

Town of Union Planning Board Minutes
Tuesday, September 11, 2007

A regular meeting of the Town of Union Planning Board was held on Tuesday, September 11, 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.

Members present: S. McLain, T. Crowley, A. Elwood, L. Miller, J. Rotella, B. Seliga, R. Signorelli,

Members absent: None

Others present: Marina Lane, Alan Pope, Mike Malarkey

A. CALL TO ORDER

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

B. APPROVAL OF AUGUST 28, 2007 MEETING MINUTES AND REVISION OF AUGUST 14, 2007 MEETING MINUTES

Ms. Lane distributed a memorandum from Mr. John Bernardo correcting an error in the August 14, 2007 meeting minutes to reflect that the Town is NOT building another flood wall. In Section G (Other Such Matters as May Properly Come Before the Board), Page 6, the words "The Town has purchased land from Sunoco to put another floodwall on one side of the property." should be replaced with *"The Town is in the process of purchasing land from Sunoco. However, this land will be used to enhance our pumping station located adjacent to the property being purchased. As a result, our pumping station should be more effective in the event of future floods."*

Chairperson McLain asked for a motion to accept the revision of the minutes of August 14, 2007.

Motion made: A. Elwood

Motion seconded: R. Signorelli

MOTION: Approving the revision of the minutes of August 14, 2007.

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

Opposed: None

Abstained: J. Rotella

Motion Carried

Ms. Lane read the "Staff Findings" from the memorandum dated September 11, 2007. She then read the "Staff Recommendation and Review" and made two changes. In Item No. 5 "a storm event of 05. inches" should read "*a storm event of 0.5 inches.*" In Item No. 6 the words "or permanent" should be removed so the end of the sentence reads "...*issuance of the temporary Certificate of Occupancy.*"

Ms. Lane showed the Board the Site Plan and explained that wheel guards and a Statement of Erosion Control have been added to the Plan. Ms. Lane then asked the Board's opinion on having low bush protection between the lot and the home next door. Mr. Malarkey stated that although he had spoken to the Planning Board about putting in shrubs, the Board had advised against it on the Alexander side because it would become an issue of obstruction for cars. It is now planned to be a green area. Mr. Malarkey also said that he finds that planting grass is much better for erosion control and maintenance, but would do whatever the Board recommends. Mr. Rotella asked about the grade changes and Mr. Malarkey responded that the lot is fairly level right now and any change after development will be insignificant.

Mr. Pope brought up a concern about the language in Item No. 7 under the "Staff Recommendation and Review." His concern was that, from a concept standpoint, the conditions as written would allow the developer to make changes before coming to the Board. This goes against the desires of the Board, which are that in order to make a change or modification, a developer must first make a request to the Planning Board. Mr. Rotella said he believed it would be better if the language would allow a developer to do a minor change through the Planning Department, such as a change in a variety of tree to be planted, but a significant change, such as the re-design of a parking lot, should have to come before the Planning Board. He brought up the point that delays in construction can be difficult and expensive for a developer while they are waiting for the next meeting of the Board. Ms. Lane said that in the PUD Code there is a way to measure when a change is significant enough that a developer would need to come back for an amendment. It is based on several parameters, including a percentage and changes in parking. The Planning Department will be meeting soon with the Villages of Endicott and Johnson City to start work on code updates, and, since there is no concrete solution, she suggested that it would be a good place to discuss what defines a "minor" site plan change. Mr. Pope was concerned about the legality of the language "null and void" in Item No. 7. If the suggested change is made that the applicant has to come in for alterations of the Site Plan, then there would be no need to declare it null and void. Ms. Lane suggested that perhaps something practical could be inserted like a stop work order or a citation.

After the discussion it was decided that the language in Number 7 would be changed from:

“7. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Should the applicant change the site plan approved by the Planning Board, even if by petition to the Town’s Zoning Board of Appeals, the site plan approval will become null and void and the applicant must resubmit a new site plan to the Town of Union Planning Board.

to

“7. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. *The applicant agrees that, should the applicant desire to alter, modify or change the site plan approved by the Planning Board, even if by petition to the Town’s Zoning Board of Appeals, the applicant must resubmit a new site plan to the Town Of Union Planning Board prior to any such alteration, modification or change to the original approved site plan.*

Mr. Crowley asked about the lighting fixtures that would be in the parking areas. Mr. Malarkey explained that there would be four wall packs, as recommended by the Town Code. Although they work well, they are not bright, but have a soft yellow glow. He assured the Board that they are designed not to disturb neighbors or interfere with traffic at the stop light on the corner of his property.

Chairperson McLain asked for a motion to approve the Site Plan for 724 Taft Avenue as amended.

Motion made: B. Seliga
 Motion seconded: L. Miller
 MOTION: Approving the Site Plan as amended.
 VOTE: **In Favor:** S. McLain, T. Crowley, A. Elwood, L. Miller,
 J. Rotella, B. Seliga, R. Signorelli
Opposed: None
 Motion Carried

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

In Mr. Nelson’s absence Chairperson McLain read from an e-mail he sent to her with updates and concerns.

- His first comment was in regard to the motion that was lost for the approval of the proposed Walgreen's property at the August 28 meeting. He stated that the Town Board had expected some kind of definitive recommendation from the Planning Board. The Town Board as well as the public was confused about what the Planning Board actually did with the Advisory Opinion. Mr. Nelson said that he is not sensing a lot of sentiment by the Town Board to rezone, and they will have to make a decision whether to take the next step, which would be to conduct a public hearing or reject the application. He went on to say that the Planning Board needs to take a hard look at the Hooper Road corridor for Future Land Use and make sure that if the area is intended to be Neighborhood Commercial that the scale of future buildings should be reflective of that goal. He says the Board needs to be very specific about the mixture of uses that would be appropriate in the corridor or it would leave the door wide open for interpretation. The Planning Board needs to provide as much guidance as possible to the Town Board and the Zoning Board.

Ms. Lane told the Board about a discussion she had with Mr. Nelson about the impromptu presentation made at the Advisory Opinion by the developer and his attorney. Mr. Nelson had been questioned from the public as to why the developer was allowed to make a presentation when no one from the opposite side was invited or given the opportunity to give a presentation. Ms. Miller suggested that the meeting was publicized and any one was welcome to attend. Chairperson McLain stated that their presentation had already been made publicly at the August 14 meeting and the Site Plan Review was supposed to be a time when the Planning Board discussed the project. The developer, engineer, attorney, etc. for a project do often attend in order to answer any questions that arise, but their contributions are usually not as long or as impassioned. If anyone else at the meeting had wanted, they too would have been allowed to speak.

Mr. Pope stated that he thought there was to be a discussion among the Planning Board members, but rather it was Mr. Nelson and Ms. Lane advocating in one direction and the developer advocating back against them. Chairperson McLain said that Mr. Crowley did speak at length about his approval of the project and that she and Ms. Elwood had added comments of disapproval. Mr. Signorelli said he too had joined the discussion, but his comments were more reactionary. Mr. Pope stated that the Board has done a fantastic job of looking at the plans and deciding what is wanted or not liked, but he did not see that normal discussion during the Advisory Opinion. When asked if Chairperson McLain should not have allowed the developer to speak, Mr. Pope said that flexibility is needed under these circumstances.

Mr. Signorelli pointed out that after the motion was lost he suggested that reasons should have been given to the Town Board so they would know why the motion died. Mr. Pope said he shared with the Town Board that he had told the Planning Board they had three options (let the motion die, vote to approve, vote not to approve). Since no other motion was made it sent the message that there wasn't enough to approve and there wasn't enough not to approve. Ms. Elwood stated she regretted she had not made a motion to deny, but when she suggested it the members agreed that there was no need to do it. She said that her understanding is that by law a reason has to be given for any decision made.

When asked by Mr. Signorelli what the status of the project was, Mr. Pope replied that it was on the work session agenda on September 5 but it was never discussed. It will be on the top of the list when the Town Board meets on September 19.

- Mr. Nelson also gave an update on the landscaping plan for the Good Shepherd project. He stated that a set of plans had been marked up for the attorney to take back to the developers. Mr. Nelson is confident most, if not all, suggestions will be implemented. The key issue is grading along property lines and whether some of the existing vegetation can be saved.

Ms. Lane added an update to the project. Phase I of the water study has been completed. According to the results of that phase, there can be an increase of 100 new living units. The Town will have to pay for further testing which might reveal there could be a total of 250 new living units which would include a \$50,000 upgrade to the Elton Drive water tank. It will be some time before it is known what the proposed water system will be for the project. Also the sanitary sewer line has to have some testing done. Ms. Lane felt it was too early for a public hearing at the Planning Board level as more concrete information is needed. Mr. Signorelli expressed concern about who was paying for the water studies, the Town or the developer. Ms. Lane replied that it is her understanding that you can't charge an impact fee to an organization unless you know it's going to benefit only their project. This water study is more wide-reaching so any future developers would probably have to contribute also. Mr. Pope added that Mr. Nelson and Mr. Bernardo had a discussion today to make that determination and that it was never the intention to have Good Shepherd pay 100 percent of the cost of the studies.

Chairperson McLain asked for clarification of the 100 to 250 additional units Ms. Lane had mentioned. They are not above and beyond the proposed units already discussed but show how many can be supported by the current water system. Further discussion and study of routing water from Johnson City and Endicott to this area is needed.

Ms. Lane said Jimmy's Auto Works received his official Order to Remedy Violation for Sales of Vehicles in an Auto Repair Shop notice.

Ms. Lane discussed the rezoning of the north side of Watson Boulevard to Commercial Retail. The Wetlands Report was received and distributed to Board members on August 28. She forwarded it to the County and they will be sending comments shortly. She stated that it is important that the members read the report because Mr. James Walsh repeated in conversations with her that he wants to fill in the wetlands on the north side of Watson Boulevard. This preliminary report has been sent to the Army Corps of Engineers and the study may take as long as six months to complete. Mr. Walsh wants to know where the Board stands on the project and whether any other studies would be required. The Wetlands Report shows that the property is not properly graded. The water flows from the north to the south through a culvert and into the Susquehanna River. Ms. Lane did tell Mr. Walsh that the Board could make a decision more easily if they had a clearer idea of the proposal. She also mentioned that the Planning Department would recommend only one ingress/egress for the property, no matter what type of development occurred, due to lack of visibility on Watson Boulevard from the west. Mr. Walsh commented that they are planning on partitioning the property, and therefore one ingress/egress would require individual buildings with easements into one exit. This plan appears different than the original sketch which did not show lot lines. She cited a report from 1981 from the Environmental Management Council that referenced some type of dumping which was graded low risk. She contacted the Binghamton University Geography Department, whose student prepared the report, but they could find no literature to support it. The Johnson City Fire Department was also referenced and she spoke to the person who was chief at that time and he could not remember the finding. Ms. Elwood said that she had had a conversation with someone some time ago familiar with the study who knew contaminants were on the property. She will see if she can locate that name.

Ms. Lane plans to provide more detailed maps of the area with text providing more information at the next meeting. Ms. Lane stated that the Board is only being asked to look at the portion north of Watson Boulevard. A large part of it is no longer in the flood plain. Dogwood Court, located on top of the hill to the north of the property, had a detention pond built many years ago to handle storm water drainage, but it has since filled and storm water just flows down the steep bank. It is unclear at this time who even owns that section. Mr. Pope asked why the Board should worry about a wetlands determination since the Army Corps of Engineers will eventually be responsible anyway and asked whether there were any other issues that would keep the Board from giving the Advisory Opinion. Ms. Lane mentioned the idea of a conservation easement at the perimeter of the

