

**PUBLIC HEARING
PHILIP FLINT TO DETAIL & SELL USED VEHICLES---
SPECIAL USE PERMIT**

The Public Hearing scheduled to be held on Thursday, October 23, 2003, at the East Palmyra Fire Hall, East Palmyra, New York to consider the special use authorization for Philip Flint, d/b/a Flint Boy'z, 4280 Route 31, Palmyra, was called to order at 8:00 PM by Town Supervisor David Lyon.

**PUBLIC HRG. –
PHILIP FLINT
D/B/A FLINT
BOY'Z ---
SPECIAL USE
PERMIT**

Those present at this public hearing:

Town Board Members: David C. Lyon, Supervisor
David Nussbaumer, Councilmember
James Welch, Councilmember

Also present at this public hearing:

Roy C. Wilck, East Palmyra-Port Gibson Rd., Palmyra
John Rush, Hogback Hill Rd., Palmyra
Phil Flint, Route 31, Palmyra
Becky Felix, Route 31, Palmyra
Leigh Hutter, Johnson Rd., Palmyra
Roger Shaner, Johnson Rd., Palmyra
Neil Gates, Hogback Hill Rd., Palmyra
Bob Grier, Code Enforcement Officer for Town of Palmyra
Lynne Green, Town Clerk

The Town Clerk read the legal notice for the Special Use Permit for Philip Flint:

**LEGAL NOTICE
TOWN OF PALMYRA
PHILIP FLINT – SPECIAL USE AUTHORIZATION**

**LEGAL NOTICE
OF HEARING**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Palmyra will hold a Public Hearing on Thursday, October 23, 2003 at 8:00 PM at the East Palmyra Fire Hall, Whitbeck Road, East Palmyra, NY to consider the application of Philip Flint, 4280 Route 31, Palmyra, NY 14522, for a Special Use Authorization to operate a shop to detail and sell "clean used vehicles under the name of Flint Boy'z.

Article III, Section 3.2(b) of the Palmyra Town Zoning Ordinance, which limits the uses of property in an Agricultural District to those permitted under Section 3.1, Paragraphs a-h states: "Use of land for other than farm purposes requires Special Authorization from the Town Board. Such Special Authorization is subject to Article VII, Section 7.1."

The property is located at 4280 New York State Route 31 and is bounded on the North by property reputedly owned by Anthony and Sandra DiSanto, tax parcel #66111-09-166609 and bounded on the East by New York State Route 31 and bounded on the South by property reputedly owned by Mark Benson Carr, tax parcel #66111-09-176559 and bounded on the West by property reputedly owned by Canalside Estates, Inc., tax parcel #66111-00-115535.

The Town Board will at said time and place hear all persons in support of the above application or any objections thereto. Persons may appear in person or by attorney or agent. The application is on file at the Town Clerk's Office, 1180 Canandaigua Road, and is available for review Monday through Friday, 8:00 AM – 5:00 PM.

BY ORDER OF THE TOWN BOARD

Dated: September 26, 2003

Lyndall Ann P. Green

Palmyra Town Clerk

This is an Equal Opportunity Program.

**PUBLIC
HEARING
OPEN**

The Town Supervisor announced that the hearing was open for any comments from those in attendance. Philip Flint answered a few questions about his proposed business from Town Board members. Supervisor Lyon asked the clerk to read the recommendations made by the Wayne County Planning Board and the Palmyra Town Planning Board concerning Mr. Flint's request:

"The Town Planning Board reviewed and discussed information submitted by the applicant for a special use permit for used car sales and a detail shop. The following is the recommendation from the Wayne County Planning Board:

September 29, 2003

*Robert Grier, ZEO
Building & Zoning Dept. 1180 Canandaigua Road
Palmyra, New York 14522*

*Re: Philip Flint
4280 Route 31
Tax Map Ref; No: 66111-09-171586
Special Permit*

Dear Bob:

At its regular meeting on September 24, 2003, the Wayne County Planning Board reviewed the above referenced referral and denial of the special permit as the Board did not feel the proposal would blend with the predominately residential "character of the neighborhood". The Board does not wish to discourage business activity, but felt the operation would be better suited in an area of town that is more commercial in nature. They feel the surrounding area is primarily residential in character, particularly considering the adjacent Canalside Estates development.

Based on the provided hand-drawn sketch, it was difficult to determine if the proposal (detail shop) was within 200 feet of any residence district (which is appears to be prohibited by Section 7.6 of the Town's Zoning Ordinance).

The Board was also curious if the draft "Village and Town of Palmyra Master Plan" was still being pursued and if there are associated recommendations regarding "highway commercial proposals" such as this.

If you have any questions concerning this determination, please do not hesitate to call.

*Sincerely,
Bret DeRoo
Sr. Planner*

There was discussion regarding the Wayne County Planning Board's recommendation. Neil Gates made a motion to recommend denial of the special use permit for used car sales and a detail shop for the following reasons (1) plans submitted by the applicant lacked necessary information and (2) the Town Planning Board does not want to discourage businesses but the intended use would be out of character in the neighborhood. William Baker seconded the motion. The vote was unanimous."

Supervisor Lyon asked if there were any more questions or comments about the application for a special use permit by Philip Flint. Hearing none, he declared the hearing closed at 8:06 PM.

**PUBLIC
HEARING
CLOSED**

REGULAR MEETING OF THE TOWN BOARD

The regular meeting of the Town Board, Town of Palmyra, scheduled to be held on Thursday, October 23, 2003, at the East Palmyra Fire Hall, Whitbeck Rd., East Palmyra, NY, was called to order at 8:07 PM by Town Supervisor David C. Lyon.

**CALL TO
ORDER**

Supervisor Lyon led those present in the Pledge of Allegiance to the Flag.

**PLEDGE OF
ALLEGIANCE**

Upon roll call, the following board members were present:

ROLL CALL

Town Board Members: David C. Lyon, Supervisor
David Nussbaumer, Councilmember
James Welch, Councilmember
Kenneth Miller, Councilmember

Town Councilmember Michael Lambrich entered the meeting at 8:08 p.m.

Members of the public in attendance at the board meeting:

Roy C. Wilck, East Palmyra-Port Gibson Rd., Palmyra
John Rush, Hogback Hill Rd., Palmyra
Phil Flint, Route 31, Palmyra
Becky Felix, Route 31, Palmyra

Leigh Hutter, Johnson Rd., Palmyra
Roger Shaner, Johnson Rd., Palmyra
Neil Gates, Hogback Hill Rd., Palmyra
Bob Grier, Code Enforcement Officer for Town of Palmyra

**MTN: APPRV
MINUTES OF
OCT. 9, 2003
MEETING**

Motion was made by David Nussbaumer to approve the minutes of the October 9, 2003 meeting of the Town Board. Seconded by Ken Miller. Voting was unanimous in the affirmative.

COMMUNICATIONS

**COLE RD.
CREEK
FLOODING
RESPONSE**

1. Cole Road Creek flooding problems: Letter was received from Robert K. Williams, District Manager of the Wayne County Soil & Water Conservation District, in response to the letter from the Town Supervisor. They had been to Cole Rd. and evaluated the drainage situation:

"As per your request we have completed a limited site evaluation of the drainage ditch near the intersection of Route 21 and Cole Road.

"It is our opinion that a 'full scale' drainage project beginning at this intersection and continuing downstream to the hamlet of Marion would not be feasible, due to hydrologic limitations and topography. However, cleaning a section of the ditch (approximately 700 feet either side of Cole Road) may help to alleviate some of the problem and would certainly improve the overall appearance of the area. We estimate that cleaning 700 feet either side of Cole Road would cost approximately \$6,085 and assumes that debris would not have to be trucked away. The debris would be blended into the landscape or hidden."

**HISTORIAN
VACATION
REQUEST**

2. Historian Beth Hoad extended vacation: Letter was received from the Town/Village Historian, Beth Hoad, in which she states:

"I have been given an opportunity to spend some time in California this winter, and I will be taking advantage of that opportunity.

"I will plan to leave shortly before or after Thanksgiving and INTEND TO RETURN BY April 1, 2004. In the meantime, Betsy Lewis and Lynne Green [upon her re-election] will handle any specific email and other requests using the files and other material I have on hand in my office. I have directed if they cannot fill the requests, to inform the customers, and offer my services upon my return.

"I thoroughly enjoy working as Historian and would like to continue to do so. However, if you deem it necessary to replace me in that capacity, I will understand. Otherwise, I am requesting that you hold the job for me until my return."

Town Board members considered Historian Hoad's request and had no problem with her extended leave, holding her position until her return. No motion was made.

3. Truck Traffic Complaint letter: Letter was received signed by Bill and Lois Parsons, 1277 Canandaigua Rd., Agnes Griffith, 353 Canandaigua St., Henry Nesbitt, Canandaigua St., Fred and Betty Alderman, 144 Brookside Terr., and Christopher & Theresa Shortz, 413 Canandaigua St., Palmyra, in which they decry the noise, pollution, hazards, congestion of increased truck traffic on Route 21 South of the village:

**TRUCK
TRAFFIC
COMPLAINT
ON RT. 21**

"Those of us living on Route 21 and on Main Street have experienced in the past few years an explosion of truck traffic through our historic town. In any 24-hour period many hundreds of tractor trailer trucks feed into and out of Palmyra via Canandaigua Road. Route 21, being the only New York State Thruway connection to feed eastern Monroe County and most of Wayne County, has experienced and daily continues to experience a mushrooming parade of tractor trailer trucks. Some of us have resorted to installing more insulated windows to aid in controlling the noise and even having to resort to using earplugs as early as 5 a.m. when garbage and other questionable waste from downstate New York continues its long journey to the landfill in Perinton. These trash trucks alone amount to a notable percentage of the total truck traffic.

"Aside from the Aforementioned problem of noise and eye pollution is the potential danger of such a concentration of trucks in the proximity of the elementary school on Canandaigua Street, especially during peak times of traffic and pedestrian congestion. Another long-term potential problem is the diesel exhaust in the area of the school. A recent article in the Democrat and Chronicle outlining New York State's first cancer control plan mentions, 'diesel emissions are likely cancer-causing agents.' Other studies have shown a much more direct link to diesel exhaust as a carcinogen. Unfortunately, being close to Route 21 and on the downwind side of the road may contribute to this long-term risk.

"Those of us having signed this letter are asking if the Town Board is aware of these concerns and has or is plotting any long-range likely solutions. With Waste Management's upcoming expansion of the High Acres Landfill into Macedon and the ever-increasing growth in Wayne and Eastern Monroe County, the dangers will increase proportionately.

"Some possible short or long-term solutions might be to encourage the state to build additional exits from the thruway to other roads serving Wayne County to help spread the load more evenly into and out of the county. Another possible solution would be to encourage the trash trucks to use Macedon highways to transport to and from High Acres since their expansion means that Macedon will reap the rewards of hundreds of thousands of dollars in revenue from this extension. Some time ago, Macedon authorities requested of High Acres that trash trucks not use Macedon highways so it seems only reasonable that under this new expansion that the opposite request from Palmyra could be made. In fact it could be suggested that all tractor trailer trucks going to or from western destinations use Alderman Road which, of course, is all rural. To aid in this, a stoplight could be installed at the intersection of Alderman Road and Route 31. Another long-term strategy would be bypasses around Palmyra as many other communities in our area have managed to do.

"We are in hopes that the Town Board will actively pursue alternatives to this present and ever increasingly dangerous situation. Improving our highways for more efficient traffic flow is progress but such progress should not be made at the expense of those citizens that make up this community. Highways can be made wider, smoother and able to carry more traffic but property values decline, citizens suffer in the long run, and the obvious deterioration of what has been a choice community follows."

The letter was read into the minutes. Supervisor Lyon said the Town will forward the request to the NY State Department of Transportation to see if they have some answers to this situation.

REPORTS OF STANDING COMMITTEES

Buildings and Grounds Committee – Ken Miller, Chairman

**SMALL ITEMS
PROGRESS**

1. Councilman Ken Miller reported progress on several small items on his open action items list have been worked on. The following three larger items follow:

**BUILDING
USAGE POLICY
2ND DRAFT**

2. The second draft of the Building Usage Policy was distributed to fellow board members at the meeting. Town Attorney Paul Rubery will also be receiving a copy to make sure legalities have been addressed. This policy covers existing use and anticipates future uses for the building and grounds. The target date for voting on it is to be the November 20th meeting, with the implementation date of the policy to be in place for January 1, 2004.

**WINDOW
REPLACE-
MENTS
ORDERED FOR
TOWN HALL**

3. Miller also stated that the decisions on window replacements have been completed, and he determined all bids were comparable with the type of window, caulking and trim. The successful vendor is Advantage. The replacements have been ordered by Jerry Knibbs and should be on site in two to three weeks. This should then bring closure to the issue which had been approved earlier.

**CARPET
CLEANING
SCHEDULED**

4. Carpets in the hallways at Town Hall are scheduled to be professionally cleaned on October 31. The building will be closed all weekend and activities will be cancelled so the carpets can dry properly before Monday.

Highway Committee – Michael Lambrix, Chairman

Councilman Lambrix reported that Highway Superintendent Nelson Cook was on vacation this week and had nothing new to report

Planning Committee – James Welch, Chairman

Councilman Welch announced he had attended the Palmyra Task Force meeting the previous week and felt things went pretty well. Two topics they discussed were creating a financial plan for Main Street building facades, and that there will be upcoming projects which will include town input and cooperation. He indicated a willingness to continue on the Task Force as the town representative, replacing Betsy Lewis who had resigned earlier.

**COUNCILMAN
WELCH IS
TOWN REP. TO
PALMYRA
TASK FORCE**

Zoning Committee – David Nussbaumer, Chairman

CEO Report for October: Code and Zoning Enforcement Officer, Bob Grier, provided board members with a printout of town building permits issued, open complaints and inspections during October, which the board reviewed. Mike Lambrix asked how many new homes were built in the town during this year so far. Grier answered 8. Lambrix asked how many were built in the village. Grier answered none.

**CEO REPORT
FOR OCTOBER**

INFORMATIONAL ITEMS

1. Assessor's Report for October: Board members reviewed the October Assessor's Report at the meeting. Michael Lambrix made the motion to accept the report, with Dave Nussbaumer seconding the motion. Voting was unanimous in the affirmative.
2. Notice was received by Supervisor Lyon of a Fall 2003 Regional Local Government Workshop sponsored by the Genesee/Finger Lakes Regional Planning Council, to be held Friday, November 14, in Rochester. Board members wishing to attend are to contact the Town Clerk to make reservations.

**MTN: ACCEPT
ASSESSOR'S
REPORT**

**LOCAL GOVT.
WORKSHOP
AVAILABLE**

AGENDA ITEMS

1. Philip Flint Special Use Permit (subject of Public Hearing): Action was taken on the request of Philip Flint for a special use permit to operate a shop to detail and sell "clean used vehicles under the name of Flint Boy'z. David Nussbaumer made the motion to deny the special use authorization based on the recommendations of the town and county planning boards. Michael Lambrix seconded the motion. Voting was unanimous to deny.
2. Greater Rochester Visitors Association: Having received word from Mayor Vicky Daly that the village board had approved

**PHILIP FLINT
SPECIAL USE
PERMIT
MOTION TO
DENY
REQUEST**

**JOIN GREATER
ROCHESTER
VISITORS
ASSOC. WITH
VILLAGE**

splitting the \$350 cost of joining the Greater Rochester Visitors Association with the town, Michael Lambrix made the motion to approve participation at a cost to the town of \$175 per year. Dave Nussbaumer seconded the motion. Voting was unanimous in the affirmative.

**HYDESVILLE
RD. WATER
PROJECT
INTERMUNI-
CIPAL AGRMT.
WITH ARCADIA
AND WCWSA**

- 3. Hydesville Road Water District Revised Intermunicipal Agreement with Town of Arcadia and Wayne County Water and Sewer Authority: The town received from MRB Engineering Group a "Memorandum of Understanding By and Between: The Town of Palmyra on Behalf of Hydesville Road Water District and The Town of Arcadia on Behalf of Water District No. 8" which is included as Attachment #1 to these minutes. Board members read through the agreement at the meeting.

**MTN: ACCEPT
AGREEMENT &
AUTHORIZE
SUPERVISOR
TO SIGN**

Dave Nussbaumer made the motion to accept the agreement and to authorize Supervisor David Lyon to sign it on behalf of Palmyra. Michael Lambrix seconded the motion. Voting was unanimous.

In addition to Lyon's signature, Joseph A. DeSanto, Arcadia Town Supervisor received authorization from his town board to sign on behalf of Arcadia, and Martin J. Aman, Executive Director of the Wayne County Water and Sewer Authority also was to sign the agreement, since the WCWSA "will be responsible to operate, maintain, and administer" the water district with each town.

**NYSEG OVER-
BILLING
COURT
SETTLEMENT**

- 4. NY State Electric and Gas overbilling settlement: The town received a letter from Computel Consultants, representing 67 municipalities' interests "in PSC proceedings looking into NYSEG street lighting billing issues. The consultants recommend that all municipalities accept the settlement reached on their behalf.

"The cash settlement amount for the Town of Palmyra is \$1,000 and resolves all past billing disputes through July 31, 2000. This time frame was suggested by NYSEG and roughly coincides with the date they completed their internal street light account reviews and reconciliations. This means that there will be a second phase of these proceedings in which we'll look at the billing for your account(s) from July 31, 2000 to present. Depending on the outcome of that review, you may be entitled to additional refund amounts."

Dave Lyon explained that through findings in an audit and a subsequent lawsuit, NYSEG agreed to refund the town \$,1000. Ken Miller asked if these were billing errors, reading errors, or part of a complete audit. Lyon responded that there was a total review which led to the settlement.

Attachment #2 to these minutes is the "Settlement and Release Agreement" which allows the Town of Palmyra to accept the agreed-upon cash settlement.

Motion was made by David Nussbaumer and seconded by Jim Welch to approve the Resolution authorizing Supervisor Lyon to execute this NYSEG Settlement and Release Agreement in order to receive the funds. Voting was unanimous in the affirmative.

**MTN: APPRV
NYSEG RESOL.
FOR SETTLE-
MENT &
RELEASE
AGREEMENT**

RESOLUTION

WHEREAS, the New York State Public Service Commission instituted formal proceedings to consider the past billings and other issues, claims or disputes in connection with the rendition of street lighting services by New York State Electric & Gas Corporation ("NYSEG"); and

WHEREAS, the Town of Palmyra intervened in such proceedings; and

WHEREAS, the Town of Palmyra engaged Computel Consultants ("Computel") to represent the Town of Palmyra in such proceedings and negotiate on its behalf in regard to all issues, claims or disputes pertaining to street lighting services rendered by NYSEG to the Town of Palmyra, including, but not limited to, its past NYSEG streetlighting bills; and

WHEREAS, negotiations between NYSEG and Computel have resulted in a settlement and release agreement between NYSEG and the Town of Palmyra; and

WHEREAS, Computel has recommended the acceptance of such settlement and release agreement.

NOW THEREFORE BE IT RESOLVED, that David C. Lyon is authorized and directed to execute a settlement and release agreement with and to deliver the same to NYSEG. The settlement and release agreement is an accord and satisfaction for all issues, claims or disputes pertaining to street lighting services rendered by NYSEG to the Town of Palmyra for the period set forth in the settlement and release agreement.

STATE OF NEW YORK) ss.

COUNTY OF WAYNE)

I, Lyndall Ann P. Green, Clerk of the Town of Palmyra, New York do hereby certify that I have compared the foregoing copy of resolutions with the original resolutions on file in my office and that same is a true and correct transcript of said original resolutions and of the whole thereof as duly adopted by the Town of Palmyra Board of Trustees at a meeting duly called and held at East Palmyra, New York on October 23, 2003 by the required necessary vote of the members to approve the resolutions.

Witness my hand and the official seal of the Town of Palmyra, New York, the 23rd day of October, 2003.

Lyndall Ann P. Green, Clerk

- 5. Claims and expenditures on Abstract #57:

Voucher Numbers	Total
4448 – 4505	\$47,217.35

MTN: APPRV.
ABSTRACT #57

David Nussbaumer moved to approve the claims and expenditures as shown on Abstract #57 Michael Lambrix seconded the motion. Councilmen Nussbaumer, Lambrix, Miller and Welch voted aye. Supervisor Lyon was in favor, but abstained on Voucher #4470. Motion carried.

MTN:
ADJOURN
MEETING

- 6. Motion to adjourn: Motion to adjourn was made at 8:24 p.m. by Michael Lambrix and seconded by Ken Miller. Voting was unanimous in the affirmative.

Respectfully submitted,

Lyndall Ann P. Green
Palmyra Town Clerk

Attachments: #1 and #2

Next town board meeting and 2004 Town Budget Hearing is scheduled for Thursday, November 6, 2003 at 7:30 p.m. in the Town Hall.