

**PLANNING BOARD
TOWN OF MARILLA**

Date: March 19, 2009

Present:

Nathan Barnard, Chairman	Barbara Spanitz, Town Board
Richard Janiga, Co-Chairman	Bob Miller, Consultant
Vinney Beisiegel	Scott Rider, CEO
Paul Domanowski	Melissa Stark, Clerk
David Muench	

Absent: Judy Gillman, Debbie Zimmerman

Guests: Rebecca Wightman, Joe Lankes, David Arber, William Schutt, John Schene, Rebecca Muench, Charlie O'Brien, Frederick Zelasko, and G.D. Willey

- I. Chairman Nathan Barnard opened the Planning Board meeting at 7:03 p.m. Chairman Nathan Barnard asked for the approval of the February minutes. **MOTION** to accept February minutes, moved by Rich Janiga, seconded by Paul Domanowski. All in favor – 5 ayes.

- II. Old Business
 - a. Chairman Nathan Barnard stated that John Scheme dropped off a Traffic Study, an Environmental Assessment Form and plans today to the Town Clerk. The paperwork and plans were passed out to the Planning Board. Chairman Nathan Barnard welcomed John Scheme back and stated that in January they thought they were in the Sketch Plan phase, but they found that they were in the Preliminary Plat phase. Chairman Nathan Barnard introduced Scott Rider as the new Building Inspector and asked if he was aware of the project. Chairman Nathan Barnard explained that the Board would like some time to review what was handed out since they just received it tonight and asked if there was anything John Scheme wanted to add. John Scheme stated that traffic seemed to be a big issue in January and he has included a traffic study and he does not think it was a big issue. State DOT had traffic counts on Clinton Street at 5,800 per day. They estimate that this project would bring about another 250 cars a day and that is 5% of the total volume now. John Scheme stated that he does not feel this project would impact traffic significantly. John Scheme continued to say that also in the traffic study was information on intersections. DOT does not feel that the intersection at Clinton and Two Rod is a dangerous intersection and neither does he. Chairman Nathan Barnard asked about the zoning information on the print handed out. The property is not agricultural; it is a part of B-1 now. Scott Rider asked about the horseshoe design. Chairman Nathan Barnard stated that when the property was rezoned there was never a design in mind. When the property was rezoned to B-1 John Scheme presented the horseshoe design to meet the B-1 codes. That design was found to be too expensive for Mr. Rohl and then this plan was designed off of the B-1 codes. Scott Rider asked if they were still in the Sketch Plan. Chairman Nathan Barnard stated that they were in the Preliminary Plat phase. Chairman Nathan Barnard asked if John Scheme had gone before the Town Board with the Sketch plan. John Scheme stated that he had. Scott

Rider asked if he had an approved Sketch Plan from the Town Board. Barbara Spanitz stated that the Town Board had not given approval and sent it back to the Planning Board for a recommendation of one way or another. Chairman Nathan Barnard stated that when the Planning Board reviewed it in January, they found that the paperwork had been filed for Preliminary Plat. Scott Rider asked if we should start at the sketch plan phase because the Town Board does not have a sketch plan. Chairman Nathan Barnard asked Bob Miller. Bob Miller stated that the sketch plan is an informal stage and the Preliminary Plat is more formal. Sketch plan is more a discussion of issues and concerns. Bob Miller stated that there is no decision needed with the sketch plan. Bob Miller spoke from 644-10 in subdivision of land and stated that there could be a discussion of the plan, drainage, water, and codes. Scott Rider asked if the Planning Board needed to go to the Town Board in the Sketch Plan phase. Bob Miller stated that a recommendation could be made, but no formal decision until Preliminary Plat. The Preliminary Plat application was not complete when it was handed in and before a formal decision could be made, the application needed to be complete. Chairman Nathan Barnard explained that the sketch plan phase is used to see if the project is workable before a lot of money is put into the plan and the SEQR process is started. Rich Janiga asked if the application is complete with the paperwork submitted today. Chairman Nathan Barnard stated that he does not have a copy of the application. John Scheme stated that he did not re-file the application. Scott Rider stated that he does not have a copy of the application and does not know where it would be in John Fronzcek's paperwork. John Scheme stated that he has copies of the application and would be able to get a copy to the Town Hall tomorrow. Scott Rider stated that he had a receipt for \$180 on December 16, 2007. Chairman Nathan Barnard stated that it would be in 2008. Melissa Stark, clerk reviewed passed minutes and stated that the application was handed in on November 20, 2008. David Muench asked about the Traffic Study and if there were any inquiries made with regard to accidents and the gas station. John Scheme stated that there was and these would be considered non intersection. The DOT took a strip of land ½ mile on either side of the Two Rod intersection. John Scheme stated that there were 6 accidents in a 3 year period – 2 car/deer, 2 car/guardrail/ditch, and 2 undetermined cause. There were 12 accidents at the intersection itself and almost all of them were determined to be driver error. David Muench asked if there was any information on the accidents on Two Rod Road. John Scheme stated that Two Rod is not a DOT road and did not find any accident data for Two Rod. John Scheme stated that almost all the driveways for the project would be coming out onto Clinton Street where the data was provided. Dave Muench asked where the driveways were on the plan. Chairman Nathan Barnard pointed them out. Dave Muench asked about the amount driveways with regard to the B-1 Code. Chairman Nathan Barnard stated that the amount of driveways met the code. Dave Muench asked how many driveways were on the horseshoe plan and Chairman Nathan Barnard stated that the amount of driveways stayed the same on both plans. Rich Janiga stated that by looking at this project as a whole and not subdividing the lots as they sell limits the amounts of driveways. Scott Rider asked if there was a parcel of land that was land-locked. John Scheme stated that there were no land-locked parts of land. Dave Muench asked where the retention pond was. John Scheme stated that it was at the western part of the property. Dave Muench asked where the drainage for the retention pond would go and John Scheme stated that it would drain west onto Mr. Rohl's property.

Chairman Nathan Barnard asked Rich Janiga if they would go through the checklist for Preliminary Plat. Chairman Nathan Barnard went through the checklist. There was a question about storm sewers and John Scheme stated that there were farm roads on the

plans that would be used for that purpose. John Scheme explained that the plan shows 2 inch water connections. John Scheme explained that the back half of the properties is thought to remain green space and that there would be culverts and drainage swails on the property. The drainage pattern would be out toward the wetlands located to the west on Mr. Rohl's property. John Scheme explained that the landscaping is not set in stone due to the fact that it is unknown who will be buying the property and the Planning Board will have a say as to what building or organization is able to build on the property when a lot is sold. Chairman Nathan Barnard agreed with John Scheme. John Scheme asked the Town's position on having easements on the storm water collection and detention system. Bob Miller stated that he would check on that. Chairman Nathan Barnard found that the Preliminary Plat Plan was in agreement to all on the checklist.

Bob Miller stated that he did not see the NYS DOT Traffic Volume Report that was said to be attached to the traffic study. John Scheme stated that it was an oversight and he could provide that. Bob Miller asked if any of the accidents were fatal. John Scheme explained that none were fatal during the years of August of 2005 and August of 2008. Bob Miller asked if there was a comparison made to similar intersections with regards to accident rates. John Scheme stated that he spoke with DOT and they did not find the number of accidents obsessive. Bob Miller explained that usually DOT uses a formula and was wondering where the numbers were from that formula.

Chairman Nathan Barnard asked the Board if they had any questions for John Scheme. Vinney Beisiegel had none. Paul Domanowski had none. Rich Janiga stated that he liked the original plan, but the new plan meets the requirements of the code. Rich Janiga understood the concerns with traffic but the new design will probably generate less traffic because there are fewer lots to sell. Rich Janiga feels this is viable subdivision. David Muench asked if there was the potential that the lots could be subdivided after they purchased the lots. Chairman Nathan Barnard stated that the eight lots could not be subdivided.

MOTION to accept the Preliminary Plat Plan for the Rohl Property by Rich Janiga and seconded by Paul Domanowski.

Nathan Barnard, Chairman - Abstain
 Rich Janiga, Co-Chairman - Aye
 David Muench - Aye
 Vinney Beisiegel - Aye
 Paul Domanowski - Aye
 Judy Gillman - Absent
 Debbie Zimmerman - Absent

b. Chairman Nathan Barnard gave a review for the Planning Board new members. Chairman Nathan Barnard stated that a request for a rezone was received in June and recommendations were made on the plan and there was a public hearing. In February a new request was made for the rezone. Bill Schutt explained that a new request was made because the first plan had 19 lots and the new plan has 18. Bill Schutt stated that he would like to error on the side of caution. Chairman Nathan Barnard stated that he has looked over the environmental impact study and would pass it around to the Board. Bill Schutt continued and introduced himself to the new board members and also introduced Mr. Zelasko, the property owner along with Rebecca Wightman from William Schutt and Associates. Bill Schutt stated that he would give a quick overview

of the project for the new members. Bill Schutt explained that the project sits in the northwest quadrant of the town and is north of Bullis and East of Townline and directly East of Greenwood Terrace. In the Town's comprehensive plan, the subdivision does fit in this area along with the fact that there is a similar subdivision right next to where it is proposed to be. The project has 18 lots on 46 acres and is put together based on the current zoning laws. The average size of the lots is 2 acres. Bill Schutt explained that at the Public Hearing in August some discussion was heard about an old town law with regards to the water lines and the property being in the agricultural district. Bill Schutt stated that they have researched that issue and it has been resolved. An Agricultural Data Statement was filled out as per request of the board. Bill Schutt stated that in December the Planning Board gave a favorable recommendation on the sketch plan. They are re-submitting for the rezone with the 18 lot plan and a long form for the SEQR process to begin. Bill Schutt stated that he is hopeful that the Planning Board would give the Town Board a favorable recommendation to issue a SEQR declaration and approve the petition to rezone. Chairman Nathan Barnard stated that the new members are caught up to speed by reading past minutes. Chairman Nathan Barnard asked if the Board if there were any questions. Vinney Beisiegel asked about the water runoff. Bill Schutt stated that there would be drainage put in to intersect their drainage from running onto Greenwood Terrace. Paul Domanowski stated that the plan was very thorough and the design is a real nice layout. Rich Janiga stated that the subdivision fits the master plan and the project sits adjacent to existing residential land and since this piece of agricultural land has not been farmed, it takes the pressure off of land that is being farmed to be developed. Dave Muench asked if there was any plan to divide the subdivision from Greenwood Terrace. Bill Schutt stated that the lots were a large size and would provide distance from existing homes. He continued to say that there are no present plans to put burms in because they would interfere with drainage. Chairman Nathan Barnard asked if there would be a retention pond on one of the lots in the back. Bill Schutt stated that there would be. Bill Schutt stated that the homes would be offset from the homes on Greenwood Terrace and there is a 100 foot set back from the back. Chairman Nathan Barnard expressed that he still holds with his feelings from last time. Bob Miller stated about the Framework letter received from Erie County and the County's disfavor of the project. Bob Miller stated that this is just a guideline.

MOTION to rezone the Bullis Road property of Richard Zelasko from Agricultural to Rural Residential and begin the SEQR process moved by Paul Domanowski, seconded by David Muench.

Nathan Barnard, Chairman - No
 Rich Janiga, Co-Chairman - Aye
 David Muench - Aye
 Vinney Beisiegel - Aye
 Paul Domanowski - Aye
 Judy Gillman - Absent
 Debbie Zimmerman - Absent

III. New Business

a. Chairman Nathan Barnard introduced Greg Willey to represent Leon Burner for a rezone for senior housing from Agricultural to Medium Density Residential. Chairman Nathan Barnard stated that senior housing is not allowed in Medium Density Residential and is only allowed in B-1 at the moment. Chairman Nathan Barnard explained that the project would be located on the corner of Clinton Street. Bob Miller stated there two laws that are being processed

regarding senior housing. One law would be for guidelines of development and the other one for districts for senior housing to be allowed. Bob Miller stated that what is being proposed right now is that senior housing only be allowed in B-1 only. Bob Miller stated that there may have been some discussion back in January to allow senior housing in Medium Density, but that is not the case now. Bob Miller stated that it does not do any good to rezone to Medium Density because the Town Board is looking into the two laws (Law 3 and Law 4) and it is proposed that senior housing only be allowed in B-1. Dave Muench asked if it is a proposal or a law at the moment. Bob Miller stated that it is a proposed law that is being reviewed at this time. Dave Muench stated that the petition was submitted in January and the Board should go with law at the time the petition was submitted. Dave Muench read the definition of Medium Density in the code book and it says that it allows elderly housing. Barb Spanitz explained that elderly needed to be defined more. Scott Rider asked if senior housing was allowed at the moment in B-1. Rich Janiga stated that it was allowed in B-1. Dave Muench stated that you cannot pass a law after the petition is made. Bob Miller stated that he had spoken with the Town's Attorney, Nate Neil, and Nate Neil stated that the law that they are looking adopt only allows senior housing in B-1 and not in Medium Density. Bob Miller stated that it does not matter when the proposal was made because senior housing is not allowed in Medium Density. Dave Muench stated that the code does not say that it is allowed or is not allowed with the word elderly. Scott Rider stated that the definition was located on 740 A. Bob Miller stated that he would bring the definition back to Nate Neil. Bob Miller stated that he feels that the definition the Town Board is thinking about would mean that senior housing is not allowed in Medium Density and the using the word elderly does not mean that a large housing complex is allowed. Dave Muench stated that proposal, since made in January, needs to be looked at with the codes as they are today. Scott Rider explained that legally the proposal should be changed from Medium Density to B-1 so the proposal does not get thrown out later. Dave Muench stated that he does not care about the new law because he has to go with what the law says right now. Chairman Nathan Barnard stated that even with the codes as they are now, the Board would have to look to see if the proposal would fit into the requirements of the code. Rich Janiga asked Greg Willey if he would be willing to resubmit the proposal under B-1. Greg Willey stated that he had come to the Planning Board and asked them what to do and did it, went to the Town Board with blueprints and now he is back at the Planning Board and if it is changed how long would it take because the guys are not going to wait on the land. Rich Janiga stated that he did not know the time frame because it had to go through Public Hearing and then the Board so it could be in April or May. Dave Muench stated that if he withdraws and resubmits under B-1, Greg Willey is hoping that the Town Board will grant him B-1 zoning. Bob Miller stated that Dave Muench is assuming that elderly means the same as senior housing. Dave Muench stated that he did not say it means that same, but there is a definition right now and the Planning Board should look to see if his proposal meets the descriptions. Bob Miller stated that he is relaying the discussion with Nate Neil and it was his firm understanding that Medium Density does not allow for senior housing. Bob Miller stated that senior housing is allowed in B-1. Bob Miller stated that allowing the proposal to go through in Medium Density would not allow Greg Willey what he wants to do because of the Town Attorney's interpretation of the word elderly and the requirements in Medium Density. Bob Miller stated that Nate Neil's recommendation to the Planning Board is that they do not recommend approval of this proposal to the Town Board because senior housing is not allowed in Medium Density. Bob Miller stated that if the Planning Board wants to recommend approval of the proposal to the Town Board to Medium Density with the understanding that what is being proposed for senior housing can be done under the provision of the one word elderly, to go ahead and do it, but Greg Willey may run into problems later with the Town Board. Dave Muench stated that he is not saying that the word elderly qualifies for senior housing to be allowed but the Planning Board still should look to see if senior housing is

allowed in Medium Density. Dave Muench stated that if the Town Attorney states that senior housing is not allowed in Medium Density, then fine. Rich Janiga stated that the Planning Board needs to realize that unless you stipulate on the rezone, if the Planning Board recommends that the property be rezoned to MD, anything having to do with MD can be built on that property. Rich Janiga is asking the Board if they feel that rezoning to MD is an appropriate strategy for that piece of land. Chairman Nathan Barnard stated that once you rezone a piece of property, the owner can build what they want on it. Rich Janiga stated that if the Board goes to a B-1, then there is more control over what is built on the land. Greg Willey asked if they resubmit is it another way of saying no because he already had \$20,000 wrapped up into already. Rich Janiga stated that in his opinion that it would not be the case, but he is just one person on the Board. Rich Janiga stated that if the proposal was submitted with a rezone to B-1 then the Planning Board would not be waiting on the Town Board to pass these laws because senior housing is already allowed in B-1. Greg Willey asked why he was told to make the proposal with Medium Density. Chairman Nathan Barnard asked who told him to go with MD. Scott Rider guesses it was with the building inspector. Chairman Nathan Barnard stated that he does not remember suggesting MD and in looking back in the minutes does not find it so it must have either come from the Town Board or the Building Inspector. Barbara Spanitz stated that it did not come from the Town Board. Bob Miller read the two local laws proposed. Rich Janiga asked Bob Miller if he understands the new laws right and there would be a senior housing district. Bob Miller stated that it would be allowed in B-1 and in a stand alone senior housing district.

MOTION to deny the rezone of the Berner Property from Agricultural to Medium Density due to Senior Housing not being properly defined in the Codes of Marilla for Medium Density and the Planning Board does not want to open that property up to anything in Medium Density moved by Rich Janiga, seconded by Paul Domanowski.

Nathan Barnard, Chairman - Aye
 Rich Janiga, Co-Chairman - Aye
 David Muench - Abstain
 Vinney Beisiegel - Aye
 Paul Domanowski - Aye
 Judy Gillman - Absent
 Debbie Zimmerman - Absent

IV. CEO Report

Chairman Nathan Barnard welcomed Scott Rider as the new CEO and introduced the Board members. Scott Rider stated that he did not have any news to report. Chairman Nathan Barnard explained that in the past the Board has had difficulty with direction of flow when residents come to the meetings. Chairman Nathan Barnard explained that the only time residents can come directly to the Planning Board is with a sign. All other times, they would go to the Town Building Inspector first and then to either the Town Board or the Planning Board. Chairman Nathan Barnard also requested that all information for applications is dropped off to the Building inspector instead of the Town Clerk. Scott Rider asked if the sketch plan step is always necessary if the plan presented for the re-zone is so thorough. Bob Miller stated that a sketch plan may be submitted according to the codes. Scott Rider asked about the direction of flow. Rich Janiga stated that everything that comes to the Building Inspector then goes to the Planning Board except for re-zoning.

Scott Rider asked the Planning Board about splitting lots every five years. Scott Rider wanted to know if you could split the land and just not issue building permits. Rich Janiga

stated that you cannot split the land more than twice in five years unless you went through the subdivision process. Bob Miller read from the code book on 644:6.

Scott Rider commented that he is getting a lot of complaints about drainage and residents draining on to other residents land.

V. Town Board Report

Barb Spanitz stated that the Town Board is working on passing Local Laws 3 and 4. There will be a public hearing coming up.

VI. Open Presentations from the Floor

Chairman Nathan Barnard asked Bob Miller to talk to George Gertz about the supermajority. Chairman Nathan Barnard commented about the minutes being thorough. Chairman Nathan Barnard asked for ideas for the four hour training. Training is usually done in the fall.

Bob Miller stated that he had picked up information on different training sessions.

MOTION to adjourn at 9:00 p.m. moved by Rich Janiga, seconded by Paul Domanowski, all in favor 5/0.

Respectfully submitted,

Melissa R. Stark