

**PLANNING BOARD  
TOWN OF MARILLA**

Date: March 18, 2010

Present:

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

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 February minutes and if there were any additions or corrections. No corrections were noted

**MOTION** to accept the February minutes, moved by Richard Janiga, seconded by Debbie Zimmerman, all in favor 7/0.

II. Old Business

a. none

III. New Business

- a. Remote Outside Wood Burners ó Chairman Jay Walkowiak stated that the Planning Board needed to revisit the recommendation on the outside burners. Chairman Jay Walkowiak stated that from all the reading that he has done on this topic a good starting point would be to require a permit on all the burners. Chairman Jay Walkowiak stated that the problem with the burners is that they are intended to burn hardwood but plastics, painted and treated wood, and pallets are also burned creating an unhealthy black smoke. Chairman Jay Walkowiak stated that he would also like to see a minimum acreage requirement be put on the burners to discourage them from being in subdivisions and a time frame in which residents could use the burners such as September 1<sup>st</sup> to April 1<sup>st</sup>. Richard Rose stated that he had passed out a copy of a draft law that is sitting on the governor's desk in Albany on these burners. The copy of the law came from the Director of Air and Water and the DEC. Richard Rose stated that in the draft NYS is recommending that the burners can be used from October 15<sup>th</sup> to April 1<sup>st</sup>, no wood can be burned that is transported more than 50 miles from the source or out of NYS, and the burners must have an 18 foot minimum stack. Scott Rider stated that a set back would be important to have with subdivisions. He suggested 150 feet back. Richard Janiga stated that it might be good to not allow the burners in RR zoning. Richard Rose

called the Massachusetts Department of Environmental Protection and found out the cost of having one of these burners is about \$10,000. Scott Rider stated that he knew of a few in town at the moment. Richard Rose stated that the burners sold in NYS cannot be sold in Vermont, Massachusetts, Maine, and New Hampshire because they do not meet emission standards. Richard Janiga stated that he feels the technology of the stoves will improve as the regulations are stricter because manufacturers will need to stay in business. Vinney Beisiegel stated that he found that a stack height of 6-8 feet will cause soot to be on a house 150 feet away. Chairman Jay Walkowiak suggested that the burners be placed on no smaller than a 3-5 acre lot and have set backs as well. Chairman Jay Walkowiak asked if the Planning Board wanted to present the NYS draft to the Town Board as a new proposed law. Nathan Barnard stated that he feels the Planning Board should look though it and make additions or corrections to it as they see fit. Jason Paananen stated that he could put together a rough draft and if the Planning Board had any changes or corrections they could call him and he could put it all together for the next meeting. Barbara Spanitz asked why a resident would want to heat using an outside burner. Richard Janiga stated that a resident is taking all the burning and moving it outside of the house. Barbara Spanitz asked if it was a hazard for children and pets. Richard Janiga stated that it does not have to be as with anything else. Barbara Spanitz asked if a fence should be placed around them. Chairman Jay Walkowiak stated that he knows of burners having locks on their doors for safety. Scott Rider asked if they are hot to the touch. Chairman Jay Walkowiak stated that they are pretty hot. Dave Muench asked if there were any farm uses for an outside burner. Richard Janiga stated that he was looking into one, among other things, to heat a barn of his. Richard Janiga stated that he did not know of any farmer having one at the moment. Dave Muench stated that the Planning Board should be mindful of Marilla being a Farming Community when writing this code. Dave Muench stated that on the last page of the draft there was a provision for farms. Debbie Zimmerman asked about having a permit for the burners. Scott Rider stated that there is no permit at this time, but a permit could be made. The permit would be \$25 ó \$30 and a sketch of the property would have to be provided with setbacks. Chairman Jay Walkowiak stated that the new code would provide for needed enforcement. Debbie Zimmerman asked if a fence should go around it. Scott Rider stated that access to it would be difficult. Richard Janiga stated that he does not have a fence around his wood burning stove in his house and children/grandchildren learn to stay away quickly. Barbara Spanitz stated that it could be a problem with neighbor children. Chairman Jay Walkowiak stated that maybe a lock on the door would be better than a fence. Barbara Spanitz asked if they would affect a resident's home owner's insurance. Scott Rider stated that it couldn't hurt as long as it was so far from the house. Chairman Jay Walkowiak asked the Planning Board to take that draft home and read it and call Jason Paananen with any changes. Jason Paananen asked if the Planning Board wanted a fence around the burners. Nathan Barnard stated that he did not think it was necessary. Richard Rose asked if the Town Board could have the draft by April 15 because George Gertz wanted this done quickly. Scott Rider stated that the rough draft would have to be gone over before going to the Town Board. Debbie Zimmerman stated that it would take a couple of months to complete. Richard Rose stated that he spoke to Al Zelinski, Director of Air and Water, in region 9 and he would come and speak when the Town had an open meeting about this. Richard Janiga stated that he would rather take his time and make sure the new code is what the Planning Board wants rather than rush though it just to get it done. Debbie Zimmerman stated that the Planning

Board could take some time on it because it is not burning season now. Chairman Jay Walkowiak figures that it would be good to have the code finished by June, 2010.

**MOTION** to look over the NYS draft and modify it for next month's meeting, moved by Richard Rose, seconded by Debbie Zimmerman, all in favor 7/0.

- b. Training Date ó Chairman Jay Walkowiak stated that Tuesdays would not be a good night with the parking lot due to Town Court. Jason Paananen stated that Thursdays were good for him. Jay Walkowiak asked the Planning Board if they were all still interested on having the training on the Comprehensive Plan. The Planning Board stated that they were and it would be good timing. Richard Rose stated that Houghton College would be holding an all day training session in May. Nathan Barnard suggested April 29, 2010 from 7-9 p.m. Chairman Jay Walkowiak asked for the ZBA and the CAB to be invited.

IV. CEO Report  
None.

V. Town Board Report

Barbara Spanitz stated that Houghton College would be having training on May 5<sup>th</sup> and if any member of the Planning Board would like to go to register soon. Barbara Spanitz stated that the Town would pay for the sessions and would reimburse mileage. Barbara Spanitz stated that the training sessions are excellent and she encourages everyone to attend. Barbara Spanitz asked if the Planning Board wanted copies of the Houghton Brochure. The Planning Board stated that they would. Richard Janiga asked if the information was available online. Barbara Spanitz stated that it was and then to register through the Town of Marilla.

VI. Open Presentations from the Floor

Jason Paananen asked the Planning Board if he should look into the number of egresses to subdivisions because George Gertz had contacted him and wanted the Planning Board to look into it. Chairman Jay Walkowiak stated that Jason could get things together for next month's meeting.

Debbie Zimmerman stated that she would like to go over the new Training Requirement Law. Debbie Zimmerman questioned the first paragraph with regards to members needing to attend four hours of training within 6 months of their initial appointment. Debbie Zimmerman wanted to know if that statement referred to all members or just members appointed this year. Barbara Spanitz stated that she did not know because she was not at the meeting where the law was written. Barbara Spanitz stated that members are not appointed every year, rather every seven years. Richard Janiga stated that the first time you are appointed is your initial appointment and the next time a member is appointed it is no longer your initial appointment. Richard Janiga stated that he is under the understanding that this part of the law is for new members only. Nathan Barnard wanted to know why the Town was only giving new members 6 months to get their training when everyone else gets a year. Debbie Zimmerman stated that when you first get on a board you are just getting your feet wet and then to make them do training when other members of the board are not doing training is a lot to ask. Nathan Barnard asked who wrote the law. Barbara Spanitz stated that she did not know. Nathan

Barnard stated that George Gertz or any member of the Town Board did not attend any of the training sessions and those training sessions were excellent and members of the Planning Board stayed longer at each session. Nathan Barnard does not agree with the Town limiting the members of the Planning Board to only two hours of in-house training and not allowing online training. Nathan Barnard stated that maybe the Town should pay for out of town training and not in-town but still allow it because it is beneficial to the Planning Board. Debbie Zimmerman stated that online training is something that is being developed and will get better and should be allowed as a training tool. Barbara Spanitz stated that the Town is not stopping a member from going online and taking a training course, but the Town would like the members to network with other towns. Nathan Barnard stated that in the new law it states that no online training would be accepted. Richard Janiga stated that a member could complete an online course but it would not count towards your town requirements and he thinks that it should. Debbie Zimmerman asked if TGVA training sessions would be options because they are not apart of the approved list in the new law. The TGVA holds training sessions in many surrounding towns. Barbara Spanitz stated that the law states that in house training sessions would be accepted as established by the Town. It does not specify what town so if the training is held in another town then that training would be accepted. Nathan Barnard stated that he does not understand why the Town Board is writing a training law. Barbara Spanitz stated that she would question this with the Town Board. Barbara Spanitz stated that most in Town training sessions have been held in the fall and then if a member misses one session it is hard to make it up. Debbie Zimmerman asked when the Town is voting on the law. Chairman Jay Walkowiak stated that the Town would hold a Public Hearing on the law on April 8<sup>th</sup>. Nathan Barnard asked if other towns have put restrictions on training. Barbara Spanitz stated that she did not know of any other towns, but there is no reason why Marilla could not be the first town to do it. Nathan Barnard asked if there was a problem that had been brought up and that is why the law was going into affect. Jason Paananen stated that the most other towns are saying is that you need to get your four hours requirement, but they are not saying where you have to get the training.

Richard Janiga stated that he would like to have the discussion on the training law tonight but the meeting is in Open Presentation and this discussion should be held in New Business. Richard Janiga stated that there are things in the law that the Planning Board does not like and the Town will be having a Public Hearing on April 8<sup>th</sup> and in all likelihood will be voting on the law that night. Richard Janiga would like the Planning Board to develop a statement from the Planning Board to be given to the Town Board on April 8<sup>th</sup> at the Public Hearing so the Town Board is aware of the thoughts of the Planning Board.

**MOTION** to put the New Training Law on to the agenda under New Business and to reopen New Business, moved by Richard Janiga, seconded by Debbie Zimmerman, all in favor 7/0.

Chairman Jay Walkowiak stated that he would not be able to be at the Public Hearing and he would like other members of the Planning Board to be there to represent this statement. Debbie Zimmerman asked the time of the meeting. Barbara Spanitz stated that Public Hearings are held before the Town Board meeting at 7:30. Richard Rose asked if the Planning Board had a problem with the Town not allowing the Planning Board to go online. Richard Janiga stated that he would like to take the law piece by piece. Chairman Jay Walkowiak agreed and suggested the Board look at letter A under section 3. Debbie Zimmerman asked if the Board wanted to take the six months of the

initial appointment and change it to a year. Richard Janiga stated that he thought there was value in getting training early on when appointed to a board but did not agree with the four hours within the six months. Richard Janiga asked if the appointment took place in October would the new member have to do 8 hours of training in a couple of months before the end of the year. Richard Janiga stated that letter A is ambiguous. Barbara Spanitz stated that the law is not real clear. Richard Janiga stated that this is where the online training could play a part. Richard Janiga stated that the online training would be valuable to a new member because there are some introduction courses available online and since it is in the developing stages, the online sessions available will continue to grow. Jason Paananen stated that with the training he is required to do, he gets a lot of it online because it is so convenient. Jason Paananen stated that the online training would be good for a member just starting out. Jason Paananen stated that the basic training courses go over the process the Planning Board goes through. Richard Rose stated that the way he understands it a member could do all the training they want to online but it will not go towards any training requirements from the Town because the Town Board is not for online training. Richard Rose stated that the way he sees it, the online training is a mute point because George Gertz is against it. Richard Janiga stated that last he checked it was a 5 man board and at least 3 out of 5 members need to feel the same way George Gertz does. Scott Rider stated that the Town Board needs to take an online training course to see what it is like. Debbie Zimmerman stated that she had completed online training in her work and her daughter needs 40 hours of online training per year. It is a great tool for someone to learn. Debbie Zimmerman stated that she does not feel that it should be shut off to the members when there is a lot of information that could be gained from it. Vinney Beisiegel stated that he does not learn best online and feels that the best way for him to learn is through hands on direct instruction that can only be obtained from attending a training session in Marilla or another town. In the physical training sessions people can ask questions and that would not be available to them in online training. Debbie Zimmerman stated that if you don't pass the test online, then a member could go back and have a chance to learn what they were weak in. Chairman Jay Walkowiak stated that different people learn in different ways and online training is valuable and should be an option to those who choose it. Chairman Jay Walkowiak stated that he has used online training for his job and is very much for online training. Chairman Jay Walkowiak feels that allowing a member to do all four hours online would be a mistake, but a happy medium of two hours should be available to someone if they would like it. A maximum of two hours per year should be allowed. Chairman Jay Walkowiak stated that he would encourage people to go out of town and get other points of view as well but to totally shut down online training is a mistake. Richard Rose stated that there has to be a reason why the online training is not being allowed. Richard Janiga asked Barbara Spanitz why the online training is in question. Barbara Spanitz stated that she is open-minded to it and has done online training in the past. Barbara Spanitz stated that the online training depends on the individual but does not feel that online training would be the best option for new members of the board. Barbara Spanitz stated that new members of a board should network with other members as do veteran members too. Barbara Spanitz stated that training is on the individual. Barbara Spanitz stated that she does not have a problem with a member that has been on the Planning Board for along time completing training online. Barbara Spanitz stated that she does not feel that all four hours of training should be completed online. Barbara Spanitz stated that she will agree with two hours of online training. Members of the Planning Board also agreed with two hours. Nathan Barnard stated that the online training could also be used if someone needed two hours at the end of the year. Barbara Spanitz stated that all

the members are good members, but she would hope that the members did not wait for the end of the year to do their training or rely on the online to complete training at the end of the year. Nathan Barnard stated that he agrees. Barbara Spanitz stated that if a member ends up with more than four hours of training then the extra hours should count toward next year. Nathan Barnard stated that no member is trying to get out of anything and all the members enjoy the training, but would like all options available to them. Nathan Barnard stated that the members are all here for the good of the town and would like to get something out of the trainings. Richard Rose stated that he has not gone online to train, but that the fact that someone could go online and not spend the time training and go directly to the test is the issue that the Town Board is concerned with. Richard Janiga stated that he does not know if that is true because that is not how he did his training online. Richard Janiga stated that you spend a solid two hours reading through material and then you take a test. Richard Janiga stated that he took an introduction to Planning Board course and there were only two courses available to him. Barbara Spanitz asked if that was all that was available online. Jason Paananen stated that there are other courses and NYS will soon be putting other courses on the site. Barbara Spanitz stated that she does not want a member to be able to take the same online class each year. Debbie Zimmerman stated that the Town has a record of what class was taken and could only allow the class to be taken one time. Barbara Spanitz suggested that the law might read that only one course could be taken every three years so there was no repetition of courses. Jason Paananen suggested that online courses could be taken each year, but the course would have to be a new course that has not been taken in the past. Barbara Spanitz asked how the Town Board would know if the course was already taken. Debbie Zimmerman stated that the certificate that the Town Hall receives has the name of the course on it. Richard Janiga stated that when you are finished taking the online test, NYS gives a certificate that should be printed for your records. Richard Janiga stated that the online training is the only training that requires a test to be taken and someone could learn nothing sitting in a physical training too. Richard Janiga stated that there needs to be some opportunity in the online training. Barbara Spanitz stated that the members of the Planning Board are not teenagers any more and could be trusted. Richard Janiga stated that he feels the problem would be with the Town Board then if they do not trust the members to get their four hours of training honestly. It is the Town Board who appoints the members. Barbara Spanitz stated that she agreed.

Debbie Zimmerman stated that it is a shame that the members are only going to be allowed 2 hours of training in Marilla because the training sessions were so valuable and other training sessions that she has attended in other towns have not been. Vinney Beisiegel stated that the training sessions he has attended in the town were wonderful and both times the sessions went beyond the 2 required hours. Nathan Barnard stated that the training sessions held in Marilla were tailored to the needs of the Marilla Planning Board and the sessions were always valuable.

Chairman Jay Walkowiak suggested rewriting the code to accept two hours of online training with no course to be repeated. Nathan Barnard asked if coming to the Public Hearing and presenting this would be enough time for the Town Board to be able to think about what the Planning Board is saying if they want to vote on it on April 8<sup>th</sup>. Barbara Spanitz stated that the Planning Board should write up their recommendations and send it to the Town Board as soon as possible. The Town Board is having a work session at 3:00 on Tuesday March 23<sup>rd</sup> to talk with members of the Highway

Department. Barbara Spanitz stated that she would bring the information up if there was time and if not then it would be covered at the work session on April 6<sup>th</sup>.

Richard Janiga suggested going back to section 3, letter A and make necessary changes. Richard Janiga suggested that letter A should read:

*All members and alternate members (hereinafter individually or collectively referred to as "Member" of the ZBA and Planning Board) shall be required to **attend a minimum of two hours** of relevant training courses within six months of their initial appointment and thereafter attend training sessions of not less than four hours every year thereafter.*

Richard Janiga suggested that changing the four hours to two hours would let the new members get their feet wet but would still provide the new members with some training in the beginning of their appointment. Chairman Jay Walkowiak stated that he agreed with the two hours. Richard Janiga stated that if there were some basic introduction courses that could be offered it would be beneficial to new members because attending a training session right off the bat on the Comprehensive Plan could be overwhelming to new members. Vinney Beisiegel asked if the Town Board put the new law together. Barbara Spanitz stated they did. Vinney Beisiegel stated that the Planning Board needs to follow what the Town Board has put together. Barbara Spanitz stated that the Planning Board could make recommendations to the Town Board before the law is voted on. Richard Janiga stated that he hopes the recommendations that are given are taken into consideration by the Town Board because the members of the ZBA and Planning Boards are the ones who are being most affected by this law. Barbara Spanitz stated that she will take seriously the recommendation of the Planning Board.

Debbie Zimmerman suggested changing section 4 to include the online training. Richard Janiga stated that the online training allows for individual members to do training on an area that they need more training on if other members of the board do not feel it is necessary. Richard Janiga stated that allowing the online training is not an escape from the requirements, but rather an enhancement of what is available. Dave Muench suggested that the sentence on self study should be omitted and online training could be added to the list of acceptable trainings. Dave Muench stated that the online training that he has to do is timed and a certain amount of time needs to be spent on each page. Section 4 should read:

*Training sessions which relate to the duties of the member of the ZBA and the members of the Planning Board may include programs offered by the NYS Department of State, NYS Association of Towns, NYSDEC, NYS Planning Federation, the Erie County Department of Environment and Planning, Erie County Cooperative Extension as well as such in house training sessions as may be established by the Town conducted by the Town Planner and/or Town Attorney. **No more than two hours maximum can be obtained online with no course to be repeated each year.** No more than two of the four hours annual training requirement may be obtained through in house training session. Each Member must receive a minimum of two of the four hour annual training requirements through outside training programs.*

***Omitted Sentence.** Each Member shall submit to the Town Clerk and the Chairman of their respective Board documents verifying their compliance with the training requirements on or before January 1 of the year following which such training was completed.*

Chairman Jay Walkowiak asked if a member received 6 hours of training in a year would the two extra hours carry over into the next year as is stated by NYS. Barbara Spanitz stated that she did not see why not. Chairman Jay Walkowiak stated that this is not stated in the new law and should be looked into.

Dave Muench stated that letter B in section 3 seemed awful stiff. Richard Janiga stated that there has to be a Public Hearing before a member can be removed from the board. Jason Paananen stated that that is correct. Richard Janiga stated that this law would have to be in place other wise you could ride out your term without being removed. This law sets the stage for removal to happen. Jason Paananen stated that NYS is encouraging training, but it is not mandated from the state. Most towns are mandating it. Richard Rose stated that he has no problems with letter B. It is plain and simple. You get your training and you have nothing to worry about. Jason Paananen suggested that some towns have a grace period of six months or so to obtain the necessary training. Chairman Jay Walkowiak stated that George Gertz did say when he was at the meeting last month to not wait until the last minute if there was a problem, but to go and talk to the Town Board and they would work with the member as there are always exceptions. Chairman Jay Walkowiak stated that he hopes George Gertz would be understanding and stay to his word. Dave Muench stated that it should be in black and white. Nathan Barnard agreed and stated that George Gertz will not be in office forever but the codes and laws will be. Chairman Jay Walkowiak stated that with having training sessions early in the year and having two hours of training available online that there would be plenty of opportunity to get the training needed with no problems. Jason Paananen stated that there are a lot of training opportunities available. Debbie Zimmerman stated that the Planning Board usually finds out about the training sessions either last minute or when it is too late to register. Debbie Zimmerman asked how to find out about these training sessions with enough time to make plans to attend.

Dave Muench suggested letter B under session 3 should state:

*Non-compliance with these minimum requirements relating to training shall be **reviewed by the Town Board and may result in cause** for removal from office and **baring** such member from reappointment for an additional term.*

Richard Rose stated that he needs to look at this differently than he is because he is retired and has no problems making training sessions. Richard Janiga stated that the Town needs to be careful not to exclude qualified members because the rules are not flexible. Scott Rider wanted to know if the members of the board receive the Town Topics Magazine because there may be training opportunities available in there. Chairman Jay Walkowiak stated that he does not receive it and other members get it mailed to their homes. Barbara Spanitz stated that she would look into how all the members could get that publication.

Vinney Beisiegel clarified that a person could do four hours of training out of town and none in town. Barbara Spanitz stated that that was correct. Vinney Beisiegel stated that if a member could not make the in town training sessions, they would not be as informed as the members that made the training session. Barbara Spanitz asked if the sessions were

recorded so the members could still get the information but not have it count towards their required hours because they were not present. Jason Paananen stated that any handouts could be passed along to members that are not able to make the training. Richard Janiga stated that it is acceptable to do four hours of training in another town but it is not acceptable to do four hours of training in your own town. Debbie Zimmerman stated that that is ridiculous. Richard Janiga asked Jason Paananen how to be invited to other towns' training sessions. Richard Janiga stated that members from other towns have to be invited to the training sessions. You cannot just show up and attend without an invitation. Barbara Spanitz asked if Marilla invites other towns to our training sessions. Debbie Zimmerman stated that they do not. Barbara Spanitz stated that there should be some way to invite other towns and be invited to other towns' training sessions. Richard Janiga agrees with that but just because other towns are putting on training sessions does not mean that they are available to the Marilla Planning Board. Debbie Zimmerman explained that last year when she was looking for two hours of training she called all around to other towns and they all have their own private training sessions for their boards. The only training session that she could find was through TGVA. Richard Janiga asked Barbara Spanitz to talk to the Town Board about this problem. If the Town Board feels that networking is important then they need to come up with a plan to do that. Barbara Spanitz stated that George Gertz meets with other Town Supervisors once a month and maybe they could talk about it as their meeting. Chairman Jay Walkowiak stated that it would be good to network with other towns. Debbie Zimmerman stated that when she went to Elma for a training session, she did not know what they were talking about for two hours. Nathan Barnard stated that it was a wasted two hours. Vinney Beisiegel stated that the training sessions that he attended in Marilla were excellent.

**MOTION** to recommend the Town Board make changes to the Minimum Training Requirements Law for Planning Board and ZBA Members moved by Richard Janiga, seconded by Debbie Zimmerman.

The vote of the member is as follows:

Debbie Zimmerman - aye  
 Dave Muench - aye  
 Chairman Jay Walkowiak - aye  
 Vinney Beisiegel - aye  
 Richard Rose - aye  
 Nathan Barnard - aye  
 Richard Janiga - aye

**MOTION** to adjourn at 8:58 p.m. moved by Dave Muench, seconded by Vinney Beisiegel, all in favor 7/0.

Respectfully submitted,  
 Melissa R. Stark, Clerk

