Credit where periodically draws would be made from it. Attorney Reynolds stated that the Letter should be submitted soon.

CEO Maxwell stated that he has been working with Code Enforcement Officer Alan Rudgers, whom the Village hired to complete fire inspections. CEO Rudgers has been working two to three days a week.

C. Kruppner asked why the Millennium Drive extension has not yet opened even though it appears to be complete. Attorney Reynolds stated that the road has not been dedicated to the Village yet. The delay has been putting all the necessary Livingston County and Greg O'Connell easements in place. Once this has been completed and filed, Attorney Reynolds believes the next step will be to get the dedication papers to the Village for approval and filing.

6. Town of Geneseo Planning Board Update:

Chair Woods stated that the Town Planning Board met on October 3rd with the following agenda items:

Conceptual and Preliminary approval for a two lot subdivision on Long Point Road. A public hearing for final approval was scheduled for November 14th.

Continued discussion on the CDS Housing Project on Volunteer Road.

A public hearing was scheduled for November 14th.

The project is proposed for a total of forty apartments in two buildings with an atrium between them.

The Board asked if this would be a tax exempt property. CEO Maxwell believed that they would be exempt from Town property taxes only.

Coast Professionals is moving ahead with the addition to the building on Volunteer Road, creating more jobs.

Chair Wood also reported that the Town Board will be meeting on the 27th where they will be holding a public hearing on the new proposed Zoning Code.

7. Livingston County Planning Board Update:

S. Leffler reported that the Livingston County Planning Board met on October 13th and that he would forward materials from that meeting to Chair Woods and Secretary Mack for their reference.

8. Other Business:

According to an article published in the Lamron and Livingston County News, the Finger Lakes Cookie Co. has opened at 94 Main Street, Suite 101 (in the rear/ground floor of the Scoville Building). CEO Maxwell stated that the owner Lori Bush had contacted his office asking him about opening a business but never followed through with submitting an application. Due to the nature of the business being an "eating/drinking establishment" a Special Use Permit for such is required. CEO Maxwell stated that he will notify Ms. Bush in writing of the necessary steps to obtain a special use permit and that a fire inspection must be completed immediately. The Board asked if there was a sign. CEO Maxwell stated that he had not been back there, but will include in the letter that a sign permit application/review by the Planning Board is also required if she plans to install a sign or already has.

9. Kelly's – 73 Main Street:

Chair Woods stated that he had received a call from Louise Wadsworth, Livingston County Economic Development Downtown Coordinate regarding the façade of the Kelly's building at 71-73 Main Street. Per approved site plan the door for the bard had been located in the very center of the building, but due to ADA regulations, the door building had to be shifted. It is a minor change in what was approved, but Chair Woods wanted the Board to be aware of it.

10. New Business:

C. Kruppner announced for those that may not know the Village Board has decided that as of January 1, 2017 they will no longer be contracting with the Town of Geneseo for Code Enforcement Services. C. Kruppner along with other members of the Planning Board are understandably concerned about the implications of this decision. C. Kruppner suggested that the Planning Board consider writing a generalized letter to the Village Board regarding this. The Planning Board relies on CEO Maxwell and does not want to see a gap in services.

C. Kruppner moved that as Chair of the Planning Board, David Woods draft a letter to the Village Board regarding these concerns. M. Venturino seconded the motion and the motion passed with ayes from all.

11. Question for Attendees:

Chair Woods asked if any of the students present had any questions. Their main questions revolved around the Board Members current or retired professions and what qualified them for the position of Planning Board member.

12. Meeting Closed:

C. Kruppner moved to close the meeting at 7:00 pm. S. Richardson seconded the motion and the motion passed with ayes from all.

Aprile S. Mack, Secretary