

**PLANNING BOARD
TOWN OF MARILLA**

Date: July 16, 2009

Present:

Richard Janiga, Chairman
Nathan Barnard
Debbie Zimmerman
Dave Muench
Judy Gillman
Jay Walkowiak
Vinney Beisiegel

Barbara Spanitz
Bob Miller, Consultant
Scott Rider, CEO

Absent: Melissa Stark, Clerk

Guests: Joe Lankes (Eastwood Rd.), Dave Arber (Lyndale Ln.), Bob Lemke (Clinton St.), Charlie O'Brien (Two Rod Rd.)

I. Approval of Minutes

Chairman Richard Janiga opened the Planning Board meeting at 7:00 p.m. He noted that he had been appointed to the position of the Planning Board Chairman by the Town Board at the July 9th Town Board meeting.

Chairman Janiga asked for the approval of the June minutes.

Dave Muench noted the following corrections should be made to the June minutes:

Page 1, III. New Business, line 2 – the word “in” should be added between the word “interested” and the word “information” at the end of that line.

Page 3, V. Town Board Report, 5th line down of “a” – the word “though” should be “thought”.

Page 5, VI, end of 2nd line of “a” – after 3 ½ the word inch or ” should be added.

Page 6 line “c” – should read “...asked “what” to do about raccoons.”

Barbara Spanitz noted the following changes:

Page 3, V. Town Report, 14th line down, first word “though” should read “thorough”

Page 3, V. Town Report, 15th line down – “...and herself...” should be removed as she was not involved in that stated effort.

Page 5, 11th line down in section “b” – should read “...that she does “not” know how...”

Chairman Janiga noted one additional change to the minutes:

Page 5, VI Open Presentations, section “b” last line on page – the word “resigned” should read “rescind”

With no additional changes to the June minutes...**MOTION** to accept the June minutes, moved by Judy Gillman, seconded by Jay Walkowiak; All in favor – 7 ayes.

II. Old Business

a. None.

III. New Business

Review Issues from Town Board

Chairman Richard Janiga distributed a list of issues developed by the Town Board that the Board wished the Planning Board to review and make recommendations. Chairman Janiga suggested that the list be reviewed at this meeting without doing any in-depth analysis nor making any detailed recommendations at this time. The issues should be prioritized and then address the various issues over the next couple months as appropriate. He requested Town Board member Barbara Spanitz to comment on the list of issues and note what was driving the issues identified. Barbara Spanitz reported that Nate Barnard had requested her to ask the Town Board if there was an interest in changing the zoning codes regarding storage facilities. The Town Board developed the list and wishes the Planning Board to provide input on them as some things are becoming a problem in the Town. Debbie Zimmerman inquired of Scott Rider what he perceived as the problems. C.E.O. Scott Rider reported that there seems to be a growing prevalence of tarp type garages that are being used to store vehicles for private car sales. Dave Muench inquired of any existing laws that may apply to storage of vehicles and how Section 671.6 of the Codes may apply to the situation occurring now in the Town. Mr. Rider stated that with regard to the tarp garages the stated Code did not apply. For clarification, Mr. Rider stated that people were putting up the tarp garages to hide unlicensed vehicles on their property. He further noted that one unlicensed vehicle was permitted but the tarp garages were being used to have more than one unlicensed vehicle on the property. Mr. Muench inquired if Section 671.6 addressed this issue or whether that section needed to be revised. Mr. Rider felt it did not adequately address the problem because it did not limit the number of storage structures that could be placed on a property. There are no regulations on temporary structures.

Chairman Janiga reiterated that he wished to keep this night's Planning Board discussion general and to determine issue priorities and then address them in some orderly fashion as it was too much to take them all on at once. He would have Bob Miller and Nussbaumer do some research for the Board on some of the issues. In response to an inquiry from Judy Gilman of what Mr. Rider felt was the most important issue. Mr. Rider and Chairman Janiga both felt that the MD zoning issues should be at the top of the list as Mr. Rider was aware that some applications may be coming in soon in the MD zoning districts. Chairman Janiga and Mr. Rider thought that portable storage units (PODS) and the outside burning problems may be issues that should be addressed sooner. Mr. Miller stated that he had done a little research on the outside burning and temporary storage issues and distributed some information to the Planning Board of what other communities are doing. There is a lot of additional information available on the internet on these and probably the other issues of concern. He further explained that communities across the state have adopted laws to either prohibit outright or regulate these activities. He further noted that Marilla's Town Attorney, Nate Neill, may have some information through his work with some other municipalities such as the Town of Newstead. He further noted that there are a number of factors that should be considered when formulating zoning regulations and local laws regulating the various issues and concerns identified. Vinney Beisiegel asked Mr. Miller to comment, relative to Section 671.4 of the Marilla Codes relative to open storage, on this type of storage actually providing a more presentable and clean looking property. Mr. Miller responded that it really depends on what the community wants and the type of situation needing to be addressed and how they want to control any perceived problems. Mr. Rider further noted that the problem is really the number of storage units being placed on a property or the number of vehicles on the property. In discussion on the priority of the five Town Board issues of concern, it evolved that MD Zoning, number of units per acre should be the number one priority and portable storage units (PODS) should be the second priority to be addressed. With regard to the outside wood burning concerns, while there have not been complaints registered, the Board has identified concerns for adjacent property owners and the safety of the homeowners. This issue was therefore identified as the third priority. Barbara Spanitz inquired of whether a new regulation requiring additional egress for subdivisions would apply to the Bullis Road subdivision which was just rezoned. Mr. Miller felt that such a new regulation may

not be applied to this application in while the preliminary plat subdivision application has not yet been submitted. The rezoning was requested based on a defined subdivision configuration that was part of the re-zoning application and the subdivision had been reviewed by the Planning Board and the Town Board in making their recommendations and decision. It would seem that the preliminary plat for this subdivision may change it does not have automatic approval because of the approval of the re-zoning of this property. Chairman Janiga inquired of the problem relative to issue of “un-kept” properties. Mr. Rider felt that at this time he had enough regulation between Town Codes and regulation and State Codes that he can handle any situation at this time therefore this issue can wait.

In summary of the priority of the Town Board issues, the priority is a follows:

1. MD Zoning - # of units per acre
2. Portable storage units (PODS) & garages
3. Outside remote wood burning heaters
4. Subdivisions – egress more than one way in and out on future subdivisions
5. Private car sales.

Chairman Janiga directed that priority 1 and 2 be addressed at the August Planning Board meeting and Mr. Miller to provide some research on these issues of concern and how other communities have addressed them. Mr. Rider noted that there had been inquires regarding windmills and there establishment on private property.

IV. CEO Report

- a. none.

V. Town Board Report

- a. Barbara Spanitz inquired of the status of the Four Rod Road five lot subdivision application. Chairman Janiga and Mr. Rider responded that all the materials that had been requested to be submitted by the applicant had not been received yet therefore this item was removed from this month’s Planning Board agenda.
- b. Regarding the 18 lot Bullis Road subdivision re-zoning, the Town Board voted 3 to 2 to approve the re-zoning. Ms. Spanitz reported that she had personally voted to approve this re-zoning mainly because the Planning Board had thoroughly researched this application and she respects the Planning Board review and recommendation. Also, the Town’s adopted Master Plan has this type of building envision for that area. While it was zoned agriculture, the land is not viable for agricultural use having been stripped of agricultural soils unable to be farmed. This was not an easy vote for her. She further stated that she likes working with the Planning Board and wants to continue good working relationships.

VI. Open Presentations from the Floor

- a. Mr. Dave Arber suggested that when looking at the outdoor storage of vehicles issue, the Planning Board might want to consider the outdoor storage of boats, trailers and RV’s. Also the problem of vehicle repair of a number of vehicles on a residential property should be addressed. Ms. Spanitz also noted that another item that the Town Board considered was a noise ordinance but that was removed because they were informed that Marilla, being classified as a second class town, can not have a noise

ordinance. Noise problems have to be brought to the attention of the Erie County Sheriffs or State Troopers.

- b. Mr. Lemke inquired that in these economic times people are not getting good value on trading in old cars and it would seem to be a hardship to prohibit people from selling cars on their property. Chairman Janiga noted that the Codes should allow people to do that but prohibiting would be directed against those doing multiple sales like a business. Ms. Spanitz noted that the law does not prohibit a sale of a vehicle by a property owner but does not allow that property to be used for multiple sales by friends and relatives of a property owner.
- c. Jay Walkowiak inquired, relative to the property of the proposed subdivision on Four Rod Road, of the prospects of having the water district extended to this area as there were fears that development of this property as proposed would impact the ground water supply of nearby properties. Ms. Spanitz noted that it had been proposed but, because of cost factors, expansion is not planned for the near future.

In closing, Chairman Janiga stated that it was not his intent to be appointed to the Planning Board chairmanship position. He was not aware that it was going to happen at the Town Board's meeting on Thursday, July 9th. He felt that Nathan Barnard has done a great job the last few years. While Chairman Janiga stated that he has a number of things on his personal agenda, he will accept the position and do the job.

Mr. Arber inquired how long the position was for. Chairman Janiga responded that the Town Board makes appointments in January each year and the Planning Board chairman position should be appointed at that time.

Mr. Muench inquired of the position of co-chair of the Planning Board. Chairman Janiga explained the co-chair position and that now there is not anyone in that position. It was his opinion that there was not a pressing need to have a co-chair but the Planning Board can think about it and decided at the August Planning Board meeting.

Chairman Nathan Barnard stated about future trainings coming up from Erie County.

MOTION to adjourn at 7:45 p.m. moved by Debbie Zimmerman, seconded by Judy Gillman, all in favor 7/0.

Respectfully submitted,

Robert D. Miller
for
Melissa R. Stark, Clerk