

**PLANNING BOARD
TOWN OF MARILLA**

Date: August 18, 2011

Present:

Richard Janiga
Lorraine Martzolf
Jay Walkowiak, Chairman
Vinney Beisiegel, Vice Chairman
Richard Rose
Debbie Zimmerman
Nathan Barnard
Jen Seth-Cimini, Alternate

Barbara Spanitz, Town Board
Jason Paananen, Consultant
Scott Rider, CEO
Melissa Stark, Clerk

Absent: Clarence Gerhardt Jr., Beth Ackerman

Guests: none

I. Approval of Minutes

Chairman Jay Walkowiak opened the Planning Board meeting at 7:01 p.m. Chairman Walkowiak asked for the approval of the July minutes and if there were any additions or corrections.

MOTION to accept the July minutes, moved by Richard Rose, seconded by Jen Seth-Cimini; all in favor ó 7 ayes.

II. Old Business

- a. Flag Lots - Chairman Jay Walkowiak stated that the Planning Board has talked at length about flag lots and asked if any member had any questions on it before making a recommendation. Debbie Zimmerman asked what would be changed. Chairman Jay Walkowiak stated that there needed to be more clarity about flag lot driveways. Nathan Barnard asked if Jason Paananen had written up the proposed changes in the code so members could see what it would look like before making a recommendation. Chairman Jay Walkowiak stated that nothing had been written up since there were not going to be many changes except for driveway openings which they would check to see what other towns had. Jason Paananen stated that most are dependent on lot widths and most had 25 feet minim and a 12 foot driveway. Marilla's code states that there is a minimum width of 30 feet. Jason Paananen stated that all that really needs to be done to the codes is cleaning up the language a bit. Lorraine Martzolf asked if Jason Paananen would do that. Jason Paananen stated that he could send the text over to the lawyers. Chairman Jay Walkowiak stated that he thought the Planning Board was just giving their ideas for changing the code in the recommendation and after the Town Board had a chance to go over it then something formal could be drafted. Jason Paananen stated that the only other change he would suggest would be to have one flag lot behind an existing house so the houses are not stacked.

Lorraine Martzolf asked how many are allowed now. Chairman Jay Walkowiak stated that there would only be one. There could be two flag lots off a parcel, but only one behind a house. Debbie Zimmerman asked if there could be a flag lot on each side of a house. Chairman Jay Walkowiak stated that that it could happen. Scott Rider stated that the flag lot would need to be 200x300 so the houses would not be exactly behind each other due to the sizes of the lots. Nathan Barnard asked if the code had been gone through line by line in July. Chairman Jay Walkowiak stated that they had. Chairman Jay Walkowiak asked Scott Rider if the state had anything for running utilities and driveways. Scott Rider stated that there was not anything mentioned but it would not hurt to have driveways 5 feet from the lot line. Debbie Zimmerman asked Barb Spanitz the reason for the Town Board putting a moratorium on flag lots. Was it because the Planning Board was approving too many? Barb Spanitz stated that one of the reasons was that there needed to be clarification on driveways and to educate the town's people on flag lots because there is a lot of confusion in the town. Jen Seth-Cimini stated that the Planning Board talked about sending out a mailing and putting more information on the web-site. Barb Spanitz stated that the Planning Board spent a lot of time changing the flag lot rules years ago and did a good job with them. All that really needs to be done is just some cleaning up of the wording. Barb Spanitz stated that each flag lot has a public hearing when it comes to the Town Board and the Planning Board can have a public hearing on it as well. Richard Rose stated that each flag lot is a case by case basis. Chairman Jay Walkowiak stated that each flag lot goes before the CAB as well. Scott Rider stated that if the flag lot meets all of the codes that there should not be a public hearing because there is not a public hearing for building lots with the correct amount of frontage. Vinney Beisiegel stated that the town's people think that something big is happening when they hear there is a public hearing on something. You do not need a public hearing to build a normal house and isn't that what a flag lot is, a house? Nathan Barnard read the definition of a flag lot and stated that he felt it was very clear. Chairman Jay Walkowiak asked if the Planning Board wanted to recommend to the Town Board. Debbie Zimmerman stated that she would like to see the code changed before a recommendation is made to the Town Board. Nathan Barnard agreed and suggested to read the code line by line and make any changes. The code is located on 700-12. Chairman Jay Walkowiak suggested reading through and no changes were made to numbers 1-3. Jen Seth Cimini asked if in number 4 it would be the right place to insert only one flag lot house behind a house. Nathan Barnard stated that it would. Richard Janiga did not see a problem with three houses behind each other because of setback requirements and the fact that the code allows that if there is enough frontage on land. Chairman Jay Walkowiak stated it could happen but does not see it happening often since the third house would be over 700 feet back. Jen Seth-Cimini asked if it should be added anyway just to prevent it from happening. Richard Janiga does not feel that it is necessary to eliminate that possibility from happening. Jen Seth-Cimini stated that she does not have a problem with adding it to the codes because that is what the public does not want to see happen. Richard Janiga stated that he does not want to take an opportunity away from someone if they have it. Richard Rose stated that people do not like the stacking idea. Jen Seth-Cimini stated that included in the recommendation should be how the clarifications can be presented to the town. Nathan Barnard suggested a vote to see if stacking needs to be put in the code. Chairman Jay Walkowiak asked for a show of hands in favor of stacking language in the code ó 3 hands, a show of hands not in favor of stacking language in the code ó 5. No changes will be made to number 4. No changes will be made to numbers 5 and 6. Chairman Jay Walkowiak asked if the driveway should be 9 feet from the property line. Richard Janiga stated that this is not a flag lot issue but rather a driveway issue. Scott Rider stated that there are not any codes that state that driveway cannot be on the property line. Richard Janiga stated that if it is 9 feet then the driveway is centered in the 30 feet

allowance. Scott Rider suggested making it 5 feet. The 5 feet will be for flag lot driveways and any private driveway. Jason Paananen stated that 6b and 1, 2, 3, and 4 would not be need. Richard Janiga asked what about land where there is an easement from the power company. Chairman Jay Walkowiak stated that a variance would need to be obtained. Debbie Zimmerman asked if it would make sense to leave it in the codes so a variance would not be needed. Jason Paananen stated that he does not see a problem with a utility company granting an easement. It would affect only a few lots. Richard Janiga stated that there is always an opportunity to purchase the land in question too. Jay Walkowiak stated that flag lot driveway needs to be inserted in 6c. No changes will be made to 6d.

The Proposed Flag Lot Code will read as follows with any changes in italics:

A. Flag lots shall be permitted in the Town of Marilla, provided that they meet all the requirements for a flag lot as set forth in this section and provided that they comply with all other applicable provisions of the Code of the Town of Marilla.

(1) Minimum width and area of flag lots. Each flag lot must have a minimum width of 300 feet and minimum depth of 300 feet with a minimum area of 90,000 square feet.

(2) Minimum setback for any structure to be constructed on a flag lot shall be 100 feet as measured from the edge of the flag lot that is parallel to the public highway that provides access to said flag lot. This shall be deemed the front setback.

(3) Minimum side and rear setback for any structure to be constructed on a flag lot shall be that required for the zoning district within which such flag lot is located.

(4) No more than two separate flag lots shall be allowed to be created on any individual parcel of land as set forth in the official records of the Town of Marilla Building Department as of the effective date of this provision.

(5) Flag lots shall only be allowed for single-family residential structures together with accessory structures. Multifamily dwellings (i.e., duplex, triplex, etc.) shall be prohibited.

(6) Each flag lot shall have its own separate private driveway that connects the flag lot to the public highway, with shared private driveways not permitted.

(a) Each private driveway shall have a minimum width of 30 feet with a hard surface of a minimum of 12 feet. *All private driveways should be located 5 feet from the property line.*

(b) No private driveway shall be located any closer than 200 feet to the nearest private *flag lot* driveway.

(c) Any private driveway that is more than 300 feet in length must contain a turnaround of sufficient size to accommodate fire trucks, ambulances and other emergency vehicles.

Barbara Spanitz stated that one of the Town Board members was upset with the wording prime farmland being taken out. Nathan Barnard stated that he does not remember the exact reason it was taken out but there was quite a discussion on it and Bob Miller advised that it be taken out. Richard Janiga stated that he feels that if you deny a lot because of prime farmland than it is getting into discrimination of use of your own land.

- b. LED Sign Code ó Chairman Jay Walkowiak stated that Richard Rose requested to add the word LED to the sign codes. Richard Rose stated that when the codes were written LED signs did not exist so he would like to see the word LED in the codes. Nathan Barnard stated that isn't LED the same as illuminated. Richard Rose stated that LED refers to the type of the light bulb used. Jason Paananen suggested putting the word LED under letter E in number 5, the second sentence.

The Proposed Sign Code will read as follows with additions in italics:

(5) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. All luminous signs, indirectly illuminated signs and lighting devices, *including LED*, shall employ only lights emitting light of constant intensity. (For purposes of this subsection, a "luminous sign" shall mean a sign where the lighting is supplied internally and an "indirectly illuminated sign" shall mean a sign illuminated by a light placed outside such sign and a "lighting device" shall mean any sign that is otherwise lighted.) Luminous sign, indirectly illuminated signs or lighting devices shall only be permitted following submission of an application for approval before the Town of Marilla Planning Board which shall have the authority to review and approve such application. As part of such review the Town of Marilla Planning Board shall insure that such signs are not placed or directed so as to cause glaring or nondiffused beams of light to be cast upon any public street, highway or sidewalk or adjacent premises or otherwise cause glare or reflection that may constitute a traffic hazard or nuisance and to insure that such signs do not employ any mirror or mirror-like surface. The Code Enforcement Officer shall only issue a permit for such luminous, indirectly illuminated signs and lighting devices only after approval for such sign(s) by the Town of Marilla Planning Board.

III. New Business

- a. Attached Garages/Size Limitations ó Chairman Jay Walkowiak stated that this issue came up at the last Town Board meeting. Scott Rider stated that in RR zoning a resident is allowed one garaged, attached or detached. Can someone add on to an attached garage and make it larger? The Planning Board looked at 700-34 letter d. The code does not state a size for an attached garage. Jason Paananen stated that the attached and detached garage should be 900 feet. Scott Rider asked if a resident wanted to attach each garage with a vestibule would that be considered one or two garages? Jason Paananen stated that in order for a structure to be considered attached, it must share a common wall with the primary structure.

The Proposed RR Garage Code will read with additions in italics:

D. Permitted accessory uses.

(1) Private garage. Only one garage, either attached or detached, may be allowed. If *attached or* detached, the garage shall not exceed 900 square feet maximum area and 16 feet in height with a minimum of 15 feet side and rear lot allowances.

(2) Aside from attached or detached garage, one other structure may be allowed, no larger than 400 square feet and not higher than 12 feet with 15 feet side and rear lot allowances.

(3) Detached garage or accessory structure shall only be closer to the road than the front of the principal structure in cases where the setback for the accessory structure is at least 150 feet from the front property line. That is, the accessory structure may be permitted to be nearer the road than the principal structure if the setback to the accessory structure is at least 150 feet.

Barb Spanitz stated that if a person wants to add a garage because they want to make the present garage living space, then the addition would be acceptable.

IV. CEO Report

None.

V. Town Board Report

Barb Spanitz stated that the Town Board is planning a Public Hearing on Outdoor Wood Burners next month.

VI. Open Presentations from the Floor

Chairman Jay Walkowiak stated that there is training being offered in Elma on Tuesday, September 20 from 6-8 p.m. at the Town Hall. The training will be given by Erie County on Smart Growth. Reservations need to be in by September 9. Chairman Jay Walkowiak stated that he would register each member of the Planning Board.

Chairman Jay Walkowiak stated that there will be a training in Marilla on Wednesday, September 28.

MOTION to adjourn at 8:14 p.m. moved by Nathan Barnard, seconded by Debbie Zimmerman, all in favor 8/0.

Respectfully submitted,
Melissa R. Stark, Clerk