

A Public Hearing was held July 12, 2007 at 7:30 p.m. at the Marilla Community Center, 1810 Two Rod Road, Marilla, New York. The purpose of the hearing was to hear comment from the public to consider the site plan of the B-1 Business District of property owned by the Rohl Family located on the south west corner of Clinton Street and Two Rod Road, SBL #129.00-12-4.111. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (68) persons were in attendance. Officials present were:

Absent: John R. Foss, Supervisor
 George Gertz, Deputy Supervisor
 Barbara Spanitz, Councilman
 Fred Specht, Councilman
 Warren Handley, Councilman

Deputy Supervisor Gertz stated that the Public Hearing on the site plan for the B-1 Business District was now open and asked if there was any interested person who desired to be heard.

Shirley Limpinsel asked if the plan was the same as the one published in the East Aurora Advertiser? She feels that the two homes that are surrounded by Commercial Property should be offered the value of their homes by Mr. Rohl.

Tony Stark asked what the required frontage is for Commercial Property in the Town?

Nancy Stutzman Mastronardi stated that she is looking at buying property located across the street from the proposed property and asked what affect this will have on traffic?

Hearing no comments from those in attendance, the hearing was closed at 7:35 p.m.

Respectfully Submitted,

Public Hearing
July 12, 2007

A Public Hearing was held July 12, 2007 at 7:36 p.m. at the Marilla Community Center, 1810 Two Rod Road, Marilla, New York. The purpose of the hearing was to hear comment from the public to consider an application for a flag lot at property located on Bullis Road with the section block and lot number of 140.00-2-9.12, currently owned by Everett Hoffman. The approximate size of the proposed flag lot is 8.96 acres. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (68) persons were in attendance. Officials present were:

Absent: John R. Foss, Supervisor
 George Gertz, Deputy Supervisor
 Barbara Spanitz, Councilman
 Fred Specht, Councilman
 Warren Handley, Councilman

Deputy Supervisor Gertz stated that the Public Hearing on the proposed flag lot was now open and asked if there was any interested person who desired to be heard.

Hank Thauer asked what the Town's status is on allowing flag lots now? He asked if the 200 foot frontage was still required? He felt that if someone built behind his house he would be upset.

Hearing no comments from those in attendance, the hearing was closed at 7:40 p.m.

Respectfully Submitted,

A Public Hearing was held July 12, 2007 at 7:41 p.m. at the Marilla Community Center, 1810 Two Rod Road, Marilla, New York. The purpose of the hearing was to hear comment from the public to consider rezoning property on the north side of Bullis Road, across from the Marilla Free Library. The property is owned by John Schubert, who is proposing a Hardware, and Lumber Retail Store. Said parcel is further identified by SBL Numbr: 139.14-1-9.11 and totals 13.53 acres. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (68) persons were in attendance. Officials present were:

Absent: John R. Foss, Supervisor
 George Gertz, Deputy Supervisor
 Barbara Spanitz, Councilman
 Fred Specht, Councilman
 Warren Handley, Councilman

Deputy Supervisor Gertz stated that the Public Hearing on the proposed rezoning of property located on the north side of Bullis Road and east of Two Rod Road was now open and asked if there was any interested person who desired to be heard.

Residents with questions and opinions:

Dawn Parry stated that she is all for the proposed lumber yard, it would help make it easier to improve our homes.

Karen Thompson stated that she lives next door to this lot and has a lot of concerns. We have a lot of drainage problems which seemed to go on deaf ears with the Planning Board. She doesn't know if there is enough land there to have a leach field. She has also heard there will be trails back there for fishing, there is already a lot of trouble on East Avenue as well as at the Church, with kids vandalizing and carrying on. She doesn't want this in her backyard. She also does not want the animals allowed back there, they are annoying.

Stephanie Baiocco stated that she has concerns about a lumber yard across the street from a Library, Church, School and homes. Having semi-trucks delivering lumber is not safe. There will be accidents at that intersection which is already dangerous.

Arthur Parry asked why they don't put a red light at that intersection.

Tony Stark stated that he is concerned that the center of town is not the place for this, noise travels and he has traffic concerns.

Renee Flannery stated that she has traffic concerns, she feels it is unsafe for children. She thinks there are better locations in Town to accommodate the semi-trucks.

Amy Yohannes stated that this will be in her backyard, and she is concerned with her asthma and opposed to the increase in traffic. Semi-trucks trying to stop at that corner in the winter would be dangerous.

Shirley Limpinsel stated that her husband has been in construction all his life and he feels that the property sits very low and a lumber yard and Little Buffalo Creek don't go together.

Fred Miley stated that when he was a kid there were two feed mills in Town, a lumber yard would not create that many more vehicles. The building would not be near the creek, he thinks this would be a good thing for the residents. The traffic issue is a bunch of bologna.

Sarah Mochrie stated that she lived here when the feed mill was here and she stayed in town for the community's character. She doesn't feel that a lumber yard would fit the small town atmosphere.

Pete Ziccardi stated that he had written an article in the Advertiser and sent out a slinger with his neighbors. He is surprised that this hearing got this far, this should have been nipped in the bud with the Planning Board. He feels this does not go along with the Town's Master Plan, and this would be the start of spot zoning or rezoning as done in Alden or East Aurora. The experts who designed the Master Plan cited Clinton Street and Two Rod Road area and the Jamison Road and

Two Rod Road area to be designated for business development. He feels putting a lumber yard in the hamlet of town is not a good idea. He also stated that he had the signatures from the five families that would be most impacted by the rezone, and they are united in their belief that this will not bring any enhancement to the town, but the impact would be negative. He asked about the natural drainage that has been going under Bullis Road since before 1928, where will this drainage go? He wanted the Town Board to think about the consequences of what may occur if this is allowed to go through.

Steve Gingerich has concerns about the traffic, he stated he has the automotive shop on the corner and lives next door. He stated that 90% of the trucks coming down Two Rod Road turn onto Bullis Road, the State did a study about a year ago and there were no trucks because the police were sitting there, but on days where there are no police you can count two to three hundred trucks coming through a day. He also feels that if a light were to be installed at the Two Rod and Bullis Road intersection the State should cut the hill back. He doesn't mind a business there but would be concerned with an increase in people wanting to fish there, this would be a problem with littering and parking. He sees more problems than good.

Carmen Walton asked where the driveway would be located? She feels it would be a dangerous spot for a driveway.

Rick Janiga stated that he has been a member of the Planning Board for a long time and what is brought before the Planning Board is not on deaf ears. There is a misconception of what is being proposed, it's a small lumber and hardware store, this is not a lumber mill. The Master Plan shows that this particular type of business does conform to what is desired in town. If you moved this proposal out to the corner of Jamison and Two Rod which is zoned business, you would get the same opposition.

Karen Thompson stated that the owner stated at the Planning Board Hearing that the first year he plans on making a million dollars, she feels that is not a small business. She also feels the increased traffic is a problem.

Tony Stark stated that he is ticked off at the town again for its lack of information, it takes a woman handing him a leaflet to inform him. He also asked if this does pass, what stipulations would the Town have concerning business hours, hours that machinery can run and other issues that would affect residents?

Jeannie Ziccardi at the last Planning Board Meeting they were told that the lumber yard would not be open during church hours. She didn't like the statement that Mr. Handy made at the Planning Board meeting that maybe now it won't be open on Sundays but in the future? She doesn't like those types of statements that pacify residents now and change the rules later.

Hank Thauer asked if this land is in a flood plain?

Shirley Limpinsel asked if we are following the Master Plan why are we not listening to Mr. Ziccardi who stated that business development should be on Two Rod and Clinton or Two Rod and Jamison Road?

Arthur Parry stated that he has lived on many busy roads, but East Avenue is the biggest drag strip he has ever lived on, he has to listen to either racing cars or dirt bikes every night.

Jim Thompson stated that they have been told the project has to go through the DEC, but a town official told them it had already been approved by the DEC.

Karen Thompson stated that on Memorial Day John Foss told them it had already been approved and was asked if she wanted her property included in the rezone.

Pam Thauer is opposed to the whole thought process. If residents wanted convenience they should live in Cheektowaga or West Seneca, this is not the spot.

Resident on Two Rod Road asked what would the Town gain by allowing this, the school is right there and the increased truck traffic would not be good. He is not opposed to it but feels not near a school.

Stephanie Baiocco asked what would happen if the hardware/lumber yard would go out of business? What would be the plan for this property with an unused lumber yard? She stated that

everyone today shops at Home Depot or Lowes to save money and if he thinks he is going to get rich, he is going to go out of business.

Sarah Mochrie feels that the decision should not be put onto the DEC, the Town Board should take a look at this, rezoning is a mechanism.

Pam Thauer asked what will determine the Town Board's decision?

Linda Hutchinson stated that she can't believe this is not a wetland. She is upset this has gone on this long, and she feels with the school bus traffic there is already enough congestion.

Anthony Stark asked when the Town Board will make their decision.

Renee Flannery stated that she is concerned over the increased traffic and the school being right there.

John Prizner stated they moved here recently for the beautiful small town charm, he is concerned for the safety of children with the lumber yard. He also asked what would be the benefit to Marilla? He was grateful for the flyer or he would not have known what was going on.

Shirley Limpinsel responded that she knew because she attends the Board Meetings. She stated that when the rezone happened on Two Rod Road and Clinton Street they begged people to come. At that public meeting this room was filled with over 150 people and it still was passed. She stated this is a small Town and we are not trying to hurt anyone but common sense tells you not to put this in the middle of a small hamlet.

Pete Ziccardi stated that he was disappointed in the manner in which the Planning Board Meeting was conducted. He stated if they had been working for him they would have been asked to leave. They didn't address any of our concerns. He has his concerns about the makeup of the Board in other actions that took place; the golf course, the property on Clinton Street, and who was sitting on the Board at the time. He thinks that it appears there may have been conflicts of interest at the time, and this bothers him. We are losing more and more confidence in our elected officials because we are not being given the information that we need. He also stated that the Town doesn't put the information in the Buffalo News because it costs a little more than the Advertiser.

Charlie O'Brian stated that it is the same communications that was in affect six months ago, none. He thought the Town Board agreed to post the notices in front of the Town Hall.

Karen Thompson asked if approved what guidelines will be given to this man as to what can go there and what can't go there?

Jeannie Ziccardi stated that her husband went over to the Library to put the flyer on their Board and was not permitted to.

John Schubert submitted to the Town Board a petition with 69 names in support of the proposed rezoning for the local hardware/building supply store.

Deputy Supervisor Gertz responded to the questions that were asked and hearing no further comments from those in attendance, the hearing was closed at 8:45 p.m.

Respectfully Submitted,

_____ Town Clerk

A Regular Meeting of the Marilla Town Board was held July 12, 2007 at 8:45 p.m. at the Marilla Community Center, 1810 Two Rod Road, Marilla, New York.

Officials present were:

Absent: John Foss, Supervisor
 George Gertz, Deputy Supervisor
 Barbara Spanitz, Councilman
 Fred Specht, Councilman
 Warren Handley, Councilman

Deputy Supervisor Gertz called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

- a. Tri- Town Soccer requested use of the Town Soccer Fields on Eastwood Road for practices on Monday through Friday beginning at 6 p.m. and lasting approximately 90 minutes.
- b. Leonard Blizniak requested a position on the Zoning Board of Appeals.
- c. Eugene Gawronski requested a position on the Zoning Board of Appeals.

Committee Reports

Councilman Spanitz reported that the Planning Board will be holding its next meeting on July 19th at the Town Hall at 7:00 p.m.

Councilman Handley reported that due to the rain the Akron Community Band performed in the Community Center and it worked out well. The Friends of the Library sold root beer floats and the Historical Society sponsored a cake walk which proved that we have the best cooks in Marilla. We will be having a concert this Saturday in the Town Park at the reenactment encampment; the Hutchinson Family Revival. On August 22nd we will be having Glen Colton at 1 pm for the children in connection with the Library story hour. On August 26th there will be a Polish Festival with food and dancing. The last concert will be September 16th, we will once again have Ag Day from 1-5 pm, we will again have antique tractors, farm animals, youth groups selling refreshments, it's a great community event and everyone is invited.

Councilman Specht reported that the CAB is working on a Master Plan for the Town Park. They are looking at a possible walking path for the Park.

Open Board Presentations From the Public

Rich Janiga stated that he didn't feel it was appropriate to criticize the Planning Board, he is presently the longest tenure member on that Board. He and other members have a genuine interest on what goes on in Town. He encouraged anyone who wanted to get involved to send a letter in asking to be on one of the Boards, it has been a great experience for him. He knows there will be a new appointment made in 2008.

Tony Stark asked if an archeological study needs to be done on the Schubert's proposed rezoning?

Old Business

Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve the minutes of the Regular Board Meeting held on 6/14/07. Motion Carried.

New Business

Motion Councilman Specht moved, seconded by Councilman Spanitz to approve a flag lot for property located on Bullis Road with the section block and lot number of 140.00-2-9.12 currently owned by Everett Hoffman. The approximate size of the flag lot is 8.96 acres.

Roll Call Vote:

Councilman Specht ó Aye

Councilman Spanitz ó Aye

Councilman Gertz ó Aye

Councilman Handley ó Aye

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to approve the following resolution:

WHEREAS, the Town Board has received a sketch plan application for the development of the B-1 Restricted Business parcel owned by Rohl at the intersection of Clinton Street and Two Rod Road; and

WHEREAS, the Town Board has reviewed the sketch plan as presented and has determined that they are in support of the concepts set forth in the sketch plan presented.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. The Town Board does hereby endorse the concepts contained in the sketch plan for the development of the B-1 Restricted Business District at the intersection of Clinton Street and Two Rod Road.
2. The Town Board directs that the applicant proceed further with the development of the preliminary plat and such other steps as are required under the Code of the Town of Marilla.
3. This resolution shall take effect immediately.

Roll Call Vote:

Councilman Specht ó Aye

Councilman Spanitz ó Aye

Councilman Gertz ó Aye

Councilman Handley ó Aye

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to authorize Nussbaumer and Clarke to proceed with a water study for residents on Eastwood Road. Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that the Town of Alden and Marilla prepared a shared services application for the Town of Alden to receive water via the Town of Marilla. That paper work has been in Albany for quite some time now, the Town of Alden has indicated that we could be getting that in the next month or two which could possibly affect whether or not the proposed water district #5 in the eastern corner of town could proceed. She then explained to the gentleman with the question about the archeological study that the property owner of the proposed lumber yard would be required to file an environmental assessment form, and they have to notify the DEC, the Health Department, the State Office of Preservation and those people will decide if an archeological study is required.

Building Inspector John Fronczek submitted a written report with 7 building applications received with fees totaling \$538.00, 7 building permits issued with a total value of \$96,385, 16 inspections were made and one complaint was received for the month of June 2007, one Variance application with a fee of \$150, and one appearance ticket issued. A total of 173 official code enforcement activities were performed in the month of June.

Town Assessor Kandace Wittmeyer reported that the final roll is complete and filed with the County and the State. For this fall STAR Tax Rebate checks; Enhanced Star filers do not need to apply, only Basic Star filers must file an application which are not available to the public yet.

The Planning Board's next meeting will be July 19th at the Marilla Town Hall 7:00 p.m. and the minutes have been received and posted.

The Conservation Advisory minutes have been received and posted.

Fireman Dave Unverdorben reminded residents to keep their fire hydrants clear, and not to leave any fires unattended.

Town Historian Hubert Kutter wanted to remind residents that the Civil War Reenactment is this Saturday at the Marilla Town Park and it's free.

Open Board Presentations

Councilman Specht stated that a question was asked how do we make our decision? Councilman Gertz covered the basics, he thinks the Planning Board, contrary to some of the comments he heard, does an excellent job. Sometimes he agrees with the Planning Board's recommendations. He gave two examples that happened during his term as Councilman that he felt hurt the Town. One of them was a cell tower that was to be located at the Highway Garage, which would have brought over \$20,000 a year of revenue for the Town that could have paid for things. Pressure from the public deterred the developer, he didn't even get to vote on it, but he would have voted for it because it was good for the Town. The golf course was mentioned, we had two proposals for golf courses, one was approved and not built and the other one he never had the chance to vote. The Planning Board thought it was a good idea, and he thought so too, he would have voted for it, which would have also brought money into the Town. Someone asked what would be the benefit of the Lumber Mill, the benefit is going to be small, it would be a small increase in taxes that he would consider, it may add some convenience to some people and an aggravation to others. Those are the things he will weigh but he is not prepared to vote on it tonight.

Councilman Handley reported that the Pavilion Committee had a Photo Contest, this Town Board is very Community minded. That is one reason for the Pavilion, it was to bring people into Town. As a committee we keep trying to come up with concepts and ideas to pull people into Town so we can keep and enjoy that small town atmosphere. Take a look at those pictures because a lot of what you see there is what is happening in Marilla. We had 53 photos which is the largest participation we've had, last year was the first year of the contest and we plan on doing it again next year. He had one other comment that it is always brought up that nobody ever knows what's going on, his kids went to Iroquois and he receives the Alden Advertiser and the Elma Review which in both of those papers there is information of what is going on in Town. The public hearings have to be posted in there, we have to notify the people in town that a public hearing is going to be taking place. For a few dollars if you were to purchase the Alden Advertiser or the Elma Review which he would suggest purchasing both because you will be aware of not only what's going on in our Town but in the other Towns as well. The Planning Board had their public hearing posted in that also. The problem is the only time we hear from people is when it's happening in their backyard, and that is something that has to stop if this community wants to stay together because we have to work together on more than one topic.

Councilman Spanitz stated that the information is also on line and secondly the Town Board's work nights are every other Tuesday evening and open to the public. The Town Board Meetings are the second Thursday of every single month of the year and they are open meetings. She stated that regardless of what it might seem they spend a lot of time trying to make decisions for this town. We try to determine what is best for everyone and not everyone is always going to be happy but we do the best we can.

Deputy Supervisor Gertz stated that we wanted to assure the residents that the Town Board listened tonight, this is not a slam dunk or a done deal. He was impressed tonight by the way people expressed themselves. You gave some really good reasons, not to knock the Planning Board there are some good people on that Board, they made their decision and that was their job. People ask how these people get on the Planning Board, every year we appoint people to some sort of Board. How do these people keep getting these jobs and the answer is simple, they are the only ones who apply. It's easy to complain about what someone is doing wrong but he doesn't see anyone stepping up to the plate. He stepped up to the plate to run for office, he takes a lot of heat, doesn't enjoy it but he knew that going in. He respects what you have to say and if the public doesn't like what he does, they just have to replace him. The same is for the Planning Board instead of complaining about it, step up to the plate and get involved. We try to post as much information as we can, we can't go out and deliver slingers. We have our open

meetings and you can call the Town Hall and ask what's going on. The reason the Board Members couldn't talk tonight is because this is time for the residents to speak. The Board Members will speak at the next meeting and justify their decisions. There are no closed door meetings, it may appear when we directly go to a vote on issues but we have previously spent a lot of time discussing it at a public work session. There is going to be more discussion on this subject and that is why we are not voting on it tonight.

Something else he wanted to bring up is that this month alone, probably due to the fact that it is election time, he received two letters. One is about a Town Employee, and the other was about someone living in town that was doing something they don't like. He stated by all means if you have a problem with a Town Employee or you don't like the way some one's house is, or something is wrong that should be adjusted, the Town Board has to know about it, we can't fix it if we aren't aware of it. The problem with the two letters is that the people did not sign them, if you don't sign the letter it doesn't mean a thing. John Foss gave him one letter and he threw it in the garbage after he read it, not that he didn't want to act on it but no one signed it. They made some wild accusations against someone that they can't substantiate. It is sad that we start getting these things, whether it's one of us on the Board or a Town employee, regardless of what their position is, if they are doing something wrong you are not going to get ridiculed or reprimanded because you came forward to say this guy is doing something wrong or why is he doing it. If you can't stand up at a meeting like this and express your opinion which you have all done tonight, then you should be able to stand up at a meeting like this and say you have a problem with this individual, he will do it in private but you have to come to the Town Board and let them know what is going on we can't see everything. If you don't sign it, it doesn't mean a thing to anyone on the Town Board. The rest of the Board hasn't seen the letter because he is not going to show it to them because it's ludicrous the charges that were made are just unfounded, it's unbelievable that someone would make such charges against an individual, it's sad. If you can't sign it don't send it, an anonymous letter is sent by a coward, they just want to cause trouble, if there was any rational or substance behind that letter they would have come out and signed their name. On a lighter note there is a lot going on this weekend; the Bike for Ben is Saturday morning, the Civil War Reenactment at the Town Park, the Car Show is coming up at the end of the month. It will be an inconvenience to the people living in the center of Town but it's for Mercy Flight which has saved many people in town. He was once a medic for Mercy Flight and there are a lot of people who are alive today because of that helicopter. There was a bad accident today in front of Luder's Log Cabin, three people were seriously injured, one critical that they flew out. We are supporting Mercy Flight and we will have to deal with the inconvenience for the day. The Town of Elma's sesquicentennial is this weekend.

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the claims as follows:

General Fund Claims, Vouchers 268-318	\$ 25,466.05
Highway Fund Claims, Vouchers 115-132	\$ 19,914.14
Special Districts	
Sanitation (SR), Vouchers 73-79	\$ 12,323.61
Special Fire Voucher 10	\$ 2,010.35
Water District #2, Vouchers 16-18	\$ 2,681.76
Water District #3 Voucher 9	\$ 1,353.40
Water District #4 Voucher 7	\$ 817.40
Community Develop. PACE 12-13	\$ 2,556.73
Community Develop. HUD	\$ 72.25

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Deputy Supervisor Gertz to adjourn the meeting at 9:15 p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk _____ Supervisor
 _____ Councilman _____ Councilman
 _____ Councilman _____ Councilman