

**PLANNING BOARD
TOWN OF MARILLA**

Date: January 15, 2009

Present:

Nathan Barnard, Chairman
Judy Gillman
Richard Janiga
Paul Domanowski
Debbie Zimmerman

Dan Handy, Town Board
John Fronczek, CEO
Bob Miller, Consultant
Melissa Stark, Clerk

Absent:

Guests: Joe Lankes, Rita and David Arber, and John Scheene

- I. Chairman Nathan Barnard opened the Planning Board meeting at 7:00 p.m. Chairman Nathan Barnard asked for the approval of the December minutes. **MOTION** to accept November minutes, moved by Paul Domanowski, seconded by Debbie Zimmerman. All in favor – 5 ayes.
- II. Old Business
 - a. Rohl Property
Chairman Nathan Barnard asked John Scheene to start his presentation. John Scheene stated that two months ago he presented a proposed site plan and the Planning Board would discuss it. Chairman Nathan Barnard stated that the Board had time to discuss it. Chairman Nathan Barnard asked if the Board had any questions. Debbie Zimmerman asked if there had been any changes since the November meeting. John Scheene stated that there were no changes. Chairman Nathan Barnard asked the Board for their input.

Rich Janiga stated that he did not like the layout even though it was legally sound.

Paul Domanowski agreed with Rich Janiga and mentioned article 78. The horseshoe plan was more desirable, attractive, and would bring a lot of businesses to the town.

Debbie Zimmerman agreed with Rich Janiga and Paul Domanowski. The horseshoe plan was very attractive and it had two driveways and the plan was safer for driving in and out. The present plan is not as attractive and is not as safe for traffic.

Judy Gillman agrees with the opinions already given. Judy Gillman stated that she is not in favor of this plan because of traffic issues and liked the first plan that was worked on so hard.

Chairman Nathan Barnard stated that originally when the property was to be rezoned there was no layout given. However, with the effort given to the first plan, the Board enjoyed it. The Board cannot dwell on that because everything that John Scheene has presented does meet codes. Chairman Nathan Barnard stated that Nate Neil asked for a decision to be made and motion needs to be made.

John Scheene stated that there is not an issue with traffic because there are the same number of driveways on each plan. He also stated that the traffic that the project would generate would be a small number compared to the amount of traffic that goes by each day on Clinton Street. John Scheene stated that in his discussions with the town attorney, the Board cannot vote a project down just because they don't like it. John Scheene stated that the Supervisor and the Town Board gave the project back to the Planning Board at the Town Board meeting stating that the Planning Board needed sound reasons for voting it down. John Scheene stated that he does not feel the Board not liking the plan is a sound reason and the plan meets the town codes.

Rich Janiga asked what stage of this process the Board was in. Bob Miller displayed a plan to make sure that that was the plan that the Board was talking about. The plan was received at the November meeting and the plan states that it was a sketch plan. John Scheene stated that he thought they were at the Preliminary Plan stage and submitted plans on November 20, 2008. Bob Miller stated that they were at a sketch plan stage because a Preliminary Plat Application was not filed. John Fronczek agreed. Bob Miller stated that the first meeting that this project was discussed was December 21, 2006 and they have been in sketch plan stage since that time. Rich Janiga stated that from his understanding that in the sketch plan stage the Planning Board talks about what they like and do not like and no formal motion needs to be made. Chairman Nathan Barnard stated that that was what he thought as well, but in talking to the Town Board and the Town Attorney stated that the Planning Board does have to make a motion. Bob Miller stated that according to the zoning book, the sketch plan allows for informal discussion and does not start the formal SEQR process. Chairman Nathan Barnard stated that the Town Board said that if the Planning Board likes the plan, then to pass it along to them. If the Planning Board does not like the plan, the Planning Board needs to give reason and make changes. Bob Miller stated that he does not understand where the threat for Article 78 applies in a sketch plan stage because there is no formal decision that is made. A recommendation is made to the Town Board and the project is either acceptable or not and then an application needs to be made for Preliminary Plat that formalizes the project. Bob Miller stated that John Scheene has not paid a fee. John Scheene stated that he thought he did pay a fee. John Fronczek stated that the fee was for the sketch plan. John Fronczek then stated that the fee was for the Preliminary Plat Application. Bob Miller stated that since an application was filed, then a formal process is involved and a recommendation is needed for the Town Board. Bob Miller stated that even though the Planning Board does not like the new plan, the plan does meet all town codes. Bob Miller recommended the Planning Board talk to the Town Board to see if something could be worked out so the horseshoe plan would be feasible. The Planning Board, although reluctant, should recommend the plan to the Town Board. Bob Miller stated that following the SEQR process the project may need Positive Declaration and have an environmental impact study completed to show the impact on traffic. Chairman Nathan Barnard stated for clarification that a vote needs to be taken tonight. Rich Janiga stated that he disagrees because this is the first meeting that they are talking about Preliminary Plat. Chairman Nathan Barnard asked when the application was submitted. John Fronczek stated that the date on the application was 11/20/08. Rich Janiga asked if the application was complete. John Fronczek stated that all he received was the application and had not received any other information since the application was filed. Rich Janiga asked if 15 copies of the plan were submitted. John Scheene stated that 15 copies were submitted. John Fronczek stated that he had not received them. John Scheene stated that he submitted the 15 copies and they were dropped off to the Town Clerk. Chairman Nathan Barnard stated that the Preliminary Plat Application was submitted the day of the Planning Board

Meeting on November 20, 2008. Debbie Zimmerman asked John Fronczek if he received any of the information from the Town Clerk. John Fronczek stated that all he had was a copy of the application. Rich Janiga stated that he could not vote on something that he did not have all the information to go with. John Scheene stated that he would drop off new copies in the next day or two for the Planning Board to review. Bob Miller stated that section 644 shows very clearly what documents should be submitted with the application. Rich Janiga suggested that John Scheene sit down with John Fronczek and make sure all the documents are submitted right to him. John Scheene agreed and he would get in touch with John Fronczek. John Scheene stated that he was talking to the County Health Department about another project, but that the Health Department feels that the Town is putting the cart before the horse in terms of environmental studies since they do not know what will be filling the lots. John Scheene suggested that contractors would probably build on those lots and generate a low traffic impact. Bob Miller stated that he had worked with the Transportation Council as an engineer and now works advising Planning and Zoning Boards with Nussbaumer and Clarke. Bob Miller stated that a traffic study could be done without knowing the type of business that would be building on the property. The traffic study would take the largest type of business that could go in and use that to determine the impact of the traffic. Debbie Zimmerman stated that the project is being built on the corner of an intersection, although wide open, that has many accidents and that is why the Board is concerned with the traffic. Bob Miller stated that the Planning Board should recommend to the Town Board that before action is taken on this project that traffic and drainage studies be completed. Chairman Nathan Barnard stated that John Scheene should come back on February 19 for the Planning Board meeting. Chairman Nathan Barnard asked John Fronczek if he would check with the Town Clerk to see where the information went to. Judy Gillman asked John Scheene if when he went to the Town Board with the horseshoe driveway design and was turned down because the Town wanted the road to be completed, the Preliminary Plat checklist of 15 items was completed. John Scheene stated that he thinks it was. John Scheene stated that he knows a complete storm water study was completed on the horseshoe drive, SEQR, and other studies were completed. Judy Gillman stated that she does not understand if all the paperwork was in, then why the Board does not have copies. John Scheene stated that the Town Board had copies of it because Nussbaumer and Clarke reviewed it and sent their comments to him. Rich Janiga stated that the horseshoe driveway plan never got to the Preliminary Plat stage. John Scheene stated that a formal application was never made, but the engineering was completed to push the project along. Rich Janiga stated that regardless what was done for the horseshoe design, it all needs to be redone because the plan is different. John Scheene stated that the storm water study was not completed on the new plan. John Scheene stated that he would come back with what is needed from the checklist for Preliminary Plat. Chairman Nathan Barnard stated that the Planning Board would discuss the new plan at the February meeting and then a decision would be made at the March meeting.

III. New Business
None.

IV. CEO Report

John Fronczek stated that Leon Berner submitted an application for a rezone. They are planning on senior housing, condos, and townhouses. They would like a road 20 feet wide. They have not decided what will be built and when. An application for the rezone was referred to the Town Board from Agricultural to MD. Debbie Zimmerman asked how many acres were involved. John Fronczek stated that there would be about 200 units on 30 acres.

V. Town Board Report

Dan Handy stated that on January 20, 2008 the Town Board is meeting with the architects from Wiley. The Town Board is still reviewing the codes for Senior Housing and has some questions about mixing senior housing with MD and are discussing some options to bring back to the Planning Board. The Town Board will be doing interviews for the Planning Board and CAB on January 20, 2008.

VI. Open Presentations from the Floor

Bob Miller handed out information on checklists for subdivision review. Bob Miller stated that the checklist is in the codes. Bob Miller pointed out a flowchart that was in the information that he handed out with respect to time frames and decisions to be made for subdivisions. Bob Miller wanted to point out that the way the town is set up, the Planning Board is just a recommending body. Bob Miller suggested for the Planning Board to look at the flow chart to make sure things are being done in the correct order. For example, when things go to the Town Board first, maybe they should also go to the Planning Board because of only having 62 days to make a decision after the application is complete and filed. Bob Miller stated that some things can be approved by default if action is not taken within the 62 days. The time clock starts when an application is received complete. Bob Miller stated that the Town Board is responsible for the approval because the Planning Board is just a recommending body. Bob Miller stated that the time table for SEQR is 30 days. Chairman Nathan Barnard asked about the timeline on Preliminary Plat. Bob Miller suggested looking at section 644:11 letter e and the 62 days do not start until the application, fee, and completed checklist are handed into the code enforcement officer. John Fronczek stated that items should not be dropped off to the Town Clerk, instead, should be dropped off to him personally. Bob Miller suggested that John Fronczek should be the one distributing the information turned in with the application to keep within the proper time frame. Bob Miller stated that at times under SEQR time would stop if a positive declaration is asked for and would start again when all the studies are complete.

John Fronczek asked if the Planning Board had already approved senior housing for Leon Berner. The Planning Board stated that they had only approved codes for senior housing and sent them to the Town Board. The Planning Board did not approve any specific projects for senior housing.

Chairman Nathan Barnard received a letter from Chris Collins dealing with the Bullis Road Subdivision. Chairman Nathan Barnard read the letter.

The proposed project appears to be in conflict with the Rural Areas Land use Principles outlined in the 2006 Erie and Niagara Counties Framework for Regional Growth. The project is located within an Agricultural Zoning District and within 500 feet of New York State Agricultural District. The Framework's Rural Area Policy states that extensions of public water infrastructure or tapins for new development should be restricted in Agricultural areas and recommends that new residential/commercial development be channeled to vacant sites or unutilized sites where sewer and water service currently exist as a means to discourage the conversion of rural and agricultural lands.

John Fronczek stated that he received a call from Mark Rountree asking what the Town was doing with the subdivision. John Fronczek stated that the project was only discussed and there was no official ruling made.

MOTION to adjourn at 8:40 p.m. moved by Debbie Zimmerman, seconded by Judy Gillman, all in favor 5/0.

Respectfully submitted,

Melissa R. Stark