

**PLANNING BOARD
TOWN OF MARILLA**

Date: September 17, 2009

Present:

Richard Janiga, Chairman
Nathan Barnard
Debbie Zimmerman
Dave Muench
Judy Gillman
Jay Walkowiak
Vinney Beisiegel

Barbara Spanitz
Robert Miller, Consultant
Scott Rider, CEO

Absent: none

Guests: Joe Lankes (Eastwood Rd.), David Arber (Lyndale Ln.), Robert and Nancy Lemke (Clinton St.), G.D. Willey (Tootey Rd.), and Robert Blood (Exchange St.)

I. Approval of Minutes

Chairman Richard Janiga opened the Planning Board meeting at 7:00 p.m. Chairman Janiga asked for the approval of the August minutes and if there were any additions or corrections.

MOTION to accept the August minutes as is, moved by Nathan Barnard, seconded by Jay Walkowiak; all in favor ó 7 ayes.

Chairman Richard Janiga stated that he would cover New Business first tonight so Greg Willey did not have to sit through the Old Business.

II. New Business

- a. Request to rezone property on Clinton and Two Rod from Agriculture to Senior Housing ó Mr. Robert Blood stated that he was the architect on the project and a life long resident of Marilla. Mr. Blood stated that the parcel of land was 32 ½ acres just south of the intersection of Two Rod and Clinton. The land is òLö shaped and has frontage on both roads. Mr. Blood stated that he is proposing a 50 unit senior housing complex consisting in two 2-story buildings. There would be an entrance, private access road leading to a parking area and maintenance building off of the Clinton Street frontage. Mr. Blood stated that the road would be a private road and would require no maintenance from the Town in terms of garbage pickup or snowplowing. Mr. Blood stated that there would be a retention pond up front of the complex and with the pond there would be improvement to the present drainage on the property. Mr. Blood explained that within the units there would be a common area for social gatherings, community rooms, laundry facilities, mail drop off, and possible a hairdresser and doctor. In-between the two buildings there would be a covered area and possibly a pool would be in this area. Mr. Blood asked the Board if they had any questions about the project. Nathan Barnard asked about the position of the driveway around the retention pond. Mr. Blood stated that the dashed line on the print indicated the driveway. Chairman Richard Janiga asked

about the size of the property. Mr. Blood stated that there was 32 ½ acres and it meets the new requirements in the Senior Housing Codes having 5 units per acre. Mr. Blood went on to say that there is plenty of room for the 75 required parking spaces and the parking would be divided so resident parking was closest to the buildings and visitor parking farther away from the buildings. Judy Gillman asked if there would only be one way in and out. Mr. Blood stated that there would only be one driveway and they wanted to keep the buildings as residential as possible and he passed out some examples of other buildings with a residential feel to them. Chairman Richard Janiga asked about the land behind the units. Mr. Blood stated that they may put some trails in that area but with the codes they are prohibited from developing that land. Debbie Zimmerman asked if any more development could take place. Mr. Blood stated that no more could take place with the present codes but they were applying for the rezone of all 32 ½ acres. Dave Muench asked how many rooms there would be per apartment. Mr. Blood stated that there would be 25 apartments per building and there would be a combination of 1 and 2 bedrooms. Dave Muench asked about the septic. Mr. Blood stated that as of now he believes the septic could be handled in the front of the buildings and flow out towards Clinton Street. Chairman Richard Janiga stated that most of the Planning Board members had not seen the new Senior Housing Laws until tonight and stated that he would give the members time to look it over and would act on the rezone at next month's meeting. Chairman Richard Janiga asked Bob Miller if he had anything to add. Bob Miller stated that there were two laws that were passed and Local Law #4 was passed out tonight. He would like the Planning Board Members to also look at Local Law #3 in conjunction with Local Law #4 when looking into Senior Housing because there are guidelines listed in the Law. Local Law #3 was passed May 9, 2009 and Local Law #3 is available on the Town's Website. Chairman Richard Janiga asked if Local Law #3 deals with B-1 zoning how that was connected to Senior Housing. Bob Miller stated that he understands that the guidelines that are spoken about in Local Law #4 are stated specifically in Local Law #3. Chairman Richard Janiga stated that the Planning Board should then get a copy of Local Law #3. Scott Rider stated that he would get a copy of Local Law #3. Secretary Melissa Stark stated that when Local Law #3 is copied, she would mail it out to all members. Judy Gillman asked if the application was complete. Scott Rider stated it was. Barb Spanitz stated that the Town Board liked the plan submitted.

III. Old Business

PODS ó Chairman Richard Janiga asked if everyone had their copies of the draft code for PODS. Chairman Richard Janiga stated that they would go through the draft section by section and if there were changes to be made they could be made and then Bob Miller could put a final draft together for next month's meeting.

Temporary Storage Units

- A. Definitions ó no changes indicated
- B. Enforcement ó no changes indicated
- C. Intended Use ó no changes indicated
- D. Duration

1. Dave Muench mentioned that it was confusing with the 30 days and the 10 day grace period. Scott Rider stated that he understood it where the 10 days would start from time of complaint. Chairman Richard Janiga stated that the only way the town would know for sure when the POD was placed on the property was if a permit was issued from the

town and then the 30 days would be defined. Debbie Zimmerman stated that maybe a permit with no charge would be the way to go. Dave Muench stated that if you get a POD you would have a receipt from the purchase and the town could see when the POD was delivered and the 30 days would start from there. Nathan Barnard agreed that that would be better than bothering with a permit. Scott Rider stated that he liked just going with the receipt of purchase as well. The first sentence should then read:

Temporary storage units may be placed on or at a property in the Town for a time period of thirty (30) calendar days upon receipt of delivery to the property.

Scott Rider questioned the time limit of 30 days and whether it was long enough. Debbie Zimmerman stated that a person could fill one in a couple of hours. Bob Miller stated that the original purpose of a POD was to fill it and then send it away to an indoor storage unit. However, it could be used as a work shed and stay on the property for longer. Vinney Beisiegel asked about a POD with a receipt that was dated from 5 years ago. Scott Rider stated that it would be grandfathered in. Bob Miller stated that things are not always grandfathered in. Bob Miller suggested checking the code book for a non-conforming use provision because there are time limits set to them.

2. no changes indicated
 - a. no changes indicated
 - b. no changes indicated
3. Dave Muench asked about the last line in regards to the property being assessed. Bob Miller stated that the Building Inspector would be able to take a violation to court. Debbie Zimmerman stated that a lien could also be placed on the property. Scott Rider stated that the fine could also go on the tax bill.

E. Permit Required

1. no changes indicated
 - a. no changes indicated
 - b. no changes indicated
 - c. no changes indicated
2. no changes indicated

F. Size ó Dave Muench asked about the wording. Chairman Richard Janiga stated the word more could be taken out. The sentence should then read:

Temporary storage units should be no greater than 1,152 cubic feet in size and shall not exceed 144 square feet in area and eight (8) feet in height.

Bob Miller stated that the POD companies may question the size stated in the codes because it has been done in other towns because one of their PODS may exceed the size requirement.

G. Number of Units ó Nathan Barnard questioned if the number of units could be changed in the event of a fire. The sentence should then read:

Only one (1) temporary storage unit may be stored on property at any given time unless special circumstances arise as listed in Sub-Section 2.

H. Location

1. Debbie Zimmerman questioned the paved surface wording. Nathan Barnard stated that everyone does not have a paved driveway. The sentence should then read:

The unit must be placed on the driveway or hard packed surface of the property, and must adhere to the rear and side setback requirements of the respective zoning district.

2. no changes indicated

I. Signage ó no changes indicated

J. Hazardous Materials - Dave Muench asked if a definition of hazardous materials was in the code book. Scott Rider stated that it was.

Temporary Portable Accessory Structures

A. Definitions ó no changes indicated

B. Enforcement ó no changes indicated

C. Exemptions ó no changes indicated

D. Duration

1. Debbie Zimmerman asked how the Town would know if the structure has been up for 30 days. Nathan Barnard stated that a receipt would not work in this case and maybe the clock should start ticking when a complaint comes in. Chairman Richard Janiga questioned the first sentence of the section. Chairman Richard Janiga wanted to know if the residential district was exempted. Dave Muench suggested that the word residential should be changed to agricultural. Scott Rider stated that there are still homes in agricultural districts that are not farms and the law should apply to everyone. Chairman Richard Janiga asked the Board if the code should apply to all or some exemptions should be made. Chairman Richard Janiga asked about farmers and cow hutches being temporary structures. Nathan Barnard suggested coming up with a property size and then farmers are exempt. Nathan Barnard suggested that the code should apply to any property with 5 acres or less. Barbara Spanitz suggested that the Board be careful with suggesting a size. Nathan Barnard asked about the stands used to sell corn. Scott Rider stated that there was already something in the code for seasonal stands. Judy Gillman stated that those stands are not a problem because they are not up for that long. Debbie Zimmerman suggested that the first sentence should be taken out and the code should apply to everyone and if there is a problem with something then the Town would hear about it. Dave Muench suggested that a special circumstance could be determined by the CEO. Bob Miller stated that farther down in the section, the code stated that a permit could be obtained. Chairman Richard Janiga asked if a farmer would need 30 permits for 30 cow hutches. Barbara Spanitz asked if that was included in the Right to Farm Law. Scott Rider suggested making portable tents accessory sheds. Chairman Richard Janiga stated that that might be the way to go. Bob Miller stated that the farming concerns are already addressed in the agricultural codes. The section should then read:

A temporary portable accessory structure may not be maintained or erected for a period of time exceeding 30 days upon visual observation from the CEO or a complaint registered and shall not be erected for more than 120 calendar days per year. In the event a

property owner or business owner wishes to maintain an erected structure longer than the established timeframes, a permit must be obtained by the Building Inspector/CEO.

2. no changes indicated

E. Permit Required

1. Debbie Zimmerman suggested taking out the wording for non-residential properties. The first sentence should then read:

Application: After the initial thirty (30) day time period has been exhausted, a permit must be applied for and secured approval for the issuance of a permit from the Building Inspector/CEO on such form as may be prescribed.

a. no changes indicated

b. no changes indicated

c. no changes indicated

2. no changes indicated

F. Size (added) - Dave Muench asked if there would be a size on the structures. Chairman Richard Janiga asked what the maximum was for an accessory shed. Scott Rider stated that it was 400 square feet. Chairman Richard Janiga suggested the size should be the same as the accessory shed ó 20x20 or 10x40. Jay Walkowiak suggested the size could be smaller, 10x10, because it was only temporary. Nathan Barnard stated that 10x10 was too small. Scott Rider stated that the ones that he is seeing now are for cars and are about 10x20. Dave Muench stated that the structures should be large enough to store a motor home. Chairman Richard Janiga asked if there should be a smaller size in a residential area. Dave Muench stated that the size of the structure should be in harmony with the character of the existing development. Debbie Zimmerman stated that if she lived in town where the houses are close, she would not want something large next to her. Debbie Zimmerman felt the smaller the size, the better. Bob Miller suggested adding the size under letter F and re-lettering the other letters. Chairman Richard Janiga suggested having the size limit for 200 square feet for residential districts and 400 square feet for all other districts. The Planning Board agreed that was a good size limit.

G. Number of Structures ó Chairman Richard Janiga asked if the CEO wanted one temporary and one accessory structure on the property. Dave Muench stated that the code could state: "In the event that a property or business owner wishes to maintain more than one erected structure, a permit must be obtained by the CEO." Chairman Richard Janiga asked if everyone was in agreement and they were so the section will read as follows:

Number of Structures: Only one (1) temporary portable accessory structure may be stored on property at any given time. In the event that a property or business owner wishes to maintain a second erected structure, a permit must be obtained by the CEO.

Barbara Spanitz asked if Scott Rider as the CEO would determine what special circumstances would allow a property owner to have more than one structure or would the Planning Board be providing him with guidelines. Chairman Richard Janiga agreed that some guidelines would be good and in the guidelines it could be divided up by districts so that the residential district would only have 1, but in the agricultural district there could be more. Nathan Barnard suggested that if

the structure would not affect a neighbor then it could be allowed. Scott Rider stated that more than one structure would not be needed in the Rural Residential district. Debbie Zimmerman stated that the guidelines for obtaining more than one structure should be fire. Scott Rider stated that he does not think that there would ever be a need for more than one temporary structure. Debbie Zimmerman thought that may be a business would need to during a sale. Barbara Spanitz stated that more than one would be needed if a camper and a boat both needed to be stored. Scott Rider stated that he felt only one would be needed. Bob Miller stated that a cap on the number should be added. Chairman Richard Janiga suggested that the guidelines should follow harmony the character of the existing development. Vinney Beisiegel asked about storing a car for the winter. Scott Rider stated that it could be up for 30 days and then needs to come down. Bob Miller stated that if someone wants to store their car for the winter, they are forced to use a storage unit off of the property or build a garage. Chairman Richard Janiga stated that the temporary structure would not last in the winter time due to weather conditions. Nathan Barnard stated that the Snow Mob uses the tarp structures to park the groomers in all year long and they are just fine in the wind and snow. Vinney Beisiegel asked about storing items for the Marilla Car Show where all proceeds go to charity. Dave Muench asked if you could apply for a variance for special circumstances. Scott Rider stated that you could.

H. Location ó no changes indicated

IV. CEO Report

Scott Rider stated that the owner to the Mead Property on Four Road has come in for two variances to split the lot with the house and the barn.

V. Town Board Report

Barbara Spanitz stated that the Town Clerk will send out notices for Public Hearings for the Town Board and the Planning Board Clerk is responsible for sending out notices for the Planning Board Public Hearings. Planning Board Clerk, Melissa Stark, stated that Dawn Pearce sent the notices out the first time and had said that is was my responsibility the second time. Barbara Spanitz stated that Dawn Pearce would hand out the addresses.

VI. Open Presentations from the Floor

Robert Lemke asked the Planning Board to consider Town residents with motor homes who need to store them more than 30 days. Robert Lemke asked if a variance would be needed to store them more than 30 days. Chairman Richard Janiga stated that obtaining a variance was one avenue. Scott Rider stated that you would have to show that you have a hardship to obtain a variance. Dave Muench stated that a variance is for more than just a hardship.

David Arber asked if the Town of Marilla controlled the speed limits on Lyndale Lane. Barbara Spanitz stated that the Town has no control over speed limits. Judy Gillman stated that you would have to determine if the road is a county or a state road. David Arber stated that he is concerned about the 35 mph speed limit on the turn sections of the Lane. Bob Miller stated that he would go to the Town Board to request that the State DOT do a speed study on Lyndale Lane.

Bob Miller stated that Dawn Pearce had a question about the training sessions of the Planning Board. Planning Board Clerk, Melissa Stark stated that she had emailed Dawn Pearce back in June stating the dates of the meetings. The training sessions are set for Thursday, September 24, 2009 and Thursday, October 22, 2009. Both sessions are from 7-9 p.m. September's training session will be on Traffic Studies and October's session will be on Right a-ways for services, culverts, waterlines, power lines, and gas lines.

Chairman Richard Janiga suggested going back through and defining elderly housing in the MD zoning laws at next month's meeting.

Chairman Richard Janiga has requested for the Planning Board Recommendations to be emailed to all Town Board Members and all Planning Board Members as well as the Town Attorney.

Planning Board Clerk, Melissa Stark requested the Town Attorney's email address. Bob Miller provided the email address.

MOTION to adjourn at 8:55 p.m. moved by Judy Gillman, seconded by Vinney Beisiegel, all in favor 7/0.

Respectfully submitted,
Melissa R. Stark, Clerk