

TOWN OF FARMINGTON PLANNING BOARD

April 15, 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, Chairman
Ron Herendeen
Robert Kleman

Excused: Meg Godly, Scott Makin; Phil Robinson

Also present: Town of Farmington Director of Development and Planning Ron Brand; Town of Farmington Code Enforcement Officer, Floyd Kofahl; Town of Farmington Engineers James Peet and Lance Brabant, MRB Group, P.C.; Ernie Ackerman, A&D Development; Walt Baker, DSB Engineers; Thomas Bliss, 28 Heritage Circle; Mark and Noelle Porretta, 4414 Latting Rd., Canandaigua; Alan and Patricia Raymond, 4428 Latting Rd., Shortsville NY 14548; Ben Coryell, 4396 Latting Rd.

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.

Chairman Degear explained that Code Enforcement Officer Floyd Kofahl and Assistant Fire Chief Phil Robinson were at the site of the Park Place Diner fire and that Ms. Godly and Mr. Makin were excused from tonight’s meeting. He said Mr. Kofahl would come as soon as possible.

APPROVAL OF THE MINUTES OF THE APRIL 1, 2009 MEETING:

Chairman Degear explained that a vote of three members is needed to approve the Minutes. Unfortunately, only Mr. Herendeen and Mr. Kleman could vote tonight since the Chairman had been excused from the April 1st meeting. The Board members agreed to lay the Minutes over until the May 6th meeting.

LEGAL NOTICES:

At the Chairman’s request, the Clerk read aloud the legal notices which were published in the April 8, 2009 Daily Messenger.

PUBLIC HEARINGS:

PB 0402-09, SPECIAL USE PERMIT

**NAME: THOMAS BLISS, 28 HERITAGE CIRCLE, FARMINGTON, NY
14425**

LOCATION: SAME AS ABOVE

ZONING DISTRICT: R-7.2 DISTRICT

REQUEST: A special use permit to allow a home business. The applicant wishes to conduct firearm sales and gunsmith work.

Mr. Bliss was present for his application. Chairman Degear read Mr. Bliss' letter of application into the record (see attached).

The applicant explained that he proposes to have a hobby type of home-based business. He said he has attended gun smithing school and plans to specialize in gunstocks. He will use hand tools. As soon as he obtains his Special Use Permit (SUP), he can apply for his Federal and state licenses.

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

The Director of Planning and Development said that this application requires a Type II Action SEQR and there will be conditions for the approval of the Special Use Permit.

Chairman Degear 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. Herendeen and seconded by Mr. Kleman. In a voice vote, all three Board members present voted aye to close the public hearing at 7:12 p.m.

The Chairman asked for Board comments.

Mr. Herendeen said he sees no problem as long as there is no ammunition stored on the premises. It is a hobby. Gun stocks present no danger.

Mr. Kleman asked how the applicant checks that the guns are working after he repairs them. Mr. Bliss assured him that he is a member of a gun association and uses an approved range.

Mr. Degear explained that the first approval is for one year to see if any problems arise from the home-based business. If all goes well, the next SUP can be approved for two years and then three years.

Mr. Herendeen moved to waive the reading of the Type II Action SEQR with Mr. Kleman seconding his motion. In a voice vote, all three Board members voted aye. Mr. Kleman then moved to approve the SEQR. Mr. Herendeen seconded his motion.

The following roll call vote was taken and recorded:

Meg Godly—excused

Ron Herendeen—aye

Robert Kleman—aye

Scot Makin—excused

David Degear—aye

The Type II Action SEQR was unanimously approved.

At the Chairman's request, Clerk O'Malley read aloud a draft Special Use Permit resolution with the following conditions:

1. *The application has been determined to be consistent with the provisions of Chapter 165, of the town Code.*
2. *The Special Use Permit is for a home occupation involving firearm restoration and sales (i.e., gun smithing) and is valid for a period of one year and must be renewed on or before April 15, 2010 or prior to any change in either use or site plan components.*
3. *There shall be no commercial speech signage allowed on the premises.*
4. *There shall be only one employee allowed.*
5. *All parking shall be off-street.*
6. *There shall be no posted hours of operation.*
7. *All site lighting shall comply with the Town lighting regulations.*
8. *Copies of the New York State Firearms Dealer's license and the Bureau of Alcohol, Tobacco and Firearms license shall be filed with the Town Development Office prior to the issuance of this Special Use Permit.*

At this point in the meeting, Mr. Kofahl arrived. He explained that he has already informed the applicant that he will need to inspect the premises for this type of occupation and asked that the following condition be added:

9. *A Building Permit and a Certificate of Occupancy shall be required to be issued by the CEO following a site inspection.*

Mr. Bliss said he understood and agreed to the nine conditions.

Then, Mr. Herendeen moved to approve the SUP with the conditions. Mr. Kleman seconded his motion. The following roll call vote was taken and recorded:

Meg Godly—excused

Ron Herendeen—aye

Robert Kleman—aye

Scot Makin—excused

David Degear—aye

The motion passed with three aye votes.

PB0401-09 SPECIAL USE PERMIT RENEWAL

NAME: MARK PORRETTA, 4414 LATTING RD, CANANDAIGUA, NY 14424

LOCATION: SAME AS ABOVE

ZONING DISTRICT: A-80

REQUEST To continue a contracting company home business using the site for parking equipment. CONTINUED

Mr. Porretta was present for his application. He said he had nothing to add to what he previously said.

Chairman Degear asked for staff comments.

Mr. Brand said he met with the Town Attorney to discuss this Special Use Permit and the fact that there are zoning violations on the property. The Town Attorney recommended that the SUP application stand on its own. The Board members are not constrained unless a violation directly relates to the Special Use Permit.

The Development Director went on to say that the original SUP approval did not cover construction materials stored outside. The site plan also needs amending and updating to show the two new buildings. Mr. Brand recommended a one year renewal to ensure that the applicant follows the conditions for approval for any Special Use Permit for a home occupation. And he must comply with these conditions before the SUP is issued.

The Code Enforcement Officer pointed out that the storage of materials cannot be seen from the road, but the shed and outdoor wood burning furnace are visible from the road. The Town needs an amended site plan showing all three of them.

Mr. Degear asked about the materials stored outside. Mr. Kofahl said that they do not create a fire hazard, they are stored in the back of the property and they meet Town Code setback requirements. The previous SUP approval did not mention outside storage.

The Chairman announced that this is a public hearing and asked if there is anyone present who wishes to speak for or against this application.

Pat Raymond asked to speak and identified herself as a neighbor. She said that the piles of material are not visible, the site is meticulously clean and the applicant's truck is well maintained.

Mr. Porretta said he sees no problem with parking his truck outside. He has cleaned up the piping and piles of material on the site. The CEO has not come back to check the site. Mr. Kofahl replied by reading aloud the 2006 resolution which stated no outside storage for materials or work vehicles. The applicant responded that he does not understand why his truck cannot be parked outside.

Another neighbor, Ben Coryell, asked to speak. He said that the materials and truck are part of the applicant's business. He has no complaints about the site.

Al Raymond, also a neighbor, said he would not have bought his house two years ago if the site was not meticulously kept.

Mr. Kofahl explained that the shed needs a permit. He told the Board members that the application for a variance for the outdoor stove has been submitted. Mr. and Mrs. Porretta said that the shed was moved from their former home and had a permit. However, they could not produce any records. The CEO said that there is no variance for a shed in front of their home on file.

Chairman Degear told the applicant that an amended site plan is needed and referred him to staff for what is needed on it. Mr. Kofahl said that the amended site plan must show the storage area, the shed and the stove.

The Chairman asked if this has grown beyond a home occupation. A home occupation is more like a hobby. If it is a full-fledged contracting business being run from his home, the applicant needs to find a business site for it and the Board and staff would be happy to help him locate one.

Mr. Porretta responded that he did not understand what was being asked. Mr. Degear explained that both the Board and staff are trying to help him get approved. The Board members agreed.

The applicant said he would work with an engineer on the revised site plan. Chairman Degear told him that it must be stamped by a licensed professional. Mr. Porretta also stated that he has a home occupation.

The applicant asked about the stove. Mr. Brand explained that he needs to get a variance for it. The Code Enforcement Officer said that the site plan needs addressing for the Special Use Permit. The additional items such as the shed, stove and outside storage need to be shown on it.

The neighbors questioned the process. Mr. Kofahl said that the Town is concerned about any detriment to the property. A new person might move in near the site and complain about the outside storage. In that case, the SUP could not be approved. The conditions of approval must be enforced. If the site plan shows the materials and shed, there is no issue. Since the variance for the shed will go with the property, the neighbors need protection.

Chairman Degear asked if the truck is lettered. Mr. Porretta said, by state law, it must be lettered. The Chairman told him that the Town Code does not allow a truck with commercial signage to be stored outside on the site for a home occupation permit. All concerns discussed tonight, he concluded, must be addressed. The process the applicant must follow is:

1. An amended site plan is submitted,
2. Staff reviews it and if it is acceptable,
3. The Planning Board reviews it and acts.

The Director of Development explained to the applicant that his amended site plan also needs to show other outside storage such as his trailer and back hoe. Since the Special Use Permit expired on March 15, 2009, the Town needs assurance that he will comply in a timely fashion to avoid a citation.

The applicant agreed to meet the deadlines for the May 6th Board meeting. The CEO pointed out that his request for a variance for the shed is not scheduled until the May 18th ZBA meeting. Mr. Degear added that he missed the April deadline for the May 6th Board meeting. Can he meet the April 21st deadline for the May 20th Planning Board meeting? Mr. Porretta agreed to meet the deadline to be put on the May 20th meeting agenda.

At the Chairman's request, the Clerk read aloud a draft resolution to continue the public hearing until the May 20th Planning Board meeting. Mr. Herendeen moved the resolution with Mr. Kleman seconding. The following roll call vote was taken and recorded:

Meg Godly—excused
Ron Herendeen—aye
Robert Kleman—aye
Scot Makin—excused
David Degear—aye

The continuation was approved by three ayes.

Next, Clerk O'Malley read aloud a draft resolution to table action on the application until the May 20th meeting. Mr. Kleman moved the resolution with Mr. Herendeen seconding it. The following roll call vote was taken and recorded:

Meg Godly—excused
Ron Herendeen—aye
Robert Kleman—aye
Scot Makin—excused
David Degear—aye

The resolution to table was approved.

Mr. Herendeen advised the applicant to make sure all outside storage is shown on his plans and to check with the CEO to make sure it meets the Code. Mr. Kofahl said that the present storage meets setback requirements.

Mr. Kleman asked what type of truck is parked outside. The applicant said it is a small dump truck.

Chairman Degear thanked the applicant’s neighbors for attending the meeting and invited them to return on May 20th.

SITE PLAN APPROVAL

- C. PB 0903-08 FINAL 48 LOTS SUBDIVISION APPLICATION**
- NAME: A & D DEVELOPMENT, 22 WHITESTONE LANE, ROCHESTER, NY 14618**
- LOCATION: NEW MICHIGAN RD & CO RD 41**
- ZONING DISTRICT: Incentive Zoning**
- REQUEST: Final approval for 48 lots, Auburn Meadows Section 3**
- CONTINUED**

Walt Baker from DSB Engineers and Architects and Ernie Ackerman from A&D Development appeared for this application.

Mr. Baker began by explaining that they wish to construct 48 single-family homes. Section 3 is divided into two parts: north and south. The issue holding up approval was the culvert in Beaver Creek. He has worked with the Town Engineers on the design. Ed McLaughlin, the Highway Superintendent, has requested two changes to the plans:

1. Native field stones will be used instead of gabions at the four corners of the new culvert to provide erosion and grading control.
2. A timber roadside railing will be used instead of a galvanized steel box beam railing which was recommended by the Town Engineers, MRB Group PC.

Mr. Ackerman said he had no comments.

The Chairman asked for staff comments.

Mr. Brand had no comments.

Mr. Kofahl said that the Highway Superintendent signed off on the plans and his signature is on file.

Jim Peet from MRB spoke for the Town Engineers since he was involved in the design. He said that the size of the culvert is acceptable. He has written a letter to DSB about five details. The changes were requested by the Highway Superintendent. He has written a letter to the Board approving the plans.

Chairman Degear asked about gabions. Mr. Peet explained that they are heavy wire cages holding the stones in place. He suggested using them because they would avoid problems with the sharp drop off. In his opinion, they would work better than native stones because they are not

easily dislodged. The Chairman asked about a cost difference and was told that they are probably about the same.

Mr. Degear inquired about changes to the installation of the culvert. Mr. Peet said that there are two ways to install a culvert: base plate or metal strip footings. He has asked the applicant to delete the alternative metal strip footings from the plans. The applicants pointed out that the manufacturer recommends using a base plate. Mr. Baker and Mr. Ackerman added that soil tests were done which showed that a base plate is best.

The Chairman also asked about the changes to the guard rails.

Mr. Peet said that he prefers a steel rail on metal posts driven into the ground as it would be more durable. However, Mr. McLaughlin says that a timber rail has worked well elsewhere. Both are strong.

Mr. Degear asked about the benefit of using wood to the Town. He was told that it is cheaper and more attractive. Mr. Baker said it is cheaper to replace and Mr. Ackerman said it is easy to repair.

Mr. Brabant said that Mr. Peet has covered all his points.

Mr. Brand asked if the trail is being developed in Section 3 since this was the originally approved plan. Mr. Ackerman said if it is on the plans, it will be built. The Chairman inquired about the trail's surface and was told it will be stone dust.

Mr. Brand asked when in the phasing the trail will be constructed. Mr. Ackerman agreed to install it before the first Certificate of Occupancy is issued. He said he will do it at the same time that he puts in the roads and does the sewer work.

Chairman Degear then asked if the Board members wished to proceed since there are only three members tonight. Do they wish to wait for another meeting when everyone is present? Mr. Herendeen and Mr. Kleman said they are ready to act tonight. Chairman Degear said he preferred to have the full Board but the majority rules.

At the Chairman's request, the Clerk read aloud a draft resolution for final subdivision approval with the following conditions:

1. ***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, Auburn Meadows Subdivision, Section 3, Lots 301 through 348."***
3. ***All conditions of preliminary plat approval granted by the Planning Board on September 26, 2008, have been made and are shown or identified in a note on the Final Plat Map.***
4. ***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.***
5. ***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.***

6. *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.*
7. *All site lighting shall be compliant with the Town's Lighting Regulations, Chapter 165, of the Town Code.*
8. *Third party inspections may be required by the Town C.E.O. at the expense of the owner/developer.*
9. *The final plat shall be signed by all Department Heads and the Town Engineer prior to the Planning Board Chairperson's signature.*
10. *A Park and Recreation Fee shall be required to be paid prior to the issuance of any Building Permit in this section.*
11. *All improvement districts shall be established by the Town Board prior to the issuance of any Certificate of Occupancy for any lot in Section 3.*
12. *The trail shown on the Final Plat maps will be constructed prior to the issuance of the first Certificate of Occupancy.*

Mr. Baker and Mr. Ackerman said they understood and agreed to the conditions. Mr. Herendeen moved to approve the resolution with the conditions. Mr. Kleman seconded his motion. In a roll call vote, Mr. Kleman and Mr. Herendeen voted aye, Mr. Degear voted nay. Since there were not three votes of approval because Ms. Godly and Mr. Makin were excused, the motion was defeated.

The applicants asked what their next step should be. Mr. Kofahl advised them to call him tomorrow to discuss it.

OPEN DISCUSSION

Report: Director of Development

1. 5610 Rte 96 Rezoning request

Mr. Brand reported that the Town Board needs an advisory report on a request for rezoning. A request has been received to rezone a ten acre piece of land located on the north side of Route 96 east of the race track from GB General Business to A-80 agricultural. The closest A-80 zoning is on the east side of County Road 8. If the Town rezones one parcel, it could be considered spot zoning.

Mr. Kofahl commented that it was originally zoned A-80 and has been farmed for 150 years. At present, the horse farm on it is considered a pre-existing, non-conforming use. The prospective owners want to change it from a horse farm to a farm with other animals.

The Development Director explained that the Comprehensive Plan considered this area as General Business and Light Industrial. It would be for lower intensity industrial uses or professional buildings. However, no public sewers have been installed and it unlikely that a major industry would locate there in the near future.

Mr. Brand suggested a seven year Temporary Use Permit which is provided for in the Town Code as long as this use does not adversely affect the character of the neighborhood. Another possibility is for the updated Comprehensive Plan to recommend a return to A-80 but this is several months in the future. The Development Director said he has no clear answer.

Mr. Kleman asked if the applicants could request a Use Variance. Mr. Brand replied that this would be very difficult to grant since it is hard to say that the owner could not use it for a General Business

use.

The Chairman requested Board input.

Mr. Herendeen said it was always farmed. He has land zoned industrial which he farms. Mr. Kofahl explained that a cattle farm is a different agricultural use than a horse farm. A pre-existing, non-conforming use cannot be changed. Mr. Herendeen said that a Temporary Use Permit sounds like the best solution.

Chairman Degear asked Mr. Brabant if he had any comments since he was excused to leave early. Mr. Brabant had no comments and was excused at 8:27 p.m.

Mr. Kleman said the zoning should be left as it is and the owners could request a Temporary Use Permit.

The Chairman agreed with the Board members.

Mr. Brand pointed out that this would allow time for amending the Comprehensive Plan. The Temporary Use Permit could be granted for a two year term followed by a five year term. But the new owners would have a problem at the end of seven years if the Comprehensive Plan is not changed. He will prepare a memo to the Town Board for the Planning Board members to review. Since the Chairman will be on vacation, Mr. Brand will sign it for him if the Board members agree.

2. Wind Energy Moratorium review

Mr. Brand went on to explain that the Town Supervisor, Ted Fafinski, wants a moratorium on turbines and small wind energy systems. Other municipalities have done the same to allow time to study the issues involved. This process is similar to what was done about cell towers a few years ago. Specific language about them could be included in the Comprehensive Plan since they will be located in more than one zoning district.

Chairman Degear pointed out it is important to preserve the Town's drumlins.

The Director of Development said we must identify where and how to locate and space them and what should be the conditions for approval. New York State Planning Federation has some ideas for standards. Since the Board members agreed, Mr. Brand said he will draft a Planning Board recommendation saying this issue needs to be addressed.

Mr. Kleman recalled that the owner of Dunkin Donuts wanted to install one to reduce his \$3000 a month electric bill. The CEO responded that this is a small system which does not come under this moratorium. The Town has received 12 inquiries and some of them involve serious wind farms. Others are from homeowners. We need time to address this and the moratorium gives us this time.

Mr. Brand said the Town is thinking green but we need to ask if we want this. He has seen wind farms and they are quieter than expected.

Mr. Brand also reported that he and the Town Attorney have met with Karl Essler regarding the reciprocal agreement for Saratoga Crossing. Any sale of the land would require a public

disclosure of its approval for this development. They have also reduced the number of variances required by shifting some of the property lines.

Report: Code Enforcement Officer

Mr. Kofahl reported that the fire has left Park Place Diner as an unsafe structure. There are charred rafters as well as damage to the back walls and ceiling. Even the ATM melted. All patrons and staff got out safely.

Aldi's will be coming in for their building permit. They are getting bids for the work. They plan to break ground the first week in June. Mr. Degear asked about the work on the plaza. Mr. Kofahl said he has not heard from the plaza owners but the work is supposed to be done at the same time as Aldi's is built.

The CEO also reported that progress is being made on plans for the senior citizen housing project. He added that the urgent care facility will be located in the Griffith's building instead. It is in good condition and the site has been cleaned up. Mr. Brand added that a filed easement to the DEC (Department of Environmental Conservation) has been placed upon the Griffith's property and the vacant site to the west. Copies of this easement have been placed in the property files in both the Assessor's Office and the Development Office.

Report: Chairman of the Planning Board

The Chairman reported that Mr. Herendeen and Mr. Kleman are taking training courses at MCC given by Monroe County Planning.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The next meeting of the Planning Board will be at the Town Hall on Wednesday, May 6, 2009, at 7 p.m.

Mr. Herendeen made a motion to adjourn with Mr. Kleman seconding it. In a voice vote, all three Board members voted aye to adjourn at 8:47 p.m.

These minutes were taken and respectfully submitted by

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