

**PLANNING BOARD
TOWN OF MARILLA**

Date: June 16, 2011

Present:

<p>Debbie Zimmerman Nathan Barnard Jay Walkowiak, Chairman Vinney Beisiegel, Vice Chairman Richard Rose Jen Seth-Cimini, Alternate Clarence Gerhart, Jr., Alternate</p>	<p>Beth Ackerman, Town Board Jason Paananen, Consultant Scott Rider, CEO Melissa Stark, Clerk</p>
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Absent: Lorriane Martzolf, Richard Janiga

Guests: Ken Kelchlin, 2280 Eastwood Road

I. Approval of Minutes

Chairman Jay Walkowiak opened the Planning Board meeting at 7:04 p.m. Chairman Jay Walkowiak stated that both alternate members would be voting tonight since two members were absent. Chairman Walkowiak stated that the meeting was being held in the Community Center tonight due to construction in the Town Hall. Chairman Walkowiak asked for the approval of the May minutes and if there were any additions or corrections. Richard Rose stated that on page 2 the sentence "The sign would be about 46 feet tall." should be deleted. It was said in jest. Richard Rose also stated that the words Community Center should replace the words Town Hall on page 4, line 7 from the bottom.

MOTION to accept the May minutes, moved by Debbie Zimmerman, seconded by Nathan Barnard; all in favor 6 7 ayes.

Chairman Jay Walkowiak stated that Lorraine Martzolf had missed three meetings if she did not show up for this meeting due to surgery. As he understood the code, you could only miss three meetings. Debbie Zimmerman stated that a member must make 75% of all meetings and missing 3 or more consecutive meetings was grounds for removal by the Town Board according to the code on 608-1 at the bottom. Beth Ackerman stated that Lorraine missed three meetings and would not be allowed to miss any more meetings. Beth Ackerman would talk to the Town Board about it and Chairman Jay Walkowiak stated that he would call her to see how she is doing.

II. Old Business

- a. Chairman Jay Walkowiak stated that Ken Kelchlin was here tonight and opened the floor up to him. Ken Kelchlin passed around a picture of the proposed sign. The top of the sign would be 5x8 feet and the bottom would be 3x8 feet. The top portion of the sign would be lit by fluorescent light bulbs advertising the name of the business and the bottom portion would be a programmable LED sign. The sign would be dimmed at night. Ken Kelchlin stated that the sign would be programmable by him and could even sense the amount of

daylight and adjust the light of the sign to either be dim or bright. Richard Rose stated that he is concerned with this LED sign getting out of control, but what could happen if it did get out of control. Scott Rider stated that the police would be called. Clarence Gerhart asked for Richard Rose to clarify out of control. Richard Rose stated about the brightness of the sign and the speed of the design. Scott Rider stated that the sign would be a ways off of the road. Richard Rose asked about Ken Kelchlin's current signs. There are three signs, each 4x6 feet and about 19 feet high. Debbie Zimmerman asked how far the sign would be from the road. The sign would be set 50 feet back from the edge of the road on Clinton Street. The height of the sign would be 15 feet tall and that was within the 20 foot code. The total square footage of the sign would be 64 feet and would be over the allowed 60 feet. Chairman Jay Walkowiak suggested re-sizing the top portion of the sign to be 4x6 feet to meet the 60 square feet requirement.

MOTION to approve the lighted LED sign for Ken Kelchlin's business located on Clinton Street as long as the finished sign is within the 60 square feet allowed by code, moved by Nathan Barnard, seconded by Debbie Zimmerman; all in favor ó 7 ayes.

The vote of the member is as follows:

Debbie Zimmerman - aye
 Chairman Jay Walkowiak - aye
 Vinney Beisiegel - aye
 Richard Rose - aye
 Richard Janiga ó absent
 Nathan Barnard ó aye
 Lorraine Martzolf ó absent
 Clarence Gerhart ó aye
 Jen Seth-Cimini ó aye

b. Flag Lots ó Chairman Jay Walkowiak asked for any thoughts from the Planning Board on flag lots. Beth Ackerman stated that Don Darrow passed out a survey out to the Town Board to spark some thoughts on flag lots. Beth Ackerman passed it out to the Planning Board. Beth Ackerman stated that if there were any questions to ask Don Darrow because he is heading the flag lot inquiry. Chairman Jay Walkowiak suggested having Don Darrow come to the next Planning Board meeting. Beth Ackerman stated that the moratorium is for 6 months but it can be shorter too. Chairman Jay Walkowiak stated that Richard Janiga had suggested clarifying the amount of space from flag lot driveway to flag lot driveway. Nathan Barnard stated that most of the time only one flag lot is applied for instead of two and maybe there should only be one flag lot allowed instead of two on a lot. Chairman Jay Walkowiak stated that the community is confused when they hear about a flag lot. Nathan Barnard stated that usually when the term flag lot is used, the community assumes that it is part of a subdivision, which it is not. Jen Seth-Cimini stated that one of the questions on the survey was how many flag lots could be allowed in a row. Scott Rider stated that only 2 are allowed per parcel. Jen Seth-Cimini asked what would happen if there were 2 or more parcels in a row with flag lots on them. Scott Rider stated that each flag lot would have to have its own driveway 200 feet apart from another flag lot. The lots may be touching in the back, but not in the front. Jen Seth-Cimini also stated concern about the safety of accessing the property in an emergency. Nathan Barnard stated that that should not be the concern of the Planning Board. If a person wants to build back that far, then they need to think about safety. Clarence Gerhart stated that he has always had a problem with the issue of not allowing flag lots coming from the agricultural industry.

Farmers cannot compete to buy the frontage of properties when they are going for \$50,000 a lot. Look at Lancaster. The entire frontage is bought up and the land behind the lots is for deer, sumac, and pheasants. There is no way for the farmer to access the back fields or the back field is too small to farm. Clarence Gerhart stated that there is no reason for there not to be a house in the back and create revenue from the town. A flag lot would use up some land that cannot be farmed and save farmland from being used up for houses. Clarence Gerhart stated that he agreed with Nathan Barnard. If a person wants to build 500 feet off the road, that is his problem. The town cannot and should not play God. Clarence Gerhart stated that he would promote flag lots. Chairman Jay Walkowiak stated that without flag lots you land lock too much land. The fear of the town's people is a subdivision, but a flag lot is a proper use of land. Nathan Barnard stated that flag lots can be used for families. Debbie Zimmerman stated that there is land that is land-locked where there is no access to get back to it and it just sits there not being used. Chairman Jay Walkowiak stated that most of the flag lots that have been applied for recently, have been larger lots. Scott Rider stated that there are set back requirements too for flag lots. Beth Ackerman stated that she does not find anything wrong with wanting your house off of the road because the state has driveway requirements. Jen Seth-Cimini asked if this was more the bigger picture issue. Beth Ackerman stated that the town is looking into proper use of land and responsible use of land. She stated that she agrees with Clarence Gerhart. A flag lot allows the farmers to get to their land and farm it, the house is built back where there are trees and there is privacy. There needs to be responsible growth to protect the farms, but still growth. Chairman Jay Walkowiak stated that the present flag lot code is a good code, it just needs some clarity. Chairman Jay Walkowiak suggested on tabling the issue and inviting Don Darrow for his thoughts for next meeting. Beth Ackerman stated that she would invite Don Darrow to next month's meeting. Debbie Zimmerman stated that she was in favor of flag lots. She stated that she was on the Planning Board when the codes for flag lots were reviewed, and all the times people applied for flag lots they for all the right reasons except for two. Jen Seth-Cimini asked if neighbors get notified when a flag lot is going in. Nathan Barnard stated that the Town Board sends out notification for the Public Hearing. Nathan Barnard commented on a question on the survey about a checklist for flag lots. Nathan Barnard stated that there should be and there is one done for flag lots but not for regular lots. Chairman Jay Walkowiak asked for any member who wanted a copy of the survey to stay after the meeting for one. Scott Rider would make copies. Nathan Barnard asked Beth Ackerman what provoked the moratorium on flag lots. Beth Ackerman stated that she did not know.

III. New Business

- a. Accessory Buildings ó Chairman Jay Walkowiak stated that Jason Paananen passed out information on sizes at the last meeting and asked if any of the members had any input or ideas. Chairman Jay Walkowiak asked if 2% in a residential area was large enough. Scott Rider asked if the 2% would be for subdivisions too. Debbie Zimmerman gave an example of a tiny house and a very large storage shed behind it as you go into Alden and she feels it looks goofy. Vinney Beisiegel asked what the lot sizes of a subdivision were. Scott Rider stated that they vary, but presently a building lot is 200x300. Chairman Jay Walkowiak asked if it was wise to restrict in subdivisions. Clarence Gerhart stated that restricting in subdivisions could be trouble. Clarence Gerhart stated that he does not see the problem with a resident using their land in the way they choose. Taxes are generated for the town and if the property is there a resident should be able to build what they want. Debbie Zimmerman asked if someone in Renee Court should be able to build the same size as someone with 4 ½ acres. Scott Rider stated that they would have to go smaller because their lot sizes are smaller and the 2% would state that

a smaller building be built. Chairman Jay Walkowiak stated that there are still set back codes and that 2% would be a good number for residential areas. Vinney Beisiegel stated that it would be better to look at a storage shed then to look at all the cars, boats or other things that could be stored in one out on the lawn. Chairman Jay Walkowiak asked there should be a cap on the 2%, like a 60x60. Beth Ackerman asked if there were lots of 12 acres in RR. Nathan Barnard stated that there were quite a few in the town. Debbie Zimmerman asked if the sheds needed to go behind the house. Scott Rider stated that they did except for a flag lot. For flag lot lots, the buildings could go in front of the house. Scott Rider asked about the height restriction of 16 feet. Beth Ackerman asked how a 60x60 could go up with a 16 foot height. Nathan Barnard stated that the height would have to be proportional with the building size. Debbie Zimmerman asked if the height would be included in the 2%. Nathan Barnard stated that the 2% would be for the square footage and not for the height. Beth Ackerman asked if there was a standard pitch that was used for pole barns. Nathan Barnard stated that most barns had a 12-5 or 12-4 pitch to them. Jason Paananen asked what the roof height would be on a 60x60. Nathan Barnard stated that the building would most likely have 12 foot walls and the height would be about 21 feet. Jason Paananen suggested capping the height at either 25 feet or smaller than the height of a house which would be 30-35 feet. Chairman Jay Walkowiak asked if the cap should be around 30 feet or should the code read that the height be proportional to the building. Nathan Barnard stated that the board should look into buildings and what their heights are around town before setting a height. Clarence Gerhart stated that in order to build a building of size, the height of the roof needs to support it and it must be done right. Chairman Jay Walkowiak stated that the height should be proportional with the size of the building. Scott Rider asked if it was being measured from slab. What if there was a second story to the barn? Nathan Barnard stated that if the barn would be that size, then a variance may be needed for the height. Chairman Jay Walkowiak stated that he does not see an accessory building in RR having a second story. These buildings are for storage. Scott Rider stated that after the barn is built, the property could be split and now there would be a large barn on a smaller piece of property. Scott Rider suggested using wall size to determine the maximum height of the building. If the walls were between 8-12 feet then the pitch of the roof would be to the size of the wall. Chairman Jay Walkowiak stated that 12 feet for a storage building in RR was generous. Nathan Barnard stated that the minimum roof pitch should be 3-12. Chairman Jay Walkowiak asked if Jason Paananen would draft a code for next meeting. Nathan Barnard asked what the setbacks were. Debbie Zimmerman stated they were 15 feet from the back and sides. Jen Seth-Cimini asked for clarity of the second story. Debbie Zimmerman stated that if a resident wanted a second story, they would have to go to the ZBA for a variance. Nathan Barnard asked about taking the attached garage out of the code. Scott Rider stated that with the 2% the attached or detached garage would need to come out. Debbie Zimmerman stated that on 700-34, delete 1, 2 under letter D.

- b. LED Signs ó Richard Rose stated that he went to Hamburg, East Aurora, Orchard Park, Elma, Lancaster, and Wales for their sign codes. Richard Rose passed out copies of the different towns codes and many codes were against scrolling or flashing signs. Debbie Zimmerman asked if the Town Board has looked further into a sign. Beth Ackerman stated that it was brought up but they are waiting on the Planning Board. Chairman Jay Walkowiak suggested that the Planning Board look over the information and talk about it at the next meeting. Richard Rose stated that he looked through the code book and did not see anything on LED signs. Scott Rider stated that the codes are on 700-43. Richard Rose stated that Hamburg considers it a distraction while driving. Debbie

Zimmerman asked if that was a proven fact. Was there documentation to back it up? Richard Rose stated that he did not know of any documentation. Richard Rose stated that many towns are pushing for a steady message sign. Jen Seth-Cimini asked if #5 in the code book covered the flashing signs. Nathan Barnard stated that #5 looks like it covers LED signs. Chairman Jay Walkowiak stated that Ken Kelchlin's sign is done up well. It is far enough off of the road and it serves a purpose. Chairman Jay Walkowiak stated that he does not have a problem with LED signs as long as they serve a purpose and are done right. Nathan Barnard stated that #6 deals with light being on roadways and sidewalks. Clarence Gerhart stated that he felt the existing codes covered the LED signs. Debbie Zimmerman stated that the sign codes were re-done just before George Gertz took office to give the Planning Board the ability to approve signs. Chairman Jay Walkowiak stated that he does not want to restrict a business from putting one in as long as it serves a right purpose and is done respectfully. Vinney Beisiegel stated that he was talking to friends who were police officers and when something is flashing it does cause people to be cautious and slow down. Chairman Jay Walkowiak suggested reading over the other towns' codes to see if there was anything to add to the codes. Chairman Jay Walkowiak stated that he feels our town codes are good and cover everything they need to.

IV. CEO Report

Scott Rider passed out the minimum standards that the Town of Marilla adopted in 2007 from NYS for code enforcement. It is found on page 209-7 in the code book. Scott Rider asked the Planning Board to look it over. It was up to the Planning Board if a permit was needed or not. Scott Rider stated that the last page of the information was what the town adopted. Debbie Zimmerman asked how the Town Board feels about fees for a permit. Scott Rider stated that it did not matter to him if there was a fee. Beth Ackerman stated that the Town Board had not talked about fees. Chairman Jay Walkowiak stated that he does not feel that charging a fee would be right. Scott Rider stated that the Town has already adopted this, but he is not enforcing it. Scott Rider stated that he would just like a permit for roofs, generators, electrical, or structural alterations. Nathan Barnard asked what if he is doing the work on his own. Scott Rider stated that he would have to come down to sign a waiver. Chairman Jay Walkowiak asked how to get the word out to the town's people. Beth Ackerman stated that the newsletter would be a good place. Melissa Stark stated that not everyone in town gets the newsletter. Debbie Zimmerman asked if other towns had permits. Jason Paananen stated that they do. Chairman Jay Walkowiak stated that it is just getting the word out that permits are needed. He suggested a letter drafted from the town sent out outlining what things a permit is needed for and that there is not a fee for the permits. The hours for the CEO's office should be included as well. Debbie Zimmerman asked if it should be put in the code book. Scott Rider stated that he did not feel it was needed. Nathan Barnard stated that everyone agrees that there should not be any fees, but as time goes by there should not be a fee added to the permit either.

V. Town Board Report

Beth Ackerman stated that the Town Board finished the Farmland Protection Surveys and they should be coming out soon. There would be a training session on Wednesday, July 27 at the Community Center on stream bed overlay and land conservation. The time of the training was not set yet, but would be around 6:30 to 8:30. Other towns will be invited when the time is set.

VI. Open Presentations from the Floor

Vinney Beisiegel stated that there is confusion over what a flag lot is in the town. It is often confused with subdivisions and they are two separate things.

Chairman Jay Walkowiak stated that the outdoor wood boiler codes were considered and will come out as a state law soon.

Nathan Barnard said thank you to Clarence Gerhart for taking the time out of his busy time with farming to come and be a part of the Planning Board.

Debbie Zimmerman agreed with Nathan Barnard. The farming perspective is appreciated.

Melissa Stark stated that she would not be able to attend the July 21 meeting. She asked if she should get a replacement or just give the voice recorder to Jay Walkowiak. Chairman Jay Walkowiak stated that he would just get the voice recorder and record the meeting for that month.

Clarence Gerhart commented about land conservancy and the PACE Program. The program is good in theory, but when lots are selling for so much more, it is hard to get behind it from a farming point of view. Beth Ackerman stated that there needs to be more funding for a program with good intentions but right now it does not have the necessary funding to run correctly. Beth Ackerman stated that the town and county must partner with the state for it to run correctly. Clarence Gerhart stated that he participated in the program once and would not do it again unless changes are made.

MOTION to adjourn at 8:37 p.m. moved by Clarence Gerhart, seconded by Debbie Zimmerman, all in favor 7/0.

Respectfully submitted,
Melissa R. Stark, Clerk