

**PLANNING BOARD  
TOWN OF MARILLA**

Date: April 15, 2010

Present:

Jay Walkowiak, Chairman

Nathan Barnard

Richard Rose

Dave Muench

Richard Janiga

Vinney Beisiegel

Debbie Zimmerman

Lorriane Martzolf, Alternate

Barbara Spanitz, Town Board

Jason Paananen, Consultant

Scott Rider, CEO

Melissa Stark, Clerk

Absent: none

Guests: none

I. Approval of Minutes

Chairman Jay Walkowiak opened the Planning Board meeting at 7:00 p.m. Chairman Walkowiak asked for the approval of the March minutes and if there were any additions or corrections. Chairman Walkowiak stated that on page 9 TGVA should read TVGA. Richard Janiga stated that he would like to amend his statement on page 5 from ða five man boardö to read ða five person board.ö Richard Janiga apologized to Barbara Spanitz and to Beth Ackerman for using the word man. Barbara Spanitz stated that her position is called councilman and no offense was taken.

**MOTION** to accept the March minutes with noted corrections, moved by Richard Janiga, seconded by Nathan Barnard, all in favor 7/0.

II. Old Business

a. Remote Outside Wood Burners ó Chairman Walkowiak stated that Jason Paananen handed out an outline for the new law. Richard Rose stated that New York State is making changes daily and any changes are outlined in red. Richard Janiga asked about the changes written in red. Jason Paananen stated that not all the changes were from the state. Some of the changes were from what was discussed at the March meeting. Richard Janiga asked if the state was planning on banning the burning units completely from subdivisions. Jason Paananen stated that he did not think that was the case, but there are set-back requirements that would make it difficult to have one in a subdivision. Richard Rose stated that he feels that town does not need extra phone calls about smoke coming in open windows when the weather is warm outside. Nathan Barnard asked why someone would be burning if it was warm outside. Richard Rose stated that some residents use the burner for their hot water not just heat. Debbie Zimmerman suggested starting at the beginning and going page by page through the law. Richard Janiga stated that one of the reasons he wanted to wait until the state had their act together was so the Town of Marilla did not come up with a law and then have to change it because the state came up with something different. Richard Rose stated that that was true but the state is just tweaking the law and not making major changes. Richard Rose felt that the Town of Marilla would be at or above the law the state came up with. Dave Muench asked

Richard Rose how he could make that statement when Richard Rose does not know what changes the state is making because Richard Rose is not present when the state is making their changes. Richard Rose asked what would be the problem with the Town of Marilla having to add something if the state does not include it or changes something in their law. Dave Muench asked why there was a big hurry to jump on this law. Richard Rose stated that the Town Supervisor asked the Planning Board to get this done. Dave Muench asked Richard Rose if he worked for the Town Supervisor or the Planning Board. Richard Rose stated that he works for the Planning Board but the Town Supervisor and the Town Board are over the Planning Board. Dave Muench stated that the Town Supervisor is our boss, but the Town Supervisor is asking the Planning Board to be diligent and review the law. The Town Supervisor is not asking the Planning Board to push the law through quick just because a member thinks it needs to be done quickly. Dave Muench stated that the Planning Board has all summer to work on the law because it is not burning season and if the state is making daily changes the Planning Board should take their time, make correct changes, and not push things through. Richard Rose asked if Dave Muench thought the law was being pushed through. Dave Muench stated that the comments that Richard Rose was making seem like the law should be pushed through. Vinney Beisiegel stated that the Town Board is trying to put this law in place to control the problems presently and prevent any future problems. Scott Rider stated that he has not had any complaints with the burners. Dave Muench stated that he would like to go through the law line by line but he does not feel the law needs to be voted on tonight. Chairman Walkowiak stated that he would like to review the changes and he feels that the Planning Board is on the right path to complete the law before mid-summer. Scott Rider stated that with the new law the residents with existing burners would have to comply with the new laws and that would apply to anyone who has recently bought one. Scott Rider stated that the Planning Board could take their time because the new law applies to all wood burners and not just the new ones. Debbie Zimmerman asked if the existing burner would be grandfathered in. Scott Rider stated that that would not be the case according to this law. Scott Rider stated that getting the existing burners up to code would be difficult. Jason Paananen suggested referencing the EPA guidelines and the DEC recommendations because they are always up-to-date on what the newest standards are. Debbie Zimmerman suggested comparing the new law to the old law.

Page 1 ó Dave Muench suggested adding to the wording of the CHIMNEY HEIGHT section to read: *“The vertical height of the chimney as measured from ground level.”* Dave Muench asked if the electrical and plumbing connections inspected by the CEO under COMMENCE OPERATION. Jason Paananen stated that on page 7 the resident needs to provide specs to the Town Hall. Scott Rider stated that when a resident comes in for a permit that all the connections and hookups need to be labeled and follow manufactures regulations. Debbie Zimmerman asked if they need to be inspected when they are installed. Scott Rider stated that he inspects wood fireplaces and burners. Dave Muench stated that if fireplaces need to be inspected then the wood burners should need to be inspected too. Chairman Walkowiak stated that the inspection would fall under the permit area. Scott Rider stated that many insurance companies need a letter stating that the connections have been inspected for proper hookup.

Page 2 ó Chairman Walkowiak asked if the board wanted to extend the HEATING SEASON. Richard Janiga stated that he does not want to shorten the season. Jason Paananen stated that there are provisions for agricultural use. Richard Janiga stated that there are some burners that are made for year round burning. Richard Janiga suggested extending the burning season from April 1 to April 15. Scott Rider asked how residents could use the burner for hot water heat year round. Dave Muench stated that the heat exchanger method is used.

Page 3 ó No changes indicated.

Page 4 - No changes indicated.

Page 5 ó Chairman Walkowiak asked about letter B - Setback. Richard Rose explained that the 150 feet setback conforms to the three acres needed to have a burner. Chairman Walkowiak stated that he feels the burner should be located behind the house and not in the front yard. Vinney Beisiegel asked about houses that are built sideways. Nathan Barnard agreed that your backyard is not always in the back. Vinney Beisiegel suggested that the burners should not be visible from the road. Nathan Barnard asked how far back a house needs to be. Scott Rider stated that a house setback is 100 feet. Nathan Barnard stated that it does not make sense for a burner setback to be at 150 feet because then the resident is walking 50 feet to the burner. Scott Rider stated that the setback of the burner should match the house. Chairman Walkowiak asked what the state requirements were. Jason Paananen stated that the state's setback is at 100 feet. Chairman Walkowiak stated that he feels the setback should match the state. Scott Rider stated that there would be a lot of variances if the setback was at 150 feet. Dave Muench stated that the side setbacks should be 75 feet because if it is set at 100 and a resident has 200 feet of frontage, they cannot put one in with the side setbacks. Scott Rider stated that the state's side setback is 100 feet. Nathan Barnard stated that the Town of Marilla could have a side setback of 75 feet until the state puts their law into effect and then the state law overturns the town law. Chairman Walkowiak asked the Planning Board what the goal with the burners was. Richard Janiga stated that he does not want to see someone follow the Town codes to a ðTö and have to take the burner down because the state codes have changed. Richard Janiga stated that what the Planning Board should be doing is looking out for the residents of the town. Jason Paananen stated that he does not feel that the DEC will have residents remove existing burners if they do not meet the setback requirements. He feels the wording of the draft will be changed and that existing burners will be grandfathered in. Debbie Zimmerman suggested that Barbara Spanitz ask the Town Board if the Planning Board should wait to see what kind of changes the DEC comes up with or if the Town Board wants to go ahead without knowing what changes will come. Barbara Spanitz stated that the Town of Marilla could be waiting a long time for the state to decide on changes and the Town of Marilla needs guidelines now. Scott Rider stated that the board could go with the 75 feet and then if the state changes it the residents could get a variance. Dave Muench stated that he liked 75 feet because then residents had room to move the burner on their lot. Jason Paananen asked about the rear set back. Chairman Walkowiak stated that 100 ó 150 feet would be good. Scott Rider stated that 150 feet would be good because there would be plenty of room with the road as a buffer. Chairman Walkowiak asked about letter D - Chimney Height. Richard Janiga stated that a standard chimney would be 12 feet and a chimney at 20 feet would have to have guide wires supporting it. Nathan Barnard asked why the chimney needed to be at 20 feet. Richard Rose stated that the chimney needed to be 2 feet taller from the highest eave of the house. Jason Paananen stated that the DEC recommends 18 feet. Chairman Walkowiak suggested changing the chimney height from 20 feet to 18 feet. Scott Rider stated that if a resident has a ranch home and a wood burner fireplace that the chimney only needs to be 2 feet higher than the tallest eave within 10 feet. Jason Paananen suggested that the board might want to put a statement in about the chimney needing to be 2 feet higher than the tallest eave. Vinney Beisiegel stated that residents have trouble with smoke with a short stack height.

Page 6 ó Letter D ó Chimney height should be changed from 20 feet to 18 feet.

Page 7 ó No changes indicated.

Page 8 ó No changes indicated.

Page 9 - Chairman Walkowiak asked about Section 1XX-13 Existing Outdoor Wood Boilers. Scott Rider stated that the real problem will be to get the existing burners up to code. Vinney Beisiegel asked if a resident would have to remove their burner if they are within 1,000 feet of a school. Scott Rider stated that according to these regulations it looked like it. Scott Rider stated that homes, if they are not newly built, are out of date and there will be a real argument for the burners to come into compliance. Jason Paananen stated that the regulations for the existing burners were coming from the DEC. Debbie Zimmerman asked if the permit would be a special use permit. Scott Rider stated that it would be just a regular permit. Scott Rider suggested that the section read "*a resident needs to refer to the current DEC regulations*" and then if the DEC wants to enforce the law then it is their problem to deal with. Richard Janiga asked how many burners there are in town presently. Scott Rider stated that there are probably more than the board thinks there are and he knows of 4. Richard Janiga asked if the existing burners would meet the new codes. Scott Rider stated that at least 2 are on properties less than 3 acres and would have to be removed. Chairman Walkowiak stated that handing it over to the DEC would avoid headaches for the town lawyer and Scott Rider as CEO. Jason Paananen asked if there were any complaints about the current burners. Scott Rider stated that there were none that he knew about.

Page 10 ó Dave Muench asked if number 4 should be in its own section for agriculture. Jason Paananen stated that number 4 has to do with existing burners. Jason Paananen stated that it should be moved in to a new section for all burners existing or new for agriculture use and longer burn times could be included there. Chairman Walkowiak stated that he agreed there should be year round burning for agriculture. Debbie Zimmerman asked Richard Janiga how the burners would be used on a farm. Richard Janiga stated that if he bought one he would use it to heat a shop but they could be used to heat water as well. Debbie Zimmerman asked if it would be used year round. Richard Janiga stated that it would not be used year round to heat his shop but it could be used year round to heat water. Richard Janiga stated that he feels this should also apply to commercial applications as well. Richard Janiga suggested moving number 4 to the commercial section. Jason Paananen suggested leaving the commercial section and adding a section for agriculture. Jason Paananen asked about the setbacks for a farm. Richard Janiga stated that if they were set at 150 feet he would have a problem because the barns are so close to the road. Jason Paananen stated that Richard Janiga could get a variance if he needed to.

Chairman Walkowiak asked if there were any more corrections. None were given. Chairman Walkowiak asked Jason Paananen to make the changes and bring a revised copy to Mayø meeting. Jason Paananen stated that if any additional changes needed to be made, to contact him no later than 1 week before Mayø meeting. Dave Muench thanked Jason Paananen and Richard Rose for all their work putting together the draft law. Richard Rose asked about chimney material. Scott Rider stated that the manufacture would have specs on the material used for the chimney. Jason Paananen stated that it is mentioned on page 5. Scott Rider stated that the UL standard for chimneys would be good.

### III. New Business

a. Subdivision Egresses ó Chairman Walkowiak stated that the board would start looking into this topic. Jason Paananen stated that it is important for future subdivisions to have a paved road and not just a paper road when being built. Jason Paananen stated that in the Town of Clarence, a road has to be paved leading to a secondary entrance/exit. Scott Rider suggested that the paper road land be donated to the town so the lot is not sold. Chairman Walkowiak asked if there needed to be a minimum number of homes. Jason Paananen stated that there was no minimum that he knew of and it was really up to the town. Chairman Walkowiak suggested that more research be done and the board would talk about it at the next meeting.

#### IV. CEO Report

None.

#### V. Town Board Report

Barbara Spanitz asked if the work session was on April 29<sup>th</sup>. Chairman Walkowiak stated that it was and it would be from 7-9. Barbara Spanitz stated that she was planning on attending. Barbara Spanitz stated that she tried, but the Town Board wants the Planning Board to attend meetings outside of the town. She is hoping that the state will expand the online learning part and then the Town Board can look into it again. Barbara Spanitz stated that George Gertz spoke to other town supervisors and members are welcome to attend sessions in other towns. Dawn Pearce will get in touch with the town clerks to see when the sessions are and will pass the information along. Barbara Spanitz stated that she would like members to attend the Houghton Training if they could. Members can pre-register for \$30.00 and also register the day of the training for \$50.00. Debbie Zimmerman asked if the Town Board took into consideration all of the thoughts of the Planning Board in their decision. Barbara Spanitz stated that the Town Board met and talked about it but went with the original proposal. Barbara Spanitz stated that she is sorry, but she voted yes for the proposal and realizes that Richard Janiga is disappointed.

#### VI. Open Presentations from the Floor

Richard Rose stated that he will make some phone calls to the state to see how far along the law is with regards to the burners.

Chairman Walkowiak stated that he spoke with someone from TVGA and they are planning fall classes and he will be notified when the dates are set.

Richard Janiga stated that he went to the Town Board meeting to represent the Planning Board and he wishes to express his deep disappointment that the thoughts of the Planning Board were not considered. Richard Janiga stated that he is not mad at Barbara Spanitz, but he is disappointed with the way she voted. Richard Janiga stated to Richard Rose that the Town Board is really the boss of the Planning Board because they are the ones who appointed each member and not the Town Supervisor. Richard Janiga stated that the Planning Board is most valuable to the town when they work independently and look into issues without an agenda. Richard Janiga stated that if the Planning Board just says what they are told to say it does not mean much. Richard Janiga stated that it has not been that way in the last 15 years and he will do his best to see that it is not like that in the future.

Nathan Barnard stated that he agreed with Richard Janiga's statements.

Debbie Zimmerman stated that she was disappointed that the Town Board did not consider any of the points that the Planning Board spent time preparing. There was a lot of time and effort into the thought process and it is quite disappointing that the Town Board did not consider any of it.

**MOTION** to adjourn at 8:21 p.m. moved by Nathan Barnard, seconded by Debbie Zimmerman, all in favor 7/0.

Respectfully submitted,  
Melissa R. Stark, Clerk