

Town of Union Planning Board Minutes
Tuesday, July 10, 2007

A regular meeting of the Town of Union Planning Board was held on Tuesday, July 10, 2007 at the Town of Union Office Building, 3111 East Main Street, Endwell, New York. Chairperson McLain opened the Planning Board meeting at 7:00 p.m. A Public Hearing on the proposed eight-lot subdivision at 1001 Prescott Avenue was held at 7:07. The Planning Board meeting resumed at 7:27, at the conclusion of the Public Hearing.

Members present: S. McLain, L. Miller, A. Elwood, B. Seliga, R. Signorelli

Members absent: J. Rotella, T. Crowley

Others present: Paul Nelson, Marina Lane, Alan Pope, Theodore Lauve, Patti Pomeroy, Perri Hart, Dennis L. Rivenburgh, Quirino Paniccia, Mr. Jamison, Mary Ann Sincavage, Kay Perkins, Ron Feher, Herbert Kline, Nancy LaBare, Jim Walsh, Bill Wash, Joe Moody

A. CALL TO ORDER

Chairperson McLain opened the regular meeting and public hearing of the Planning Board at 7:00 p.m.

B. APPROVAL OF MEETING MINUTES: JUNE 26, 2007

Chairperson McLain asked for a motion to accept the June 26, 2007 meeting minutes as written:

Motion made: L. Miller

Motion seconded: R. Signorelli

MOTION: Approving the minutes from June 26, 2007 as written.

VOTE: **In Favor:** L. Miller, A. Elwood, B. Seliga, S. McLain, R. Signorelli

Opposed: None

Motion Carried

C. EIGHT-LOT SUBDIVISION: 1001 PRESCOTT AVENUE

1. SEQRA Review and Declaration of Significance

Ms. Lane first read the "Description of Action" and "Reasons Supporting This Determination" from the Negative Declaration. (See Negative Declaration)

Ms. Lane then added that in the report that was prepared for this project it was indicated that the density is significantly less than what would be

allowed under the current zoning. Both the water and sewer are existing and tie-ins have been approved. The project is not subject to a 239 Review because it is not within 500 feet of county road or land. Mr. Nelson stated that the County was notified of the project strictly as a courtesy.

Chairperson McLain asked for a motion to approve the SEQRA Negative Declaration.

Motion made: A. Elwood
 Motion seconded: L. Miller
 MOTION: Approving the SEQRA Negative Declaration.
 VOTE: **In Favor:** L. Miller, A. Elwood, S. McLain, R. Signorelli
Opposed: None
Abstained: B. Seliga
 Motion Carried

2. PUBLIC HEARING: EIGHT-LOT SUBDIVISION: 1001 PRESCOTT AVENUE – HELD AT 7:07

3. Preliminary Subdivision Review

Chairperson McLain asked Ms. Lane to review the Preliminary Subdivision Plans. Ms. Lane read from Page 2 of her memo to the Board regarding “Environmental Review,” “Other Related Information” and “Staff Findings.” (See Memo of July 10, 2007)

Mr. Pope asked for clarification on whether the subdivision is clearly designated as single-family homes. The map shows attached green areas for each lot giving the appearance that development might be for multi-family homes. Ms. Lane stated that the project is zoned as RS-7 (Residential Suburban Low Density) which means it is intended only for single-family dwellings. The Application for SEQRA Review also clearly states that the project is committed to single-family residences.

Chairperson McLain asked for a motion to approve the Preliminary Subdivision Plans.

Motion made: R. Signorelli
 Motion seconded: L. Miller
 MOTION: Approving the Preliminary Subdivision Plans.
 VOTE: **In Favor:** L. Miller, A. Elwood, S. McLain, R. Signorelli
Opposed: None
Abstained: B. Seliga
 Motion Carried

D. REZONING REQUEST – PRESENTATION: 3901 & PORTION OF 4101 WATSON BLVD.

Mr. B. Walsh and Mr. J. Walsh of Walsh & Sons Construction were introduced as owners of the property in this rezoning request. They have purchased this property (3901 Watson Blvd.), which is adjacent to a parcel they currently own (4101 Watson Blvd.).

Broome County Economic Planning and Development expressed concern about the property because of wetland, flood plain, and potential archaeological issues. BCPED also was concerned with whether development on the north side of the property would conform with Traditions and the Homestead Village development.

Barnes & Williams did a Wetlands Delineation Study and Keystone has surveyed the wetlands. Packets were given to the Board members with a map showing the results of that study.

There is concern that it is an archeologically sensitive area. SHPO has released the north side from review. The SUNY Binghamton Archeology Department was contacted to study the south side. The Walshes received the Phase I report of that study today. SUNY conducted the study by digging test pits. All fill areas were excavated and the only finding was dirt from the north that had been moved in the 1980s during a major contour change in the property. Excavation was also done where the fill stopped and it was found to be the original topsoil. According to the Walshes, the report states that SUNY has released the property from any further investigation. The report will be sent to the State SHPO as required.

The Walshes are trying to develop the property, but have no tenants at this time. One purpose in developing the land is to protect their investment. They are the largest landowners adjacent to it and, as a result, state that they are probably affected more than anyone by the quality of any development. They are looking for tenants that will complement their townhouses and work well for everyone. With present zoning of RUMO they don't have flexibility to do small retail spaces, just residences and offices. On the northern portion they would like the zoning to be changed to CR which would allow retail as well, perhaps a strip mall that would allow mixed use. There are approximately 14 acres on the north side but one section cannot be developed because of the slope. There will be a buffer between their property and the residential area. Of the 14 acres, possibly 9 or 10 will be developed, mainly the flat areas. There will be no development near the pond.

A great deal of concern was expressed by the Board concerning the wetlands and constant presence of water on the south side. The owners' goal is to retain the wetland and try to relocate wetland from the northern side to the southern side. The western side, which is not wetland now, may become so because the

property falls as it goes west. They see two potential sites that could be developed in the south and are looking for a LI zoning to give them commercial development abilities. They stated that the trains traveling the tracks are loud making it almost impossible to talk so that it is well fit for LI zoning. The owners will not know whether the property is in the 100-year or 500-year flood plain until they have the totals from Keystone. Ms. Lane encouraged them to have the Wetlands Delineation Study done as soon as possible as the County will want to see it also.

There was discussion about the stability of fill for construction. Building permits would not be issued if there was a problem with the stability and builders would have to meet the standards of ADA.

Ms. Lane mentioned that she had talked with the owners about the concept of segmentation. If someone comes in with a rezoning petition and no accompanying site plan proposal, in order to prevent segmentation, you must consider the maximum potential development that could occur under the proposed zoning. It was agreed that there are many uses that are not compatible with that property. Once it's rezoned it opens the door to possibilities that might not be best for the Town. The Walshes stated that one of the reasons they were looking for LI designation would possibly be for a warehouse. When asked if they still intended to relocate their Vestal business, they stated they were not sure. Chairperson McLain read a long, varied list of businesses that are included in the LI classification, several of which are not appropriate for that property.

Mr. Nelson asked Mr. Pope what could occur if the Board releases the request for rezoning for a Public Hearing. His concern is how the Town can defend against residents' claims of spot zoning when they are creating areas where the permitted uses are significantly more intense than the surrounding uses already there. Mr. Pope said he would have to look at the most recent case law, but possibly rezoning could continue right down the street with what they have started, avoiding spot zoning.

Discussion took place about the possibility of separating the rezoning request. Mr. Pope suggested separating the property request into northern and southern segments because there seems to be more of a projected plan for the north. He stated that the Planning Board's and residents' concerns will focus about the uncertainty on the south side. Mr. Pope stated that if the Walshes came back with plans for the south side that go along with the plans for the north side they would be satisfying both themselves and the Board. The owners are hesitant to separate their request. They stated they would consider anything, but are very hesitant because they want to control the property due to their need to market it.

Discussion took place about the possibility of rezoning the south to CR or CHO. Descriptions of the types of businesses allowed under those zoning regulations

were read. Mr. Nelson expressed concern about truck traffic going through residential areas causing a problem for homeowners. Ms. Lane pointed out that limitations on development could be made through Floodplain Development special permits where restrictions could be made. The Town Board can restrict zonings in certain instances. The way the ordinance is written they can approve with conditions.

The Board also expressed concern that the rezoning request seems premature when there is no plan for tenants. The owners' response was that they are looking to do everything simultaneously – studying wetlands, archeological tests, the need for access to water and sewer and find tenants – but they can't promote it without knowing zoning. They feel the zoning is required in order to promote the property.

Ms. Lane asked about a timeline for the Wetland Delineation Study. Since they also want to move some of the wetlands, they will have to get approval and it may take many months. Mr. Nelson is concerned that the Army Corps of Engineers has started to rewrite some of the maps to indicate some of the levels of flooding that occurred. As of now you are able to build at the base flood elevation, but he questions whether that is a good idea when maps are not current.

It was agreed that the Planning Board does not have enough information to make a decision and that discussion would continue at the July 24, 2007 meeting. There needs to be more clarification and justification for any rezoning. Ms. Lane said the Town Board is not considering it at their July 11, 2007 meeting and will not be meeting again until August. This gives the Planning Board members time to review the request and the owners time to come up with a clearer plan.

E. OTHER SUCH MATTERS AS MAY PROPERLY COME BEFORE THE BOARD

- As discussed at a previous meeting, Ms. Lane confirmed that CVS will be using polished blocks, 8-inch and 10-inch, for the columns for the north wall of their new building and continue the dentil molding all the way across. The glass on the pharmacy area will be changed to a subdued gray. Members of the Board agreed that the changes will only add to the appearance of the building.

Chairperson McLain asked for a motion to approve the use of dental moldings and the 10-inch blocks to create the columns.

Motion made: R. Signorelli
Motion seconded: A. Elwood

MOTION: Approving extension of dental molding and use of 10-inch blocks on 2-inch columns and change glass on pharmacy to subdued gray.

VOTE: **In Favor:** L. Miller, A. Elwood, S. McLain, R. Signorelli
Opposed: None
Abstained: B. Seliga
 Motion Carried

- Ms. Elwood discussed concern about dumping on the flood plain of the old IBM golf course, the former Lot C-10. She pointed out that they have raised the flood plain with no apparent pre-approval. She took pictures which clearly show the dirt higher than the flood wall. The Fairmont Park residents are justifiably concerned and asking if there is a plan to now raise the flood wall.

Ms. Lane stated that there are apparently two separate sections in the Code Book. The issue is floodplain damage control vs. floodplain management in the zoning Section 205. In the newer section of the Code Book, it would be considered floodplain damage prevention. There was a subdivision approved for that site but it is no longer valid and therefore there is no site plan or grading plan. Mr. Pope will have to investigate which part of the Code is more current.

Ms. Elwood also expressed concern about the American Cancer Society site where they have an imposing bank of dirt that goes at a 30 degree angle up to the flood wall. There is a question whether a permit should have been acquired for such a substantial change. Ms. Lane will check the site plans and see what the slope was supposed to be. Ms. Elwood will print and distribute the pictures she took.

- There was further discussion regarding the rezoning of Watson Boulevard. It was agreed that applying for a separate PUD with their rezoning application would satisfy everyone. It would allow the owners the flexibility to develop the commercial and retail spaces they are looking for in the north. The PUD would show nothing on the south side, requiring them to come back and amend it at some point when they are ready to present a concrete plan. A PUD is advantageous as it gives the Board the ability to restrict future uses. The PUD was discussed months ago but at that time they did not have enough property. Since then they have purchased a parcel from Roger Steen which allows them to have a PUD (minimum ten acres), and the 25% open space that is required for PUDs could be used to preserve the wetlands. Ms. Lane will suggest this to Mr. Walsh when she speaks with him.
- Ms. Lane handed out changes to the Code Book to members of the Board. An Erosion and Sediment Control Law has been added so part of the zoning

ordinance has minor changes also. They were instructed to sign and return the cover page.

- Mr. Nelson stated that neighbors of Good Shepherd are not pursuing an Article 78. It is cost prohibitive for them. There will be a meeting set up with adjacent property owners about buffers. Mr. Nelson will be setting up the meeting. He also talked with Good Shepherd about the visual impact of their property. They are going to potentially put in some terracing to split up the difference on the slope into two parts.

F. ADJOURNMENT

Motion made: B. Seglia

Motion seconded: L. Miller

MOTION: Adjourning the meeting at 8:58 p.m.

VOTE: **In Favor:** L. Miller, A. Elwood, B. Seliga, S. McLain, R. Signorelli

Opposed: None

Motion Carried

Meeting Date

The next meeting of the Planning Board is scheduled for Tuesday, July 24, 2007 at 7:00 p.m.

Respectfully submitted,

Dawn Foti