

TOWN OF FARMINGTON PLANNING BOARD

October 21, 2009

APPROVED MINUTES

The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington's Planning Board Meeting. .

MEMBERS:

- David Degear, Chair
- Meg Godly
- Ron Herendeen
- Robert Kleman
- Scott Makin

Also present: Town of Farmington Director of Development and Planning Ron Brand; Town of Farmington Code Enforcement Officer, Floyd Kofahl; Town of Farmington Engineer Lance Brabant, MRB Group, P.C.; Town of Farmington Building Inspector Jack Henehan; Farmington Fire Association Chief Ray Wolf and Assistant Chief Phil Robinson; Walt Baker, DSB Engineers and Architects; Ernie Ackerman, A&D Development; Michael Collins, 579 County Road 8; Christopher Stahl, 123 County Rd. 28, Palmyra; Rocco Venezia, Venezia and Associates

OPEN MEETING:

The meeting was called to order at 7:03 p.m. After everyone recited the Pledge of Allegiance, Chairman Degear made the introductions of Planning Board members and staff. He explained the emergency evacuation procedures to those present and said that copies of the evening's agenda and legal notices are available on a table by the door. Mr. Degear also asked that all present set their cell phones on vibrate.

APPROVAL OF THE MINUTES OF THE OCTOBER 7, 2009 MEETING:

Mr. Makin made a motion to approve the Minutes of the October 7th Board meeting with corrections. Ms. Godly seconded the motion. In a voice vote, all five Board members voted aye.

LEGAL NOTICES: *None needed*

PUBLIC HEARINGS:

PB 0904-09 PRELIMINARY TWO LOT SUBDIVISION APPLICATION

**NAME: MICHAEL COLLINS, 579 COUNTY RD 8, FARMINGTON, NY
14425**

LOCATION: 340 SHELDON RD

ZONING DISTRICT: A-80

REQUEST: To re-subdivide Lot #8 of Whitetail Subdivision into two parcels, creating Lot 8A consisting of 10.051 acres with an existing dwelling, and Lot 8B consisting of 5.203 acres to remain vacant (continuation).

Mr. Collins appeared for his application. Chairman Degear reminded the applicant that he was asked by the Board to work with staff on the issues involved with this application. Mr. Collins

said he did not consider this necessary since he spoke with the Code Enforcement Officer (CEO) several times previously and he did not have any questions. He added that the reason his application was tabled at the last meeting was so that the CEO could provide input tonight. Mr. Kofahl was excused from the October 13th meeting.

The Chairman explained to Mr. Collins that he was asked to discuss with staff any other possible options.

The applicant responded that the issue is whether this lot is buildable since Mr. Brand did not think it is. He asked what needs to be done to make this a buildable lot. Although he has no plans to build on it at present, he wants to know what he would need to do to make it buildable. Mr. Degear reminded Mr. Collins that he told the Board it would be used for recreational purposes only. The applicant explained that he was looking 10 years into the future when his children are grown up and his present home will be too big. He might want to build a ranch house on this lot for his wife and himself. If this cannot be done, he would keep it for recreation. Instead of selling it, he could donate it to the church being moved onto the adjoining parcel. This might give him a tax benefit.

When the applicant finished speaking, Chairman Degear asked for staff comments.

Mr. Kofahl reported that he spoke with the Town Attorney, Jeff Graff, about this application since there were some concerns about whether this qualifies as a subdivision. Mr. Graff had originally thought that the present owner, Mr. Stone, was keeping and maintaining this land, subdividing it for his own recreation. This action would not meet the Code's definition of subdivided land. Instead, this is a true subdivision since the parcel under discussion is being conveyed to someone else.

The CEO went on to say that there have been many subdivisions of land in Farmington where the second lot is described as "non-buildable." If anyone wants to build on that lot, they are required to come back to the Planning Board and meet zoning and other required conditions. In this case, anyone seeking to build on this lot will need DEC (Department of Environmental Conservation) approval before the Planning Board can even consider a building plan. It is possible to build in a buffer zone, Mr. Kofahl pointed out, but it is not easy. The applicant would have to meet flood plain regulations. In addition to DEC approval, the applicant would also need Town approval.

The CEO explained that the church referred to by the applicant is the historic Quaker meeting house being moved to the adjacent property on Sheldon Road and County Road 8. He has received a preliminary plan to do this.

Mr. Brand spoke next. He reminded the Board that, when they approved the Whitetail Subdivision, they approved the maximum number of lots possible in this area. The SEQR action was based on that maximum. In order to move forward, the Board must address SEQR. Because of SEQR requirements, the Whitetail Subdivision needed larger lots than are usual in this zoning district.

The Development Director also raised the question about the effects of approving this subdivision. Although there have been many subdivisions approved by the Planning Board in the past, they were for lots that could be built on at some future time. This is likely to remain a non-buildable lot and perhaps there should be a note on the map saying this lot cannot be developed.

He cautioned the Board members that approving this subdivision could affect all the lots in the Whitetail Subdivision.

Mr. Brand concluded by asking that a means of access to this lot be shown on the plans.

Mr. Kofahl commented that the Whitetail Subdivision could have more than 14 lots without affecting the entire subdivision. There could have been other lots. To his surprise, the DEC went out and delineated more lots than actually were planned for the entire Subdivision. The CEO also pointed out that there are two other five-acre lots in the Subdivision. The large lots exceed zoning requirements for this district.

The Chairman recalled that the Planning Board asked the DEC to flag the wetlands in this subdivision. The Board was surprised at how many wetlands were there. This is why the lots are so large.

Mr. Degear asked for Board comments next.

Mr. Makin explained that he does not see this application as being different from any other “line in the sand” application for a subdivision. While it is true no one can predict the future, he is ready to move forward provided the access issue is resolved.

Ms. Godly asked if the applicant met with staff as the Board requested. Mr. Kofahl said that the applicant only called him to ask if he would be present tonight. Nothing new was discussed. Ms. Godly reminded Mr. Collins that she asked him to meet with staff, look at the map, discuss the issues and come back with answers to the Board’s concerns. The applicant said he has no concerns. He has had this property for 1 ½ years now and had no idea he could not subdivide it. When he purchased the entire parcel, there was nothing in the deed saying he could not subdivide it.

The Board member responded that this is why he was asked to meet with staff—to understand what issues are involved in creating this subdivision. That discussion should not take place during a Planning Board meeting. Ms. Godly expressed concern that the applicant is not yet ready to make an informed decision.

She continued by explaining that access is another important issue. Mr. Collins replied that he has spoken with Mr. Kofahl many times. There is road frontage. Later in the meeting, the CEO explained that access is possible from several different points along the road with adequate sight distance. Chairman Degear explained that the applicant needs to put one on the plans. This will be a condition for approval.

Ms. Godly also pointed out that there are two different staff opinions about the number of subdivisions allowed. She recalled the challenges involved in working with the DEC to create the Whitetail Subdivision because of the wetlands. She concluded by saying that she is not yet ready to act. She asked the applicant and staff to meet and come up with a solution which addresses all the Board’s concerns.

Mr. Herendeen said that this subdivision of land meets the Town Code. There are many non-buildable lots in Farmington because of wetlands. Many of them are small woodlots which have been created from Day 1. They pre-exist today’s Code. Although this lot cannot be built on, this does not mean it cannot be subdivided. He is willing to proceed tonight.

Mr. Kleman agreed with Mr. Herendeen and said all his questions have been answered.

Mr. Degear said he is not comfortable with approving this subdivision and cannot support it.

At Mr. Degear's request, Mr. Collins provided some background for his application. He said that he bought the entire lot, believing he could build two homes on it. The developer did not tell him that there could be only one house there. His finances forced him to sell the property. The new owner only wanted the house and the surrounding 10 acres so he agreed to sell the wooded area back to Mr. Collins

The Director of Development cited a possible PosDec SEQR issue and asked the Board to continue the public hearing until the November 4th meeting. Mr. Makin asked why this application is different from any other line on the ground subdivision as, for example, Mr. Stahl's which is also on tonight's agenda.

Mr. Brand explained that they need to evaluate the parcel being subdivided to meet SEQR requirements. There are constraints on the property. He cited Chapter 144, Section 18.B of the Town Code: *"Lot sizes and dimensions in excess of the minimum standards of Chapter 165, Zoning, of the Code of the Town of Farmington shall be required by the Planning Board should the Board find that the size and dimensions of lots as proposed endanger the health, safety or welfare of the community or the environment."*

Mr. Brand continued by saying that a lot can be subdivided if the new lot formed is big enough for development, for example, the Stahl subdivision on tonight's agenda. Another consideration is to determine what permitted use would be possible. This lot has no footprint for an allowed use and no buildable area.

At this point in the meeting, Mr. Kofahl was called away for a family emergency.

Ms. Godly asked for more information. Mr. Brand pointed to the map and said that, in looking at the map, you can see that there is no buildable area on the proposed lot. Why create a parcel that is not able to be used? What could the Town do with the lot if there is a tax foreclosure?

Mr. Makin and Mr. Herendeen disagreed with this argument. Ms. Godly pointed out that the woodlots mentioned by Mr. Herendeen were subdivided before the current codes were in effect.

Mr. Brand told the Board members that they can try to do a SEQR determination tonight but he advised them to be careful about creating an adverse impact on the environment. The Chairman added that the Board is obliged to consider these impacts in doing a SEQR determination.

Mr. Collins said he cannot understand why there is any difference whether he owns this land or its present owner, Mr. Stone, does. He explained that Mr. Stone does not want him using the land without owning it because of the liability issue. He said he will give up the idea of building on the lot. He can donate it to the church for a tax deduction and still use it.

Chairman Degear pointed out that these are the issues he must discuss with staff.

Mr. Makin tried to call the question but Chairman Degear pointed out that the public hearing must be closed first. He announced that this is a public hearing and asked if there is anyone present who wishes to speak for or against this application. No one replied. He then repeated his

question and, again, no one replied. Next, the Chairman asked for a motion to close the public hearing. The motion was made by Mr. Makin and seconded by Ms. Godly.

Mr. Brand reminded the Board that they now have 62 days in which to decide. Is there enough evidence to do a SEQR with a determination of non-significance? If staff recommends a positive declaration, more time might be needed.

In a voice vote, Mr. Herendeen, Mr. Makin and Mr. Kleman voted aye to close the public hearing while Ms. Godly and Mr. Degear voted nay. The motion was carried by three votes to two. The public hearing was closed at 7:48 p.m.

The Development Director requested permission to ask for input from the Town Attorney on the correct SEQR process. The Board agreed that he should consult with Mr. Graff. Ms. Godly reminded the applicant to work with staff to find a solution.

Mr. Makin then moved to table action on the application until the November 4th Planning Board meeting. Mr. Kleman seconded the motion. In a voice vote, all five Board members voted aye to carry the motion.

SITE PLAN APPROVAL:

PB 1002-09, FINAL 3 LOT SUBDIVISION APPLICATION

NAME: ROCCO VENEZIA, 2800 BUTTERNUT LANE, CANANDAIGUA NY 14424

LOCATION: 751 CROWLEY RD.

ZONING DISTRICT: RR-80

REQUEST: A three lot subdivision approval to create Lot 1 consisting of 1.597 acres with an existing dwelling, Lot 2 consisting of a 1.107 acre building lot for a single family dwelling and the remaining lands of the parent parcel Lot 3 consisting of c.105 acres to remain vacant.

Rocco Venezia appeared for this application. He said Harold Weigert wishes to subdivide his land so that a house can be built on it for his grandson. Preliminary approval has been granted and all conditions met. There is one non-buildable lot. The grandson will need site plan approval in order to build on it.

Chairman Degear asked if there are any plans to further subdivide the land. Mr. Venezia said not at this time. He explained that Mr. Weigert recently lost his wife and is concerned about tying up loose ends.

The Chairman asked for staff comments.

Mr. Brand said the conditions for preliminary approval have been met and the Preliminary Plat signed. This application will have the standard conditions.

There were no other staff or Board comments.

At the Chairman's request, the Clerk read aloud a draft Final Plat resolution with the following conditions:

- 1. The title of the drawing is to read "Final Plat, Lots #1, #2 and #3 Harold F. Weigert Subdivision."**
- 2. The Final Plat Approval is valid for a period of 180 days from today and shall expire unless extended by the Planning Board at a later date and by separate resolution.**

3. ***Once the Planning Board Chairperson's signature is affixed to the Mylar plus four (4) prints, the Final Plat Mylar Map and two (2) paper prints are to be filed with the Ontario County Clerk's Office within 62 days of signing.***
4. ***No site development shall be allowed until an official tax map number for the lot(s) has been filed with the Town Assessor's Office.***
5. ***All erosion control measures shall be installed and inspected by the Town Code Enforcement Officer or his/her representative prior to any permits being issued. This statement shall be noted on the final plans.***
6. ***Third party inspections may be required by the Town C.E.O. at the expense of the owner/developer.***

Mr. Venezia said he understood and agreed to the conditions. Mr. Herendeen made a motion to approve the Final Plat with the conditions. Ms. Godly seconded the motion. The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Robert Kleman—aye

Scott Makin—aye

David Degear—aye

The resolution was adopted by a unanimous aye vote of all five Board members.

PB 1004-09 (revised), 2 LOT FINAL SUBDIVISION APPLICATION

**NAME: CHRISTOPHER STAHL, 123 COUNTY RD 28, PALMYRA, NY
14522**

LOCATION: SAME AS ABOVE

ZONING DISTRICT: A-80

REQUEST: Request a two lot subdivision approval to create lot 1 consisting of 1.110 acres with an existing dwelling, and the remaining lands of the parent parcel, lot 2 will consist of 46.7 acres to remain vacant

Christopher Stahl appeared for his application. After pinning up the map, he explained that he has sold his house but wishes to keep the remaining acreage.

There were no staff or Board comments.

At the Chairman's request, Clerk O'Malley read aloud a draft Final Plat resolution with the following conditions:

1. ***The title of the drawing is to read "Final Plat, Stahl Subdivision, Lots #1 through #2."***
2. ***The Final Plat Approval is valid for a period of 180 days from today and shall expire unless extended by the Planning Board at a later date and by separate resolution. Once all conditions of Final Plat approval have been met and all required signatures are affixed, the Planning Board Chairperson will sign the Final Plat Map.***
3. ***Once the Final Plat has been signed, the applicant has 62 days to file said map and copies with the Ontario County Clerk's Office and the Town Development Office.***
4. ***The Planning Board determines that parkland is not a condition of final plat approval for this application.***
5. ***The Planning Board determines that a Park and Recreation Fee will not be required for Lot #1. However, a Park and Recreation Fee in the amount established by Town Board resolution is to be paid at the time of issuance of Building Permits for Lot #2.***
6. ***All site lighting shall be compliant with the Town's Lighting Regulations, Chapter 165, Section 64 of the Town Code. The Final Plat Map shall contain a note to this effect.***

The applicant said he understood and agreed to the conditions. Since the closing on the house will be next week, he asked for the lighting information to give to his surveyor as soon as possible. Mr. Brand advised him that the same information should be on his Preliminary Plat approval.

Ms. Godly then made a motion to approve the Final Plat with the conditions. Mr. Kleman seconded her motion. The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Robert Kleman—aye

Scott Makin—aye

David Degear—aye

The Final Plat resolution with the conditions was adopted by a unanimous aye vote of all five Board members.

**PB 0303-09 FINAL 19 LOT SUBDIVISION APPLICATION, SECTION 1
NAME: A & D DEVELOPMENT, 22 WHITESTONE LANE, ROCHESTER,
NY 14618
LOCATION: ESTATE OF BEAVER CREEK. EAST SIDE OF NEW
MICHIGAN ROAD AND ON THE NORTH SIDE OF
TOWNLIN RD
ZONING DISTRICT: RR-80 DISTRICT/ TL278 CLUSTER
REQUEST: Request a 19 lot subdivision approval for the purpose of cluster
development (TL278) for single family homes**

Ernie Ackerman from A&D Development and his engineer, Walt Baker, from DSB Engineers and Architects, were present for this application. Mr. Baker said he brought in another set of Preliminary Plans to replace the missing ones. Mr. Ackerman reminded the Board members that he objected to the conditions presented at the last Board meeting regarding easement filings and sidewalks. He also pointed out that he cannot be responsible for when the Town Assessor's Office assigns tax numbers.

Mr. Brand reminded him that, in the Auburn Meadows Subdivision, Mr. Ackerman took over a year to file the easements. During that time, lots were sold and now the easements must be obtained from the new property owners. The Town does not want to have the same issues with the Beaver Creek Subdivision. The Development Director explained that this is why the resolution requests the easements to be filed before the Chairman signs the plans.

Mr. Ackerman denied this, saying that the residents' easement problem arose with the Stonewood Subdivision, originally approved before he took over the development.

Mr. Brand responded that he is referring to Section 2 of Auburn Meadows. Mr. Baker pointed out that the Town Attorney decided not to file the easements for that section.

Chairman Degear recognized Mr. Henehan, the Town Building Inspector, who explained that project easements go through his office before being sent to the Town Attorney. He checked the Section 2 folder and found that the buffer easements were included and sent on. When the Planning Board asked him about them, he went to the Town Clerk and asked to see the easement folder. He discovered that the buffer landscape easements were removed by the Town Attorney for some reason. Since he never sees the easement package after it goes to Mr. Graff, Mr. Henehan did not know they were never filed.

As for the Stonewood Subdivision, Mr. Henehan explained that the issue arose because sanitary sewers were installed and the Town needed easements from multiple owners for them. This was a change from the original plan for septic systems.

The Building Inspector recalled that Craig Doran had created a relatively simple process for easements when he worked in the Town Attorney's office. This template was changed by Mr. Graff at the time when Phase 1 of Auburn Meadows was under construction. It now takes two months for easement processing since the Town Attorney is so busy. For this reason, Mr. Henehan has asked builders to file the paperwork for easements as soon as the first shovel goes into the ground. He reminded Mr. Baker that he has told the engineer to do this many times. He concluded by saying that similar problems arose during the construction of Phillips' Landing.

Chairman Degear asked how to fix the problem. Mr. Henehan suggested that the wording for easements could be standardized to speed up processing. The Chairman expressed regret that the Planning Board cannot address this issue. Mr. Brand observed that Mr. Graff can understand why we need to speed up filing easements after final approval. Could the issuance of the first Certificate of Occupancy be conditioned upon the filing of the easements? The Board members commented that this seems to make sense.

Mr. Henehan pointed out that the Town cannot take dedication until the easements are filed.

Mr. Makin asked if there could be a process for putting the liber and page on the drawings. The Town Engineer suggested that the developer can put them on the record drawings. Mr. Henehan repeated that the easements should be prepared as soon as the first shovel goes into the dirt. If there is a template used for all easements, the back-and-forth of paperwork between the developers' attorneys and the Town Attorney would be eliminated. Everyone should do what they are supposed to do.

Both Mr. Degear and Mr. Ackerman explained that the turnaround is the issue.

Chairman Degear asked for staff comments.

The Development Director told Mr. Ackerman and the Board that he has prepared a new draft resolution tonight to address some of these concerns.

Mr. Brabant said that he has spoken with Mr. Baker and the final plans will show two trees per lot.

Mr. Robinson said the Fire Association's main concern is access which will be addressed. He commented that they are seeing a rising number of calls as new developments are built.

The Chairman asked the Clerk to make sure the Planning Board's concerns are reflected in the record.

Next, Mr. Degear asked for Board comments.

Mr. Makin had no comments.

Ms. Godly asked when the sidewalks would be installed. The Clerk referred to the Minutes of the October 7th Board meeting when Mr. Ackerman agreed to a sunset date of July 15, 2010. Ms.

Godly then asked if conditions #5 and #16 from the last meeting were removed from the draft resolution. Mr. Brand agreed. She also inquired about the haul (or service) road. The applicants said it will follow the sewer. They explained that the service road problem lies in the Auburn Meadows Subdivision, not Beaver Creek.

At the Chairman's request, the Clerk read aloud a draft Final Subdivision resolution with the following conditions:

1. ***The title of the drawing is to read "Final Plat, Section 1, The Estates at Beaver Creek Lots # 1 through # 10 and # 55 through # 63."***
2. ***No Building Permits are to be issued until a Letter of Credit, or some other form of Surety, has been accepted by the Town Board and established.***
3. ***The Final Subdivision Plat must show provisions for the haul road connecting the northern end of Estate Drive with the northern boundary for future Sections of Auburn Meadows Subdivision. Specific design of this haul road is to be provided for Town Engineer and Town Highway Superintendent approvals prior to the Planning Board Chairperson signing the Final Plat for Section 1.***
4. ***There shall be clarification listed on all pages of submitted Final Plat Maps of the number of Sections involved with the Estates at Beaver Creek. The overall subdivision layout map does not identify three sections for this project.***
5. ***There is to be a note added to the Final Subdivision Plat for Section 1 that all sidewalks are to be installed prior to the issuance of the first Certificate of Occupancy by the Code Enforcement Officer or by July 15, 2010.***
6. ***The specific language to be contained in the Conservation Limit Area shown on the plat map is to be approved by the Town Attorney prior to the Planning Board Chairperson signing the Final Plat Map.***
7. ***The Drawing Title for drawing number 2 of 12 is to be amended to read "Final Plat Map, Section 1, The Estates at Beaver Creek."***
8. ***The design for the proposed barrier at the western end of the sidewalk along the north side of the Canandaigua/Farmington Town Line Road is to be shown on the Final Plans prior to the Planning Board Chairperson signing.***
9. ***All special districts (i.e. drainage, lighting, sidewalk, etc.) associated with the overall project and shown on the Final Plat Map for Section 1 are to be established by the Town Board prior to the issuance of any Building Permits by the Code Enforcement Officer.***
10. ***All revision boxes are to be corrected to reflect all conditions of Preliminary Plat and Final Plat approval prior to the Planning Board Chairperson signing.***
11. ***A park and recreation fee, in the amount in effect at the time Building Permits are applied for, shall be paid to the Town as a condition of Final Plat Approval.***
12. ***A note is to be added to the Final Subdivision Plat to identify the requirement that no Building Permit may be issued until the Final Plat Map has been signed by the Planning Board Chairperson and filed in the Ontario County Clerk's Office.***
13. ***The Final Plat Approval is valid for a period of 180 days from today and shall expire unless extended by the Planning Board at a later date and by separate resolution.***
14. ***Once the Planning Board Chairperson's signature is affixed to the Final Subdivision Plat Mylar plus four (4) prints, the Final Plat Mylar Map and two (2) paper prints are to be filed with the Ontario County Clerk's Office within 62 days of signing.***
15. ***All erosion control measures shall be installed and inspected by the Town Code Enforcement Officer or his/her representative prior to any permits being issued. This statement shall be noted on the final plans.***

- 16. *Third party inspections may be required by the Town C.E.O. at the expense of the owner/developer. A note to this effect is to be placed on the Final Plat Maps prior to Planning Board Chairperson signing.***

The applicants said they understood and agreed to the conditions. Mr. Makin made a motion to approve the resolution with the conditions and Mr. Herendeen seconded the motion. The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Robert Kleman—aye

Scott Makin—aye

David Degear—aye

The resolution was adopted by a unanimous aye vote of all five Board members.

The Board members agreed to take a short recess at 8:38 p.m. and the tape recorder was turned off. Chairman Degear reconvened the meeting at 8:45 p.m. and the tape recorder was turned back on.

PB 1003-09 FINAL 50 LOTS SUBDIVISION APPLICATION

NAME: A&D DEVELOPMENT, 22 WHITESTONE LANE, ROCHESTER NY 14618

LOCATION: AUBURN MEADOWS SECTION 4

ZONING DISTRICT: IZ

REQUEST: Final approval 50 lot subdivision Section 4 of Auburn Meadows Subdivision

Mr. Ackerman and Mr. Baker also appeared for this application. Mr. Baker put up the plans and said there have been no changes.

The Chairman asked for staff comments.

Mr. Brand said he has a draft resolution prepared.

The Town Engineer said MRB issued a letter on October 14th with 29 comments. These can be addressed when he sees the revised final plans. Mr. Brand said this will be a condition of approval. Mr. Brabant said that he is ready for the Board to move on this application.

Fire Chief Robinson said he needs to work out some details with the applicant to stay up-to-date on this section but he has no problem with moving forward tonight.

The Development Director asked where the school district boundaries change. Mr. Brabant noted that the boundary has been shown more clearly on this plan.

Chairman Degear asked for a discussion on the haul road. The Town Engineer said he has received the plans and reviewed them with the Highway Superintendent, Ed McLaughlin. He recalled that the Board requested an alternate plan at their last meeting but he has not seen one. In MRB's letter dated October 18th, the Town Engineers asked for a detail (cross-section) of the road, the number of lots on the plan, and the total number of lots served by one entrance. Can we have a third point of access without relocating the haul road?

Mr. Degear asked for Board comments.

Ms. Godly asked about the alternate plan for the haul road, saying the Board members only got the original plan in their packets. Mr. Ackerman said there is no alternate plan. The issue is the number of lots on one entrance. The plan will not work in Section 5. Mr. Brabant explained that there are no problems with the number of homes on the road in Section 4. Another entrance is needed in Section 5. Mr. Ackerman pointed out the problem on the map.

Chairman Degear said that there is at least a plan for the haul road now. He thanked everyone for their hard work.

At the Chairman's request, Clerk O'Malley read aloud a draft Final Plat resolution with the following conditions:

1. *A Site Development Surety/Bond in the amount approved by the Town Engineer and accepted by the Town Board shall be required prior to obtaining a site development permit.*
2. *The title of the drawing is to read "Final Plat, Section 4, Auburn Meadows Subdivision, Lots 410 through 441."*
3. *There shall be a five foot wide sidewalk installed within the northern portion of the right-of-way of Onyx Drive extending from the proposed sidewalk on Opal Drive westerly across the frontages of the following Lots located within the Auburn Meadows Sidewalk District: Lots #429 through #434, and Lots #421 through #429. These sidewalks are to be installed in accordance with the Town Design Criteria prior to the first Certificate of Occupancy being issued for any structure in Section 4. A revision to the Utility Map shall be made to reflect this condition and to identify the condition of approval.*
4. *All 29 comments identified in the October 14, 2009 MRB letter are to be addressed and, where appropriate, notes added to the respective drawings. The Planning Board Chairperson is not to sign the Final Plat Map until the Town Engineer has reviewed all responses and all revisions to the maps have been made. In addition, any change to the Final Plat Map is to be identified in the respective Map Revision Box.*
5. *All street lights are to be installed by the developer and shall be operational prior to the first Certificate of Occupancy being issued. A note to this effect is to be placed upon the Utility Map, a part of these Final Plat Maps.*
6. *The Final Plat Approval is valid for a period of 180 days from today and shall expire unless extended by the Planning Board at a later date and by separate resolution.*
7. *Once the Planning Board Chairperson's signature is affixed to the Mylar plus four (4) prints, the Final Plat Mylar Map and two (2) paper prints are to be filed with the Ontario County Clerk's Office within 62 days of signing.*
8. *All erosion control measures shall be installed and inspected by the Town Code Enforcement Officer or his/her representative prior to any permits being issued. This statement shall be noted on the final plans.*
9. *All site lighting shall be compliant with the Town's Lighting Regulations, Chapter 165, Section 64 of the Town Code. A note to this effect shall be placed upon the Final Plat Maps.*
10. *Third party inspections may be required by the Town C.E.O. at the expense of the owner/developer.*
11. *The Planning Board determines that a Park and Recreation Fee in the amount established by the Town Board per resolution dated August 19, 2008 is to be paid at the time of issuance of building permits.*
12. *All comments and conditions contained in the MRB letter of October 16, 2009 are to be completed prior to the Planning Board Chairman's signature.*

The applicants asked for more information on Condition #3 regarding the sidewalks. Is the Board agreeing to eliminate a previous sidewalk plan, shown in yellow, in favor of the newly expanded design, shown in blue? The original sidewalk design is in red.

The Board members agreed to eliminate the yellow line of sidewalks on the map and to go with the blue one labeled "Alternate Sidewalk Plan." This plan offers more running feet of sidewalks. Mr. Brand pointed out that the yellow line is not in Section 4 and that the Town Board has to approve changing the sidewalk plan. All Board members agreed to recommend this to the Town Board since the new plan is more advantageous to the Town.

The applicants then agreed to the conditions. Mr. Makin moved to approve the Final Plat with the conditions. Mr. Herendeen seconded his motion. The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Robert Kleman—aye

Scott Makin—aye

David Degear—aye

The resolution was adopted by a unanimous aye vote of all five Board members.

OPEN DISCUSSION:

DIRECTOR OF DEVELOPMENT REPORT:

1. Update on RBTL

There will be a presentation at noon on the 29th at the Auditorium Theater. Everyone is invited. Farmington's proposal does not have the constraints other proposals have. The Director of Development and the Town Supervisor will attend.

2. Discussion on Draft Local Law

No comments have been received to date. Ms. Godly responded that she has some comments. The Board members also reported that some were made at the Board Workshop on Monday night. These will be emailed to Mr. Brand. Everyone liked the section on home occupations.

The Director of Development explained that the Town received a request from the St. Pauly organization for regulations regarding clothing bins. These will be offered to other municipalities as a template for their own regulations. Since Mr. Kofahl would like churches to be included as drop off points, further work needs to be done on this section.

3. Auburn Meadows Subdivision Section 2 Letter of Credit Release #15

Mr. Makin moved to recommend to the Town Board the release of \$26,192.90 from this letter of credit. Mr. Herendeen seconded the motion. In a voice vote, all five Board members voted aye to carry the motion.

CHAIRMAN OF PLANNING BOARD REPORT:

1. Town Ag Advisory Committee Application

Ms. Godly said this is a wonderful proposal. She noted that an answer needs to be supplied on page 4, Section G, and one word needs to be corrected on the same page.

All agreed that it should be referred back to the Ag Advisory Committee with the Planning Board's support. Ms. Godly made the resolution with Mr. Makin seconding. In a voice vote, all five Board members voted aye to carry the motion.

2. Board Discussion on the Auburn Meadows Berm

Mr. Henehan provided a brief summary of his career before coming to the Town as Building Inspector in 2005. He was a shop teacher, construction worker, contractor and MRB employee. He explained that he is here tonight at the request of the Planning Board to report on the berm/buffer area in Auburn Meadows Section 2 South.

The first question the Building Inspector considered was whether the landscape area was installed according to plan. In order to answer this question, Mr. Henehan used the Highway Department's new GPS survey instrument to survey the buffer area and compare it with the approved grading map. He reported that it was essentially built to plan with five feet of fill, trees and a sidewalk.

The Building Inspector presented the Board members with a packet of information and showed them pictures of the area taken from the road and from the only house occupied in that section. He suggested that there was a problem in communication—it was built to plan but not what the Board members expected.

Ms. Godly commented that the berm is flat. The fill makes it level with the road.

Regarding the issue of the buffer landscape easements not being filed, Mr. Henehan explained that this was a decision by the Town Attorney. He works for Mr. McLaughlin and Mr. Crane who do not consider landscape features to be part of their responsibility and so have not instructed him to inspect them. However, as he did tonight, he can respond to a request by the Planning Board for additional information.

The next issue Mr. Henehan addressed was an October 12th memo from MRB. He reported that drainage has now been improved by bales around the catch basin, a buried pipe from Stablegate and a catch basin installed. These are field changes for the betterment of the project.

The Building Inspector then presented the Board with copies of various emails in response to a suggestion by the Director of Development to shut down the project. He asked that the facts be researched before sending out emails and requested everyone to stick to the facts and be professional. The Planning Board has to deal with the developer.

Chairman Degear responded by saying that the Planning Board needs to be informed about field changes. He pointed out that the Board got a filled-in area, not the berm they requested.

Mr. Ackerman argued that RG&E was responsible for some of the easement changes and that the sidewalk was not part of the original plan.

The Chairman objected to finding out about changes after the fact.

Ms. Godly recalled that Mr. Ackerman claimed the area residents would see a five foot hill but the pictures show the land as being flat. Mr. Ackerman explained that there is a bank which slopes five feet down from the sidewalk to the catch basin.

Mr. Brabant said that there are two plans: the original with approved grading and a second with changes to the swale, piping and berm. There is a difference from the original grading plan but it is not a big difference.

Ms. Godly replied that the Board is concerned because there are two drawings which do not agree. There should be zero differences. Mr. Henehan said that they work with signed plans. Ms. Godly asked how the change occurred. The Town Engineer explained that a field change was necessary.

Chairman Degear asked where we go from here. Ms. Godly responded:

1. If the work was done according to the signed plans, the applicant did his job.
2. If a field change happens, the Planning Board needs to be informed. Mr. Henehan informed his bosses but the Planning Board did not hear anything. There seems to be a black hole.

The Building Inspector pointed out that, in all Towns, once the plans are signed, changes are handled by the staff involved. These never come back to the Planning Board.

Ms. Godly argued that the Planning Board should be copied in. Mr. Degear added that, since the Planning Board hears public concerns about projects, they need to be informed. He asked the Board members for their opinion on the berm issue. All agreed to allow the present berm design, based on the Town Engineer's recommendation. The Chairman went on to say that the RG&E easement is a Town Board issue. Mr. Ackerman has provided the liber and page to Mr. Brand.

Mr. Brand confirmed this, saying he requested a written copy. The Town Attorney responded to him today by explained that the easement was pulled because it would obligate the Town to maintain the area.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The next meeting of the Planning Board will be at the Town Hall on Wednesday, November 4, 2009 at 7 p.m.

Mr. Makin made a motion to adjourn with Mr. Herendeen seconding it. In a voice vote, all five Board members voted aye to adjourn at 10:04 p.m.

These minutes were taken and respectfully submitted by

Leslie C. O'Malley, Ph.D.
Clerk of the Board