

**PLANNING BOARD
TOWN OF MARILLA**

Date: November 20, 2008

Present:

Nathan Barnard, Chairman	Debbie Zimmerman
Tom Wantuck, Co-Chairman	Barbara Spanitz, Town Board
Judy Gillman	John Fronczek, CEO
Dan Handy	Bob Miller, Consultant
Richard Janiga	Melissa Stark, Clerk
Paul Domanowski	

Absent:

Guests: Michael Seguin, William Schutt, Edward Le Daniel, David Arber, Rita A. Arber, Paul Zdolinski, Jane Lankes, Joe Lankes, Alice Juszczak, Richard Rose, Marcia Canetti, Kevin Schmidt, Gene and Shirley Limpinsel, George and Lorraine Martzoff, Madeline Gabalaki, Kevin Carel, Charlie A. O'Brien, Marty Zchwerb, Adele Von Schridl, Audrey Cook

- I. Chairman Nathan Barnard opened the Public Hearing on the Rohl Property at 7:04 p.m. Chairman Nathan Barnard introduced John Scheene and asked him to share his plan. John Scheene stated that the board had copies of the plan he was presenting. John Scheene stated that Mr. Rohl has 40 acres at the corner of Two Rod Road and Clinton Street. He is planning to divide the land into 8 lots that are zoned B 1 for business. The plan calls for a long linear retention basin along the western side of the site where all of the water would drain according to the DEC guidelines for the site. Lots 1, 4, 5,6,7,8 run along Clinton Street and lots 2, 3 run on Two Rod Road. There would be no public roads or utilities constructed. Chairman Nathan Barnard asked John Scheene to explain the driveways on the plan. John Scheene stated the concerns had been raised in the past with access to Clinton Street. The present plan calls for 3 driveways off of Clinton Street. Lots 7&8, 5&6, and 1&4 would share driveways. Lots 2 and 3 would have their own individual driveways off of Two Rod Road. John Scheene explained that it was a simple layout. Chairman Nathan Barnard opened the floor for questions.

George Martzoff asked about the gas line. John Scheene explained that the gas line did not run through the part of the property that Mr. Rohl was dividing. George Martzoff also asked about the detention pond. John Scheene explained that the detention pond was on the west edge of the property and ran along lots 2 and 3. George Martzoff explained that his major concern was the drainage. John Scheene explained that there was a drainage swell that would change the direction of the flow of the water back to the retention pond. George Martzoff asked about the surface area of the buildings because commercial structures have large roves and paved parking lots that create excessive runoff and could flush the septic systems. John Scheene explained that the lot sizes are 3-5 acres and the structures would be 10-15 thousand square feet and only 1 acre would be paved. The lots would have 60-70% green space and allow for proper drainage. With the retention pond and drainage swell John Scheene believes that the drainage will be better than it is now.

David Arber asked when there are businesses on the property and drainage problem occurs who would be responsible for fixing it – the developer or the town? John Scheene explained that it would not be the responsibility of the town because it is private property. John Scheene explained that with the drainage plan there would be no possibility for a drainage problem to develop years down the road. Chairman Nathan Barnard explained that the town engineer would look at the drainage plan to make sure it works correctly.

Marcia Canetti expressed concern with regard to slope of the property. John Scheene stated that slope was not an issue because the land is flat. Marcia Canetti expressed concern that there may be other issues that need to be looked into on the plan. John Scheene explained that usually when land is developed, the existing problems are solved because of the engineering that is involved in the building. Marcia Canetti asked that if after the buildings are finished and something does go wrong, could John Scheene be held responsible. John Scheene stated that he could but again with all the engineering that goes into a project, that project usually turns out better than it was before. John Scheene explained that he has been in the business for thirty plus years and has never had a drainage plan fail. Marcia Canetti stated that maybe this plan would be the first time. Marcia Canetti asked that if anything were to go wrong with the drainage, the town could go back and hold John Scheene responsible. John Scheene stated that the town could, but that the town has hired Nussbaumer and Clarke to look over projects before they are started. John Scheene explained that he comes up with the plan, the town's engineers look over the plan and between the town engineer and himself the plan will work.

Richard Rose inquired about the gas line on the property and that gas line has 40 pounds of pressure. John Scheene explained that that gas line is medium pressure line. Richard Rose explained that he has lived on Clinton Street for over 30 years and has seen many accidents on Clinton Street without the proposed businesses exiting out onto the street. He would like to know about a signal on Two Rod and Clinton. Richard Rose stated that Clinton Street is prone to accidents and the area where the project is proposed is a passing zone where there will be people visiting and turning in and out of the driveways. Richard Rose explained that he is just giving situations that could happen and wondered what would be done if they did happen. John Scheene stated that it would be unlikely for accidents to happen. John Scheene stated Clinton Street does not have the traffic volume. Richard Rose disagrees. John Scheene continued and used William Street in Buffalo by the thruway as an example. There are 20 -30 thousand cars that travel that road and there needs to be traffic signals to get a break in the traffic to pull out of driveways or to make turns, but that is not the case on Clinton Street. Richard Rose commented on the speed limit on Clinton Street being lowered. John Scheene stated that those people pulling in and out of Clinton Street need to look both ways before pulling out. Richard Rose stated that there would be visitors pulling in and out of Clinton Street that are not familiar with the street. Richard Rose asked if the DOT was involved in putting a signal at the intersection. John Scheene asked Richard Rose if he had to wait over 1 minute to exit his driveway. Richard Rose stated that yes he does in rush hour traffic. John Scheene stated that the DOT routinely does studies and if a signal was warranted, they would put one in. Richard Rose stated that there will be problems with pulling in and out of Clinton Street. Chairman Nathan Barnard stated that he feels they have addressed that there are traffic issues and to move on.

Gene Limpinsel stated that three driveways going out onto Clinton Street is the worst idea ever.

Dave Arber asked what type of businesses would be able to build on the property. John Scheene stated that the businesses would be subject to the B-1 codes. Chairman Nathan Barnard stated that the town put restrictions on the size of the business that could be built there in the B-1 codes and the business would have to be approved by the Planning Board and the Town Board. Chairman Nathan Barnard explained that there are more restrictions on these lots because they are zoned B-1 rather than just business.

Shirley Limpinsel commented that the driveways on Two Rod would be disastrous. Shirley Limpinsel commented an email that she brought that listed store that would be closing after the holidays. Shirley Limpinsel stated that with the economic times as they are that she does not believe any business would go in there. Shirley Limpinsel stated that it would be disastrous for a Tim Horton's to go in on the corner lot. Chairman Nathan Barnard stated that he does not believe Tim Horton's would be interested in the lot. The lot is too rural for their business. Shirley Limpinsel commented on the intersection of Clinton and Townline and that a signal was finally put up there after a woman was killed.

Marcia Canetti asked why the speed limit was lowered on Clinton Street from 55 to 45 mph. Chairman Nathan Barnard stated that the Planning Board was not involved in lowering the speed limit.

Charlie O'Brien asked if a traffic study could be done. Bob Miller stated that it depends on what the Planning Board recommends to the Town Board with regards to the project. Environmental impact studies, traffic studies, or drainage studies could be required to be done.

Shirley Limpinsel requests that a traffic, drainage, and environmental studies before the project goes further. Chairman Nathan Barnard stated that the town engineers would review the drainage and traffic study could be done. Bob Miller stated that a generic traffic study could be completed because the types of businesses that would go in and the traffic that they would generate are not known at this time.

Marcia Canetti asked if the town could request these studies be done so there could be more specific information before a decision was made. Bob Miller stated that the town could request the studies to be completed as part of the SEQR process. Bob Miller stated that the sketch plan was submitted and the project was not really at that stage yet.

Audrey Cook commented on the vacant plaza in Alden and does not want the same thing happening to the corner of Two Rod and Clinton.

Lorraine Martzoff commented that she heard the words "could be done, a study could be done." She wanted to know when these studies would be done. Chairman Nathan Barnard stated that the plan submitted was a sketch plan and as the board moved forward then a traffic study would be done and the drainage would be looked at by the engineers. What the Planning Board is looking at now is the layout. Lorraine Martzoff asked if the Planning Board would have to ask for the studies to be done. Chairman Nathan Barnard stated that after the layout was approved then the studies would be done under SEQR. Lorraine Martzoff asked if the board was saying yes to something that they did not have all the information on by approving the layout without studies being done. Chairman Nathan Barnard stated that the board would be saying yes to the sketch plan and following the flow chart. This is the first phase of the process.

Charlie O'Brien asked about the driveways and would they be able to support emergency vehicles. Chairman Nathan Barnard stated that the driveways are private driveways.

Paul Zdolinski commented that he has almost been in 3 accidents in two years in pulling in and out of the gas station and the intersection of Two Rod and Clinton. Paul Zdolinski stated that people do not always look both ways when pulling out of driveways and that having 10 driveways is way too many for the busy roads. Paul Zdolinski stated that traffic is an issue that needs to be looked into. John Scheene stated that it would not be 10 driveways. It would be 6. Paul Zdolinski stated that 6 driveways are still a lot.

Shirley Limpinsel asked about the stores that are going in to the lots and down the road the stores close due to the economy, what will happen to the empty stores? Chairman Nathan Barnard stated that it would be the same for houses. Shirley Limpinsel stated that there would be no taxes coming in if all the stores closed. John Scheene stated that there are 8 separate lots and not all of the lots would have stores on them. John Scheene stated that the private land owner would be responsible to pay the taxes. John Fronczek stated that the town of Marilla has vacant houses and the grass is overgrown.

Richard Rose asked if there were any idea of what would go into the lots. Richard Rose stated that it sounded like it was "build and they shall come." John Scheene stated that it was kind of like "build and they shall come" because the lots are not sold yet. John Scheene stated that they are not building any buildings; they are selling lots. The person who buys the lot will build the building. John Scheene stated that he does not see vacant buildings because not all 8 lots will sell at one time. John Scheene continued to say that not all 8 lots would be stores; some would be doctor's offices or landscaping businesses or a convenient store on the corner. Mr. Rohl has a right to develop his land. Richard Rose stated that he agrees that Mr. Rohl has a right to develop the land, but he does not like the design of how the property is cut up, the amount of driveways, and the drainage. Richard Rose stated that there would be empty buildings if the businesses that go in fail. John Scheene stated that even if that happens, the town would still be getting their tax money. Richard Rose stated that that is what it is all about – money. Richard Rose stated that Marilla is probably one of the most financially stable towns in Erie County and we don't need that tax money. John Scheene stated that he was not telling the town they need more money, he is telling the town Mr. Rohl has a right to develop his land and that the town will benefit from the development. Richard Rose stated that a traffic study needs to be done and the DOT needs to be contacted because this is going to develop into an accident area.

Candi Wittenmire stated that she is the town assessor. The tax money collected from the buildings would not go to the town, but rather to the school and the special districts. Chairman Nathan Barnard stated that it would help the residents of the town with school taxes.

Charlie O'Brien asked what the lots could draw with extra taxes. John Scheene estimated that the taxes would be about \$20,000 a year on the county and the school.

Adele Von Schridl asked what the Planning Board is doing to keep Marilla rural because that was a selling point of her family moving here. Chairman Nathan Barnard spoke of the town's comprehensive plan and in the plan that development was to be in the northwest corner of town and the Rohl property is in that area.

Madeline Gabalski asked about senior housing. Chairman Nathan Barnard stated that the lots could be sold off for senior housing. Madeline Gabalski stated that senior housing would be great for the area. Madeline Gabalski also wanted to know if the land owners of the property would be local because the problem with the Alden Strip Plaza is that the land owner lives in Ohio.

Eric Taylor asked if the buildings would be hooking into the water. John Scheene stated that they would be. Eric Taylor wanted to know if the system could support these buildings because at times he loses water pressure. John Scheene stated that the water demand would be very low. Businesses have less demand than a large house. A business would use 400-500 gallons of water a day.

John Sigga commented that a senior complex would use a lot of water. Chairman Nathan Barnard stated that there are codes for what can go on the property.

Don Darrel asked about a service road that was talked about during the rezoning. Don Darrel stated that he is concerned about the traffic and the sun. John Scheene commented that there would be three driveways. Don Darrel stated that the driveways would be in the blinding sun.

Shirley Limpinsel asked about lots being sold for senior housing. Shirley Limpinsel asked about the income for senior housing. Chairman Nathan Barnard stated that senior housing was just an example. If senior housing should go in, Shirley Limpinsel wants it to be geared to a senior's income.

George Martzoff asked that Planning Board if they would control the type of businesses that would be able to go in on the property. Chairman Nathan Barnard stated that with the B-1 codes the town has the final say.

Kevin Carel asked about Leon Berner and if he builds on the Southside of the road and Ken Kelchlin's shop that there would be more driveways. Barb Spantiz stated that nothing has been brought to the town's attention about Leon Berner's property and that Ken Kelchlin's shop had been approved by the town.

Richard Rose asked if a road could be built coming off of Two Road and Clinton. Chairman Nathan Barnard stated that the Planning Board liked the idea of a road being built, however was not financially doable. John Scheene stated that the U – shaped driveway had the same number of entrances and exits off of Two Rod and Clinton as the present plan. Chairman Nathan Barnard stated that the number of lots decreased from 18 to 8 on the present plan as well. There are fewer businesses that can go in on the property and that means less traffic on the roads.

Marcia Canetti inquired about the money needed to build the road. Chairman Nathan Barnard stated that the present plan has the same amount of driveways and fewer businesses that create less traffic. Marcia Canetti asked about patio houses going in. Chairman Nathan Barnard stated that he did not know anything about that.

Bob Miller pointed out the codes in the Marilla Code Book for the B-1 area. There are many different businesses allowed on the property. The codes are available on line on the town's web site as well as in the Town Hall.

Gene Limpinsel stated that there would be 3 driveways off of Clinton Street. John Scheene stated that that was correct. Gene Limpinsel asked about driveway that the buildings would share – a driveway and not a road. John Scheene spoke of a town regulation that a driveway shared by 2 or more businesses would be considered a road and would need to be built to town specs.

Madeline Gabalski commented on the Townline and Clinton intersection. That intersection has less traffic than the Two Rod and Clinton intersection and a signal should be looked into.

Dan Handy stated that the Planning Board understands the concern but it is up to the DOT to make that decision.

Marcia Canetti stated that she does not want the businesses in Marilla. She would like it to stay agricultural. Marcia Canetti does not want to see Marilla turn into a Lancaster.

Candi Wittenmire asked if the plan would be filled as a map cover. John Scheene stated that it would be.

Chairman Nathan Barnard asked if there was anyone else. With nothing else being said, Chairman Nathan Barnard invited John Scheene to come to next month's meeting on December 18.

- II. Nathan Barnard, Chairman, opened the Planning Board meeting at 8:10 p.m. Chairman Nathan Barnard asked for the approval of the September minutes. Chairman Nathan Barnard stated that a correction was needed in the roll call vote that he abstained. Debbie Zimmerman stated that she was present at the meeting even though her name is not present at the top of the minutes. **MOTION** to accept October minutes, moved by Rich Janiga, seconded by Debbie Zimmerman. All in favor – 7 ayes.
- III. Old Business
 - a. Bullis Road Subdivision

Chairman Nathan Barnard introduced Bill Schutt. Chairman Nathan Barnard stated that since last meeting the Planning Board met about agricultural districts. Chairman Nathan Barnard stated that Bob Miller has more information to share. Bob Miller stated that Shirley Limpinsel had contacted Bob Summers about water lines being run through the Agricultural district. Bob Miller spoke to John Apolka, Erie County Environment and Planning, and Bob Summers and the land was taken out of the Agricultural District in 1990 at the owner's request. Bob Miller showed a map showing the land in questions and it is not in the Agricultural district. Bob Miller stated that there are no restrictions on the waterline since the property was taken out of the agricultural district. However, Nate Neil found a resolution passed by the town that the lateral could not be extended in the agricultural district as well as where it is agriculturally zoned. Bob Miller stated that it was the opinion of the Town Attorney that since it was a town resolution that the town could remove the restriction and change it. Chairman Nathan Barnard asked about the Agricultural Data Statement. Bob Miller stated that the property is within 500 feet and the property is surrounded by agricultural land there is an Agricultural District Data Statement filed with the town and sent to land owners of surrounding agricultural land. Chairman Nathan Barnard stated that the Agricultural District Data Statement needs to be filed before rezoning could take place. Chairman Nathan Barnard asked if Bill Schutt had anything to add. Bill Schutt stated wanted to make sure that the board had received copies of the plan

that were requested and the board stated that they had. Bill Schutt did provide a copy in writing that states the property was not in the agricultural district to the Planning Board. Dan Handy asked Bob Miller for clarification that the resolution is with the Town of Marilla and not with the state of New York. Bob Miller stated that that was correct. Rich Janiga stated that the water restriction goes away if the land is rezoned. Chairman Nathan Barnard invited Bill Schutt to come back to the December 18 meeting.

IV. New Business
None.

V. CEO Report
None.

VI. Town Board Report
None.

VII. Open Presentations from the Floor
Chairman Nathan Barnard offered congratulations to Dan Handy on his election as a councilman.

Debbie Zimmerman stated that the training on November 6 was very interesting.

Chairman Nathan Barnard stated that he received a letter from Chris Collins about training sessions that the county offers, but the Planning Board was doing their own training sessions.

Dan Handy thanked the Board for their kindness and support throughout his time serving on the Planning Board.

MOTION to adjourn at 8:31 p.m. moved by Rich Janiga, seconded by Dan Handy, all in favor 7/0.

Respectfully submitted,

Melissa R. Stark