

**PLANNING BOARD
TOWN OF MARILLA**

Date: June 18, 2009

Present:

Nathan Barnard, Chairman	Barbara Spanitz
Richard Janiga, Co-Chairman	Bob Miller, Consultant
Jay Walkowiak	Scott Rider, CEO
Judy Gillman	Melissa Stark, Clerk
Dave Muench	
Debbie Zimmerman	

Absent: Vinney Beisiegel

Guests: Philip Arnold, Richard Bender, Charlie O'Brien, George Gertz

- I. Chairman Nathan Barnard opened the Planning Board meeting at 7:02 p.m. Chairman Nathan Barnard asked for the approval of the May minutes. Chairman Nathan Barnard stated that Kwik Fill is spelled without a "c". **MOTION** to accept May minutes, moved by Judy Gillman, seconded by Debbie Zimmerman. All in favor – 6 ayes.

- II. Old Business
 - a. none.

- III. New Business
 - a. Chairman Nathan Barnard introduced Philip Arnold and explained that his partner, Pat Frankobandiero, who is not here tonight are interested information on subdividing one lot on Four Rod Road into five lot. Chairman Nathan Barnard asked if Mr. Arnold has been in to see Scott Rider, the town Building Inspector. Scott Rider stated that he had met with Philip Arnold and tonight Philip Arnold has a survey of how he would like to divide the lot. Philip Arnold stated that he would walk around with the survey and explain about the property. Philip Arnold stated that Pat Frankobandiero bought the lot in February of 2009 and since has been doing improvements to the farm house on the lot and they intend to sell that house with the detached garage. Philip Arnold stated that they would like to have two more lots with 200 feet frontage and 300 feet deep and then where the utility lines are there would be one lot that would have 200 foot frontage and would be 21 acres (lot 5). There would be a flag lot, an estate lot, 600 x 643, in the back with a pond, a pool, and a cabin on it (lot 4). Chairman Nathan Barnard asked if Mr. Arnold was planning on building on the lot for himself. Philip Arnold stated that if anything there may be a cabin on lot 5. Chairman Nathan Barnard asked Scott Rider where Mr. Arnold was with his sketch plan. Scott Rider stated that Mr. Arnold had paid the fees for his sketch plan and he was all set. Chairman Nathan Barnard asked about the utility lines and the gas line on the property with regards to the driveway going in for lot 5. Philip Arnold stated that he had already talked with the gas and electric companies and they are allowing the driveway to be 25-40 feet to the left of the utilities. Philip Arnold stated that he is in the process of getting that in writing

for the Planning Board. Philip Arnold stated that he would be assuming the responsibility of maintaining the vegetation on the property so it does not grow into the power lines and that will also be in writing from NYSEG to the homeowner. Chairman Nathan Barnard reviewed the lot sizes with Philip Arnold and asked about the existing driveway to the farm house. Philip Arnold stated that they would be doing away with that driveway and the new driveway would be right on top of the hill on Four Rod Road and the driveway would go around the house to the left because of the safety issue. The new lots will have left hand driveways and the other driveways are believed to be far enough away from the hill that you can see. Chairman Nathan Barnard asked about the frontage on the flag lot. Scott Rider explained that there was 200 foot of frontage and the only problem that he has with the project is the driveway and the power lines, but he will wait for the letter from the power company stating they are ok with things. Chairman Nathan Barnard asked how many acres the property was total. Philip Arnold stated that it was 35.74 acres. Debbie Zimmerman asked where the property was on Four Rod Road. Philip Arnold stated that it was located 100 yards north of Liberia. Scott Rider explained that it was right across from the Bender's. Chairman Nathan Barnard reviewed the lot sizes and stated that lots 1, 2, and 3 will be 200 x 300 and lot 4 would be a flag lot and would be 9.2 acres. Dave Muench asked what the current zoning was. Scott Rider explained that it was RR. Dave Muench clarified that the whole 35 acres was RR. Scott Rider stated that it was and it is agricultural to the north of the property. Chairman Nathan Barnard asked if they had people in mind for the property. Philip Arnold stated that they did but it would just be speculation now. Chairman Nathan Barnard asked if they had intentions of developing the property when they purchased it. Philip Arnold stated that the property was in foreclosure and they bought it to have the land and one of Pat's sisters was going to take the existing house and have horses there, but then they decided to divide the land instead. Chairman Nathan Barnard asked if the barns on the property would be taken down. Philip Arnold stated that they would be because they are leaning. Dave Muench asked what the pressure was in the gas pipe and the voltage in the power lines. Scott Rider stated that all that information would be available for the next meeting when the letters from the utility companies were presented. Debbie Zimmerman asked how many feet were between the driveway and the flag lot. Scott Rider stated that there was 200 feet. Dave Muench asked if there was a restriction as to how long a driveway could be. Scott Rider stated that the length of the driveway was not an issue as long as a fire truck could turn around in the driveway. Dave Muench asked if the property was apart of a water district. Philip Arnold stated that it was not and wells would be needed. Debbie Zimmerman asked if they would build the homes themselves. Philip Arnold stated that his partner, Pat and he own Phoenix Custom Homes and would be building the homes. Dave Muench asked if there had been any wetland studies on the property. Scott Rider stated that there was a part of the property with the large pond that was on wetlands. Dave Muench asked whether it was state or federal. Scott Rider stated that he was not sure but it would be on his map downstairs. Chairman Nathan Barnard explained that in the sketch plan phase the Planning Board gives suggestions as to where to go with the project. Chairman Nathan Barnard stated that so far the concerns that were brought up would be with the utilities and the wetlands. The Planning Board will be looking for some more information on these things. Scott Rider stated that he would give out the Preliminary Plot checklist and would explain about that when they meet next. Chairman Nathan Barnard asked if there were any other questions. The Board did

not have any other questions. Chairman Nathan Barnard asked Philip Arnold to attend the July 16 meeting.

- b. Chairman Nathan Barnard started the conversation about open space with regards to Scott Rider and tightening up the codes. Chairman Nathan Barnard stated that he read through the codes in 671 to 678 and thought the codes were pretty tight and with numbers 1-4 it talks about not having clutter in your yards. Scott Rider stated that he has been getting a lot of small engine repair in yards. Chairman Nathan Barnard stated that the codes talk about junk cars being outside. Scott Rider stated that many people are starting to put the tents up over the junk cars to hide them. Chairman Nathan Barnard stated that it may be time to start putting limitations on the pods and tents. Chairman Nathan Barnard suggested putting a limit to one tarp canopy garage and a time limit for a pod on your property. Debbie Zimmerman stated that she thought they had talked about that. Chairman Nathan Barnard stated that it has been talked about before, but no formal proposal has been made. Scott Rider stated that he has someone interested in putting a storage cargo container on his property. Dave Muench asked if that was covered in 671-5 with trailers and truck bodies. Scott Rider stated that it was not a trailer but a container without wheels. Scott Rider stated that he would like to see clarification in the codes. Dave Muench stated that cargo trailers could be added. Bob Miller stated that the code implies about these storage containers, but they are not addressed specifically in the codes. Chairman Nathan Barnard asked Barb Spanitz if she would ask the Town Board if they were interested in the Planning Board changing the codes for storage containers and if the Town Board was interested, then the Planning Board would go ahead with it.

IV. CEO Report

- a. none.

V. Town Board Report

- a. Barbara Spanitz apologized for not being at last month's meeting and stated that she is sorry that Chairman Nathan Barnard lost his temper at the Town Board. Barbara Spanitz stated that she would like to clarify some things from last meeting. Barbara Spanitz stated that the minutes are wonderful for the Planning Board. Chairman Nathan Barnard stated that he got upset because he heard the wrong information and though the Town Board did not want to read the minutes. Barb Spanitz stated that the Town Board reads the minutes from beginning to end. Chairman Nathan Barnard stated that the Planning Board minutes have come along way and are comparable to the Town Board Minutes. Chairman Nathan Barnard stated that it was a misinterpretation of what Scott Rider had said. Chairman Nathan Barnard apologized for the misunderstanding on his part and stated that Bob Miller had clarified the issue later in the meeting. Chairman Nathan Barnard apologized for getting upset, but he does take the minutes personally and he is the voice of the board. Barbara Spanitz stated that the Planning Board is very thorough with their decisions and recommendation made to the Town Board. Barb Spanitz stated that Bob Miller, Warren Handley, and herself have been working on a piece of paper that would be filled out to create a summary to go along with the minutes and so all the information can be kept in a file together. Barb Spanitz provided a copy of what they had been working on for the Planning Board to see. Chairman Nathan Barnard stated that this is where the misunderstanding came from because the minutes are filled with all the information needed. Barb Spanitz stated that the Town Board does read the minutes, but would like a summary to put in the project's file. Chairman Nathan Barnard wanted clarification on the paper to be filled out. The secretary to the

Planning Board would fill out the summary paper with the approval or denial and how people voted along with some information on the meeting. Chairman Nathan Barnard asked what information the Town Board wanted and who decides what information is put into the summary. Barb Spanitz stated that the secretary would fill out the form, but the Planning Board would be telling the secretary what should go into the summary. Chairman Nathan Barnard stated that when there is a vote for a motion there is a lot of information that goes into it and he is concerned about a quick summary because there could be a lot of information missed in a quick summary. Dave Muench stated that there could be highlights of the discussion included in the summary such as concerns over the road or utility lines. Chairman Nathan Barnard stated that when the Planning Board takes a vote, the board needs to discuss with the secretary what needs to be put in the summary so the Town Board is reading what the Planning Board feels the highlights are and not just what the secretary or the Chairman feels the highlights are.

MOTION to allow George Gertz to speak from the floor moved by Dave Muench, seconded by Jay Walkowiak.

George Gertz stated that he did not mean to interrupt, but he does not feel that the word summary is the proper word. George Gertz stated that it is not a summary but more of a conclusion. For example: we are approving this because it meets the comprehensive plan; we are not approving this because of the driveway is unsafe. George Gertz stated that the minutes are important but he does not like the word summary because it may be that all the minutes need to go into the conclusion. George Gertz stated that he reads all the minutes, but the conclusion would go into the file for the Town Attorney. Chairman Nathan Barnard stated that many times the Board goes through the checklist and that could be included in the conclusion. George Gertz stated that he agrees with the Chairman that things could be missed in a summary and he is not looking for a summary, but rather a conclusion to go along with the decision. George Gertz stated that a conclusion would be more definitive than a summary and if the Planning Board wanted to, they could always put "see the minutes" in the conclusion. Chairman Nathan Barnard stated that this is to help out Nate Neil and the Town Board and he apologizes for the misunderstanding. Barb Spanitz stated that she wishes she would have been at the meeting and Chairman Nathan Barnard agreed because then the misunderstanding would not have taken place. George Gertz stated that the Town Board is looking to formalize the Planning Board with the conclusion. Chairman Nathan Barnard asked if the paper the Barb Spanitz brought to the meeting was the final copy. Barb Spanitz stated that it is only a rough draft and when the final copy is in place, then the Planning Board will receive it.

Chairman Nathan Barnard asked for Bob Miller to show the examples of how other towns, such as Ellicottville, have their Notice of Decisions. Bob Miller passed out the examples and stated that he included the minutes of the meeting and then what was put in the Notice of Decision from the minutes. Bob Miller stated that since the Marilla Planning Board is only a recommending body that their notice would be a Notice of Recommendation and not a Notice of Decision. Bob Miller stated that in the example Notice of Decisions that were provided there are conditions that have been included with the motion. The conditions explain the specific concerns with regards to the motion voted on. Bob Miller stated that he saw the form the Warren Handley was working on as suggested that if the form was on the computer it would be easy to fill in the blanks. Chairman Nathan Barnard asked who puts the Notice of Decision together for the town of Ellicottville. Bob Miller stated that he takes notes, looks at the minutes, and then puts the Notice of Decision together. Bob Miller stated that the Notice of Decision is put on the town bulletin board, in the building

inspector's file, in the minutes for the Planning Board, in the Town Board's file, and the applicant gets a copy as well. Chairman Nathan Barnard stated that the examples given are very helpful. Bob Miller stated that NYS law states that in so many days after a decision is made a notice needs to be filed with the Town Clerk.

Chairman Nathan Barnard asked Bob Miller how many years a town should have their comprehensive plan. Bob Miller stated that about 10 -15 years would be about right because the plan only covers a snapshot in time and then becomes outdated. Chairman Nathan Barnard stated that it is about time for the Town of Marilla to look at theirs because last time it was updated was 1996.

- b. Barb Spanitz stated that she would like the Planning Board to check out the blind knoll on Four Rod Road with regards to the Philip Arnold project talked about earlier in the meeting. Barb Spanitz stated that she travels that road often and she feels the driveways would be right where that blind knoll is. Chairman Nathan Barnard stated that he knows that area is horrible for being able to see and when he questioned Philip Arnold about it, Philip Arnold stated that the driveway would be the future homeowner's responsibility. Chairman Nathan Barnard stated that he has been behind bicyclists on the hill and had to wait until they were over the hill to pass because you cannot see on the hill. Chairman Nathan Barnard stated that it is a recipe for a disaster and it would be a shame to have that be on the Town if someone got hurt there. Barb Spanitz stated that she does know how that piece of property became zoned RR and because it is rural there. Scott Rider stated that he was surprised when he looked it up and it was RR because he thought it should be Agricultural.

VI. Open Presentations from the Floor

- a. Bennie Bender stated that he would like the Planning Board to carefully look at the Philip Arnold project. The driveway that is being proposed is going on a 3 ½ high pressure gas line and there are 150,000 and 400,000 volt lines above the proposed driveway. Bennie Bender stated that putting a driveway there would be unsafe. Bennie Bender stated that he hears brakes all the time from the blind spots on the hill and does not believe that it would be safe to have a driveway at the bottom of the hill. Bennie Bender commented on lot 5 and his opinion is that since that part has 2 ponds and about 6 acres of woods on it, that eventually the taxes will not be paid and the Town would end up with a piece of property that is deadlocked. Bennie Bender stated that there are 6 ponds on the property and if Philip Arnold digs more than 2 wells then the water will be limited to other houses a crossed the street. Bennie Bender stated that he would like the Planning Board to take a hard serious look at the project. Bennie Bender stated that he feels the condition of the barn on the property is not in the condition that Philip Arnold says it is in. The barn has stood the same for 31 years. Bennie Bender does not feel that the project is a good idea and feels that the property was bought for money reasons only because the sale of the house was quiet.
- b. George Gertz stated that he has been trying to get down to a meeting, but he has been out of town and he apologized for not getting to a meeting sooner. George Gertz stated that the Town Board is working on a list of 5 projects to look at – pods and portable storage units being one of them, outdoor burning units, and a town noise ordinance. George Gertz stated that the Town Board will be meeting on Tuesday night to formalize the list and he will provide the Planning Board with a copy.

George Gertz stated that he received a letter from Erie County this morning stating that they have resigned their objection to the subdivision on Bullis Road. George Gertz

stated that there were no reasons given in the letter and a supermajority was no longer needed when the Town Board votes.

- c. Charlie O'Brien asked about to do about raccoons.
- d. Rich Janiga stated that he feels that originally the reasoning for objecting the Bullis Road subdivision was flawed and now Erie County may have it right now.
- e. Chairman Nathan Barnard stated that he has been talking about training with Bob Miller and wants to know if September 24 and October 22 are good days to schedule training sessions on. Chairman Nathan Barnard stated that one night would be on traffic studies and the other night would be on right aways for services, culverts, ditches, waterlines, power lines, and gas lines. Bob Miller stated that he would look into this.

Chairman Nathan Barnard passed around an updated list of all Planning Board Members.

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

MOTION to adjourn at 8:19 p.m. moved by Debbie Zimmerman, seconded by Jay Walkowiak, all in favor 6/0.

Respectfully submitted,

Melissa R. Stark