

Town of Union Planning Board Minutes
Tuesday, September 26, 2006

A regular meeting of the Town of Union Planning Board was held on Tuesday, September 26, 2006 at the Town of Union Office Building, 3111 East Main Street, Endwell, New York. Chairperson McLain opened the meeting at 7:00 p.m. Unless otherwise noted, the Chair does not vote on motions.

Members present: S. McLain, A. Elwood, L. Miller, T. Crowley, R. Signorelli, A. Paniccia

Members absent: B. Seliga

Others present: Paul Nelson, Marina Lane, Philip Akel, Ron Compeau, Jim Mushock, Theodore Lauve, Tim Miller, Richard Miller II, Jeff Rotella

A. CALL TO ORDER

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

B. APPROVAL OF MEETING MINUTES, SEPTEMBER 19, 2006

Chairman McLain asked for a motion to approve the September 19, 2006 meeting minutes as presented.

Motion made: A. Elwood

Motion seconded: R. Signorelli

MOTION: Approving the meeting minutes from the September 19, 2006 meeting as presented.

VOTE: **In Favor:** L. Miller, A. Elwood, T. Crowley, Signorelli

Opposed: None

Abstained: None

Motion Carried

C. WESTERN RIDGE SUBDIVISION, 1135 SIMON ROAD

Ms. Lane informed the Board that the final plans were submitted and accepted by the Engineering Department. The SWPPP and final plans are in order. A 239 review was not required and there were no comments received from the DOT and the BMTS.

Ms. Lane informed the Board that she added paragraphs 12 and 13 to the Planning Department Recommendations. These paragraphs deal with the micro pool maintenance issue. She detailed in paragraph 12 that language shall be clear and contained in the deed of each parcel of the subdivision. All properties of the subdivision shall be listed in the deed language. Paragraph 13 deals with the maintenance issues should the owner/developer fail to perform the required maintenance.

Mr. Lauve presented the final plans and explained the only changes as:

- The movement of the water line.
- Placement of water vs. storm sewer.
- West side 25 foot no cut buffer.

These changes will be included in the deeds. The name discrepancy between Brandenmere Court, Norman Drive and Neil Road will be worked out.

Ms. Lane read the staff recommendations.

The Planning Department recommends approval of the final subdivision plans with the following conditions:

1. The proposed subdivision is located in an area that was been deemed to be “underserved” in a recent parks capital improvement report. The applicant has opted to provide a cash donation in lieu of suitable dedicated parkland within the subdivision. Accordingly, the applicant shall submit a check for \$6,300, payable to the Town of Union and designated for the Recreational Trust Fund, prior to the Planning Board Chairperson signing the original plans. The Planning Department recommends this fee be designated for use at the Boswell Hill Park, which is the Town park closest to the development.
2. Five original plans shall be brought to the Planning Department for the Planning Board Chairperson’s signature and filed in the Broome County Clerk’s Office no later than November 28, 2006, sixty-two (62) days after Planning Board approval (*Section 181-14P*).
3. No work shall begin on the subdivision until the plat is recorded in the County Clerk’s Office and submitted to the Planning Department. The original plans shall have the Broome County Health Department’s stamp. A receipt from the Broome County Clerk’s office shall be submitted to the Planning Department. The stamped originals are to be distributed as follows: one (1) to the County Department of Health, one (1) to the architectural/engineering firm, one (1) to the developer, and the two (2) remaining signed originals to the Planning Department. Two (2) paper copies of the signed original plans, and one (1) reproducible drawing (mylar), shall be submitted to the Engineering Department. (*Section 181-14M, N, O and P*)
4. A copy of the itemized, contracted cost estimate for construction of all utility and street construction for the Neil Road extension and Alexandra Place, shall be submitted to the Engineering Department no later than three weeks from stamped approval (*Section 181-17A*). Estimates shall include all road construction items including unit price and quantities, and excluding the base and top coats of blacktop. Applicant shall submit a check payable to the Town of Union in the amount of \$26,000 to cover the cost of the base and top coats of blacktop that will be installed by the Town.
5. The street deed and any easement descriptions shall be submitted to the

Engineering Department for their review and approval within four weeks from the date of the stamped Subdivision Approval.

6. The applicant is responsible to submit all deeds, easements (easement maps and descriptions), or other appropriate legal documentation to convey to the Town all improvements shown on the approved subdivision plat no later than six weeks from stamped approval. The applicant shall submit the appropriate gains tax affidavit(s), real property transfer form(s), abstract(s), required by the Town Attorney, and funds sufficient to record or file, as the case any be, all legal documents. (*Section 181-16B*). All street deeds submitted to the Town shall contain the language detailed in Section 181-16C of the Town Code Book: "The obligation of the grantor to make improvements within the property granted herein, in accordance with the requirements of the Town of Union, shall continue, notwithstanding the acceptance and recording of this deed. The acceptance and recording of this deed by the Town of Union shall not constitute acceptance of said improvements for maintenance until said improvements have been completed and approved by the Town Board of the Town of Union." [Amended 4-6-1994 by L.L. No. 5-1995]
7. Conditions (1) through (6) must be satisfied, a performance bond or letter of credit for 100% of the subdivision improvements, and deeds shall be submitted to and accepted by the Town Board prior to any Building Permits being issued. (*Section 181-15A*) The letter of credit, street deed, filing applications, and fee shall be submitted to the Engineering Department. (*Section 181-16 B and C*)
8. Under Section 181-15A, conditions for final subdivision plan approval and issuance for a building permit is stated as follows: "The approval of the subdivision plat shall not be deemed final until the applicant has completed all required subdivision improvements to the satisfaction of the Town and the improvements have been accepted by the Town Board, or until the applicant has filed a letter of credit which has been accepted by the Town Board and has offered for dedication all streets, easements, and improvements."
9. Prior to the Town's acceptance of the street and utility improvements, two paper copies and one digital version (AutoCAD not higher than 2005) o f the as-built drawings must be submitted to the Engineering Department. (*Section 181-19E*)
10. A maintenance bond, a letter of credit, or other guarantee approved by the Town Attorney for ten (10) per cent of the cost of the construction of the extension of Neil Road and the all of Alexandra Place shall be presented to the Engineering Department for their review. Said bond shall be submitted to the Town Board for their acceptance. The bond shall cover a period of one (1) year. (*Section 181-19G*). The developer shall agree to follow the details for street acceptance as described in Article VI: Construction of Subdivision; Street Acceptance, 181-15 through 181-20 of the Code of the Town of Union.

11. Any construction activity that disturbs one acre or more shall require a General Permit for Storm Water Discharges from New York State Department of Environmental Conservation. The permit is related to the construction activity. A Notice of Intent (NOI) is required to be submitted at least two days prior to starting construction. NYSDEC requires preparation of a storm water prevention plan, an on-site monitoring program, utilization of Best Management Practices, and accurate documentation for record keeping prior to submitting the affidavit. Once the final subdivision plans are finalized and approved by the Town of Union, an addendum to the SWPPP will be prepared substituting a reduced set of Final Subdivision Plans for the reduced set of Preliminary Subdivision Plans in Appendix G – Stormwater Management Plans, Details, and Specifications.

12. Micro-pool maintenance language shall be clear and contained in the deed of each parcel of the subdivision. All properties of the Subdivision shall be listed in the deed language. The micro-pool shall be maintained in a functional condition by the owner of the property on which it is contained, as described in the Stormwater Management and Pollution Prevention Plan (SWPPP).

13. Micro-pool maintenance language must be reviewed and approved by Town Attorney prior to stamped approval by the Planning Board Chairperson. The following shall be submitted to the Town Attorney for review:

“This conveyance is also subject to the terms and provisions of the Western Ridge Subdivision Storm Water Prevention Plan approved by the Town of Union Engineer and made part of the final Subdivision approval granted by the Town of Union on September 26, 2006. The Storm Water Prevention Plan requires the construction and maintenance of one (1) micropool, integral parts of this Plan, located on Lot 15 of the Subdivision on lands currently owned by the Developer. The Plan requires that the Developer / Owner continue to own the pond and be responsible for continuing maintenance of the micropool. In the event that the Developer / Owner fails to perform the required maintenance, the necessary maintenance shall be provided by the Town of Union. Any charge for this maintenance by the Town of Union shall be paid by the owners of the Subdivision lots on an equal, pro rata basis.

14. The applicant shall submit typical lot details for an uphill lot and a down hill lot showing erosion control measures to be undertaken during construction.

15. Overall subdivision plans shall be revised to show erosion control measures that will be in place during construction. Construction shall be phased so that there is no more than 5 acres of land disturbed (i.e. exposed soil) at any given time. A construction-phasing schedule shall be submitted prior to commencement of work.

16. The developer and his attorney shall be responsible for finalizing the name of what is currently known as Neil Road extension, Norman Drive, and

Brandenmere Court with Broome County

17. The twenty-five (25) foot no-cut buffer along the west and southwest border of the Subdivision shall be maintained and described in the each deed for Lots #4, 5 and 6.

Chairman McLain asked for a motion to approve the final subdivision plans with conditions as amended.

Motion made: L. Miller
Motion seconded: R. Signorelli
MOTION: Approving the final subdivision plans with conditions as amended.
VOTE: **In Favor:** A. Elwood, T. Crowley, R. Signorelli, L. Miller,
A. Paniccia
Opposed: None.
Abstained: None.
Motion Carried

D. CVS , 800 HOOPER ROAD, PARK MANOR PLAZA

Mr. Nelson provided a brief recap of the events which transpired on September 19, 2006 as: A motion was made to approve the negative declaration under SEQRA. The motion failed by a vote of 2 aye/2 nay with the chair not voting.

The applicant was asked to submit a long form addressing the aesthetic concerns of the building and indicate if there would be any mitigating improvements that could be undertaken to change the appearance of the building to address the concerns raised by the two members who voted "nay". The applicant submitted and the Planning Department completed pages 11-21 of the long form. The Board reviewed the responses noting that the only impact was to the aesthetics of the building. There were no mitigating improvements mentioned in the long EAF.

The available options were:

- One of the two members who originally voted against the motion to approve the negative declaration could revive the motion by making a motion to reconsider the original vote (R. Signorelli or L. Miller). That motion to reconsider must be made at this evening's meeting.
- The Planning Department prepared a conditioned negative declaration for the Board's consideration if the Board chooses to pursue that avenue. The only "downside" to this action is that it automatically requires a 30-day notice that must be published in the Environmental Notice Bulletin, which would outline the conditions of approval.
- No action for the building in its current configuration and existing elevations.

The applicant does have the option to resubmit with a different material for the exterior that would meet with the Planning Board's approval. That could be done as early as the next meeting.

Chairman McLain asked for a motion to reconsider for a negative declaration under SEQRA.

No motion was forthcoming.

Mr. Philip Akel addressed the Board as follows:

"After the motion was made and wasn't approved, I brought some additional information to present. You can see the elevation. You've seen the photos of the brick and block ... it is our opinion that the material we have submitted is equal to the material that the Board has requested in terms of performance, its energy efficiency, its durability and so on. That block will match the Giant as the board has requested a desire to do in terms of its color and in terms of its exterior, it will match the block on the Giant. In fact, it will even match the exterior of the nearby retaining walls, giving a further continuity with the plaza. Greg Binzer (sp) is not in attendance tonight, but he did give me a document which is a construction report of a nearby CVS which is being built in Dixon City, Pennsylvania. I know the board was especially concerned that this might be a scaled back version of a different CVS, a better CVS perhaps. This same format, same exact prototype is being built ... the pictures you see here reflect the prototypical color scheme, the board of course has asked for uniform color, which is not reflected in these photographs. This same prototype is also located in Clinton, New York, right near Hamilton College. The Dixon City store is under construction. The Clinton, New York store is open for business. Again both have the prototypical two-tone color scheme. As a matter of fact, this prototype is the only prototype shown on the CVS website. I know that when we did our website, we put our best-looking, newest store on it and that's what they did here, perhaps in their opinion. They simply did not put a brick building, as it looks just like the one they are proposing here, of course the color scheme is different. We feel that this split face block is a new material, a widely used material and we are even noticing some buildings in the Town which have made use of it in the recent past. I have a series of photographs on that, too. (Passes out photos) In the first frame, there is McDonald's on the George F. Highway, McDonald's of course relocated from our plaza years ago. The McDonald's in our plaza was a brick building and the used the split faced block. The Auto Zone is also shown, which is located on the George F. Highway, a split faced block building. I also show the Manley's, recently approved on Watson Boulevard. I know that Manley's on the George F. Highway close to Hooper Road is a brick building and yet, their new format appears to call for split face block. There is another Manley's near the arch in Endicott which is split face. The next frame, of course, is the Laser Car Wash on the George F. Highway, followed by the gymnasium building in Highland Park across the street and a certain unnamed competitor is shown in the last frame. I cannot say that's an attractive building because my uncle would fire me, but it's there anyway. I would also ask you to consider the setting of the building, it will be softened by the landscaping. It will be softened by the elevation change between Hooper Road

and the building itself being set down low. In addition, my uncle misspoke last time when he said that the building would set back 30 feet from Hooper Road. It is in fact about 70 feet from the Hooper Road curb line, which is a lot farther than my unnamed competitor and for example, the Manley's and a lot of those buildings are closer We really feel that the CVS would be an enhancement to the Park Manor Plaza and a benefit to the community. It will create a few new jobs, I know retail jobs aren't always prized, but there are some management jobs there, pharmacy jobs as well, not to mention the fact that the building will contribute to the tax rolls. I also ask that you consider my family's track record, it's not really mine, it's more my father and uncle's. We have been up there for an awful long time, we've invested several million dollars in that plaza and I want you to know that we would not do anything to jeopardize that at the plaza. We are not an absentee landlord, we are there, we live here. My nephews play in that park and we're the biggest fan of that plaza. If we thought that CVS was going to detract from the plaza or surroundings, we wouldn't be pursuing this. Last but not least, as you know, I and my family will be directly involved in the project. We will be there and I promise we'll do a good job for you. I appreciate you taking the time to reconsider."

Mr. Signorelli expressed his displeasure with the use of the split faced block. He indicated that he had visited the CVS on Upper Front Street (1290 Front Street) and was not pleased with the appearance of the split faced block on that building. He noted that the front of the CVS at 1290 Front Street was brick and the split faced block was used on the back storage area of the store and the truck dock area. He felt the block was faded and weathered.

Mr. Crowley expressed his support for the split faced block. He felt the Board was going too far with their restrictions. Mr. Crowley stressed that this would bring jobs to the community as well as another pharmacy to Endwell, both of which he felt would be beneficial to the residents of the community. Mr. Crowley cautioned the Planning Board that they were going too far with their restrictions.

Ron Compeau addressed the Board reporting that they have built many buildings with split faced block and have found it to be a good product equal to brick. He understands that aesthetic issues are personal issues, but stressed that the product is a quality product that performs well.

Chairman McLain noted that the Motion to Reconsider was not made, making the original submission moot. The applicant can approach the Board at a future meeting with a revised plan.

Mr. Paniccia announced his resignation from the Board effective immediately. He went on the record as follows:

"As a Planning Board member, as an engineer of a company who builds buildings like this all the time, and as a taxpayer, I'm appalled and embarrassed of this Planning Board. I want to go on record and say it. I'm officially resigning effective today and you guys will have my resignation tomorrow."

Mr. Paniccia exited the meeting at 8:00 p.m.

Mr. Crowley agreed with Mr. Paniccia's statements, but acknowledged that he would not resign from the Board. He again expressed his displeasure at the lack of a vote for CVS.

E. SOUTHERN TIER INSULATIONS, 322-326 CHAUMONT DRIVE

Mr. Rotella presented plans for Southern Tier Insulations.

Chairman McLain asked for a motion to recommend an advisory opinion to the Zoning Board of Appeals for an area variance.

Motion made: T. Crowley
Motion seconded: A. Elwood
MOTION: Recommending an advisory opinion to the ZBA
VOTE: **In Favor:** A. Elwood, L. Miller, T. Crowley, R. Signorelli
Opposed: None
Abstained: None

Motion Carried

Chairman McLain asked for a motion calling for a Public Hearing on October 17, 2006, for a Special Permit required to build in the flood fringe (Article IX).

Motion made: A. Elwood
Motion seconded: L. Miller
MOTION: Setting a Public Hearing on October 17, 2006
VOTE: **In Favor:** A. Elwood, L. Miller, T. Crowley, R. Signorelli
Opposed: None
Abstained: None

Motion Carried

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

The Planning Board decided that Chairman McLain would represent the Board to the media if any inquiries are made regarding the CVS decision.

J. ADJOURNMENT

Motion made: L. Miller
Motion seconded: R. Signorelli
MOTION: Adjourning the meeting at 9:26 p.m.
VOTE: **In Favor:** A. Elwood, L. Miller, T. Crowley, R. Signorelli
Opposed: None
Abstained: None
Motion Carried

Meeting date

A meeting of the Planning Board is scheduled for Tuesday, October 3, 2006 at 7:00 p.m. to review the comprehensive plan.

The next regular meeting and Public Hearing of the Planning Board is scheduled for Tuesday, October 17, 2006 at 7:00 p.m.

Respectfully submitted,
Kathleen C. Carney
Transcriptionist