

**PLANNING BOARD
TOWN OF MARILLA**

Date: August 21, 2008

Present:

Nathan Barnard, Chairman	Debbie Zimmerman
Tom Wantuck, Co-Chairman	Barbara Spanitz, Town Board
Judy Gillman	Bob Miller, Consultant
Dan Handy	Melissa Stark, Clerk
Richard Janiga	
Paul Domanowski	

Absent: John Fronczek, CEO

Guests: Art Aigner, Rick and Jake Zelasko, Gloria Radas, John Schenwe, Eugene Limpinsel, Pat Schumacher, Shirley Limpinsel, Mike Walters, Gary and Sharon Foersch, and Sara Mochrie

I. Nathan Barnard, Chairman, opened the Planning Board meeting at 7:03 p.m.

II. Public Hearing

Nathan Barnard opened the meeting introducing Art Aigner and opened the floor to his presentation. Art Aigner stated that he is proposing a subdivision on Bullis Road next to Greenwood Terrace. The proposed subdivision has 18 lots. Mr. Aigner explained that some changes have been made to the original plan according to the zoning laws.

1. Lots 1 and 2 have been combined to form one single lot.
2. The road has been moved away from Linda Kelleher's property.
3. Lot dimensions have been clarified with the building inspector around the cul-de-sac.

Art Aigner explained that they are hoping to have the zoning changed from Agricultural to Rural Residential. He explained that the average lots are a little over 1 acre and they meet the guidelines according to the Erie County Health Department for septic systems. The lots are standard 200x300 feet except for the larger lots in the back. Art Aigner opened the floor for questions.

Tom Wantuck asked if the strip of property by the road was part of lot 18. Art Aigner stated that it was part of lot 18. Gene Limpinsel commented on the septic systems on the back lots that back up to Buffalo Creek. He is concerned about the septic systems leaching back into Buffalo Creek. Art Aigner asked if the town required soil sampling before building. Tom Wantuck stated that the Erie County Health Department requires perk tests for septic systems on all lots and if there is a problem with draining the Health Department will not place the leach field in that area. Art Aigner explained that the lots are large there is plenty of room to move the septic system to an appropriate spot. Chairman Nathan Barnard explained that the purpose of the meeting was to look at rezoning the property and not the approval of lots.

Lorraine Lorrato asked about the land in between the proposed subdivision and Greenwood Terrace. She stated that there is an underground spring in the area around Foersch's, Ryan's and her property that is giving residents problems with their septic systems at the end of the road. Lorraine stated that they are trying to keep the water flowing to the creek. She would like to know what will happen to the underground spring. Art Aigner stated that the lots are large and they could be flexible as to where the septic systems are placed. He went on to say that the health department would also look into this. Art Aigner stated that he has not looked into any engineering yet and is waiting for the rezoning of the property to proceed with any engineering of the land. Art Aigner asked if there was a ditch in the back of the effected properties. Lorriane Lorato stated that they try to keep a ditch but not everyone does. Art Aigner stated that the houses that would be built on the lots in this area would be built on the highest point of the property and the grade would go from the house to the property line creating a natural drain. Art Aigner continued that usually there is not a ditch, but yard drains at each property and any water draining would be picked up by pipe and drained from there. Art Aigner stated that by building houses and having proper drainage of the land, it would help the existing problem.

Shirley Limpinsel asked how water would be delivered to the homes. Art Aigner stated that there is a water line that ends where the subdivision would be built and the homes would have public water. Shirley Limpinsel asked Chairman Nathan Barnard if the existing water line could be tapped into. Chairman Nathan Barnard stated that he did not know the size of that line or the pressure in that line could sustain the demand. Art Aigner stated that it is an engineering issue. Lorraine Limpinsel stated that it was not an engineering problem because when NYS approved water districts 2, 3, and 4 there was a restriction put into place to protect the agricultural land in Marilla. She continued that she believes that the land that the subdivision will be built on is a certified state agricultural district and that the state would uphold the decision – no laterals will be put in 4 inches or greater and the waterline cannot be tapped into. Shirley Limpinsel stated that a subdivision calls for 8 inches of waterline and the only way she sees that the subdivision would have water is to dig wells because of that land being state agricultural land. Art Aigner suggested that maybe another water line would have to be run from Townline Road. Chairman Nathan Barnard stated that the water that comes from Townline is from the town of Elma and not Marilla. Dan Handy stated that the 4 inch laterals is the maximum but not in an agricultural district, but rather for agricultural use in the town of Marilla. If the property is rezoned, then a larger line could be run off it.

Mike Walters asked what the intention of the subdivision was. Richard Zellasco stated that it was undecided at this time. He may sell of the lots to one builder or to one builder. Presently Maranno Builders have shown some interest. Mike Walters stated that he is concerned with the selling of the lots before it is known about drainage issues and if septic systems could be put in. Mike Walters also asked about the drainage of the properties into the creek and if there would be a ditch used. Art Aigner stated that there would be a water quality basin before the water flowed into the creek. This would separate the water from oil and such. Mike Walters was concerned about the pipes that would need to be run in order to have the water flow from the water quality basin to the creek. He expressed his dislike for the pipes on someone's property because they would not be great to look at. Art Aigner explained that there would not be a pipe that could be seen because it would run with the grade and would be covered up with top soil.

Dan Handy stated that the land could be in the agricultural district and he might have misspoken. The Planning Board would have to check into it. Rich Janiga stated that even

if the land was rezoned, there still might be a problem with the water line. Art Aigner stated that he could also look into that.

Lorraine Lorrato asked if Art Aigner had plans available for the public to have to look at. Art Aigner explained that he did not have any with him, but he could leave some in the Town Hall for those interested to pick up.

Sarah Mochrie asked if the lot sizes on the plan were conceptual or final. Art Aigner stated that the lot sizes on the plan are the actual size of the lot. Sara Mochrie asked if the lots could get smaller when the subdivision goes through. Art Aigner stated that the lots would remain the same sizes due to town regulations.

Gary Foersch stated that he has walked on the property and toward the back there is a sand pit. He wanted to know how much contouring of the land will be allowed. Art Aigner stated that material would be brought in to fill in areas that needed to be filled in to allow lots to drain properly and septic systems to work.

Sarah Mochrie asked if fill would be brought in, what would the fill do to the flow of the creek citing the example on Townline Road. Art Aigner stated that there would be study completed to see the flow of water and how it flows. The fill that would be brought in would not disrupt the normal flow of water. There would be a retention pond, a dry retention pond. The only time water would be seen in the pond would be after a heavy rain event.

Chairman Nathan Barnard asked if there were any more questions from the floor. No more questions were asked and Art Aigner was invited back to the Planning Board meeting on September 18, thus ending the public hearing.

Nathan Barnard asked if there were any corrections or additions to be made to the July minutes and none were made. Bob Miller stated that he appreciated the minutes from the July meeting seeing that he was not at that meeting, he was able to know what was said at the meeting. **MOTION** to accept July minutes, moved by Paul Domanowski, seconded by Judy Gillman. All in favor – 7 ayes.

III. Old Business

A. Bob Miller stated that the public hearing was for the rezoning of the property. Before a permit is granted for the subdivision there is a seeker process that will be followed. This process will notify all the necessary departments such as the health department, DEC, transportation department, and other agencies with the details of the plan. There would be 30 days to review the plan before accepting it through the seeker process that is outlined in subdivision law.

Chairman Nathan Barnard asked about looking into the waterline for the subdivision. Rich Janiga stated that if the property is in the agricultural district, then there would be restrictions on the water line. Rich Janiga stated that he did not know what could be done to get around this law, but felt that it would be negotiable. Rich Janiga suggested looking at the Agricultural District Map. Bob Miller stated that this might be included in the seeker process. Rich Janiga suggested that Nate Neil would be the person to check into the restriction. Bob Miller stated that he would check with Nate Neil. Dan Handy stated that these restrictions are checked into every 8 years or so, but he does not know how far into that time we are at the present time.

B. Chairman Nathan Barnard stated that John Schenne had gone back to the drawing board and new plans were submitted to the Planning Board. John Schenne explained that the new plans included 8 lots with 3 driveways on Clinton Street and driveways on 3 Two Rod Road. John Schenne stated that he believes this new plan meets the zoning ordinances of the town. Chairman Nathan Barnard stated that in the B-1 it states that there are minimal driveways so in the new plan there is one driveway for every two lots. Lots 8&7 would share a driveway, 6&5 would have a joint driveway and 4&1 would share one driveway. Chairman Nathan Barnard went on to say that lots 2 and 3 would probably be residential lots. John Schenne stated that there would not be high demand for lots 2 and 3 and they would be sold off to individuals who wanted to build a home. Debbie Zimmerman asked what would happen if lot 1 would want a driveway on Clinton Street and lot 4 would want their own driveway. John Schenne stated that through deed restriction it would be mandated that they would have to share the driveways. There would be cross easements to allow the drivers to drive on each others driveways. The owners would share the maintenance of the driveways. Each driveway would be 24 feet wide commercial driveways. Tom Wantuck asked if a house could be built on a B-1 lot. The Planning Board stated that they did not think it was allowed because it was zoned business. Dan Handy read was types of buildings were allowed in B-1 and homes were not on the list. John Schenne thought that the land would have to rezoned after bought if someone wanted to build a house. Chairman Nathan Barnard stated that a home owner would have to buy both lots due to the size of the lots if a home were to be built on the land. Debbie Zimmerman asked about the drainage on the lots. John Schenne stated that the drainage plan from before would still apply.

Chairman Nathan Barnard asked the board members for their opinions. Bob Miller stated that this plan was somewhat of an improvement in terms of access. John Schenne stated that this plan had the same number of driveways as the first plan. Bob Miller stated that the new plan was not as an attractive as a plan as the first.

Chairman Nathan Barnard stated that the new plan eliminates the private road and the maintenance of it. The new plan has private driveways instead.

Dan Handy stated that it is not as pretty as the original. Lots 2 and 3 could not be residential because of it not being legal and because of their size. Chairman Nathan Barnard stated that he was the one that mentioned about lots 2 and 3 being residential and that was not something that John Schenne was presenting tonight. Dan Handy stated that he needed more time to think about the plan.

Rich Janiga stated that a lot of progress was made and then they went backwards. He would like more time to review the plan.

Paul Domanowski stated that they have downgraded a lot since the original horseshoe plan and now we are back to a box plan. The horseshoe plan was attractive to the Town of Marilla. Paul Domanowski stated that this plan is not for him.

Debbie Zimmerman stated that she is not real fond of the new plan, but she understands why it had to be done because of cots. The previous design did a good job of protecting the existing homes. Debbie Zimmerman is not real fond of the plan. The Planning Board would have final say in regards to what would be built on the lots. Debbie Zimmerman stated that this plan is a step backwards and she needs to think about it.

Judy Gillman stated that she is concerned with lots 2 and 3 and there was lots of work that went into the first plan. She does understand that money wise, the plan was not feasible for John Schenne's client. Judy Gillman stated that she is not fond of the plan at all.

Tom Wantuck stated that the plan lost all functionality as a commercial subdivision. Tom Wantuck reviewed the list of permitted uses and as he looks at the size of the lots, he does not see businesses wanting to come and build on this property. Tom Wantuck went on to say that if a drugstore came in, lot 1 would be great, but the other lots would not work because the business would be so far off the road. John Schenne stated that the lot sizes meet all the town standards and the building could be located on the front of the property and the parking could be in the back. Tom Wantuck asked if the rest of the property would be vacant. John Schenne stated that it would be green space. Tom Wantuck stated that he believes they have taken a huge step backwards.

Chairman Nathan Barnard stated that it is unfortunate that we could not do something with the road and apparently that is not going to happen. John Schenne was asked by his client to come up with something that would work with the town codes. Chairman Nathan Barnard asked if John Schenne would come back to the September 18th meeting. John Schenne stated that the plan that was passed out tonight did not have all the final grading on it as the first plan did. The grading would be the same on this plan as it was on the first plan.

C. Chairman Nathan Barnard stated that we would continue to look into senior housing codes from last month. Bob Miller stated that he sent out a packet of information. Jason, an associate, did a lot of research. They went from requests from George Gertz in May and the discussions in the July Planning Board Meeting. The packets of information include information on B-1 and codes. The packet contains information that would be changes to the code. There were examples from Orchard Park and Cheektowaga and now there is more information from South Hampton and Long Island. Bob Miller stated that he would like the board to take a look at the draft of the Marilla Code for Senior Housing. Bob Miller stated that there are two things to look at – Senior Housing and Affordable Housing. The census information of the Town of the Marilla was also included. The Planning Board should look at the percentage of seniors in the town. This information is different from the income percentages of the town. Bob Miller suggested the town look into having a builder set aside a percentage of units that would be for seniors or affordable housing. The percentages of senior housing and affordable housing would change depending on the town's census information. Bob Miller stated that when the town is thinking about choosing a percentage to think about the number of units involved. He gave the example that 10% with 10 units would only be 1 unit. Bob Miller continued to say that if the town were to choose 50% for affordable housing, it might not be worth while for the builder to develop the property. Bob Miller asked the board to just look over the material provided to them. He is not expecting any answers tonight. Chairman Nathan Barnard asked about the information that was originally sent to George Gertz. Bob Miller explained that the material to be looked at was sent out at two different times – one packet this week and one a couple of months ago. Dan Handy asked about the percentages of affordable senior housing. Bob Miller stated that there are two things to look at. The first would be dealing with percentages with income for affordable housing and the second would be the percentage of units for affordable housing. Bob Miller stated that the percentage of income for affordable housing would depend on the town medium income and this is different in each town. Debbie Zimmerman asked if the government would set the percentages for low income. Bob Miller stated that it would be up to the Town to set those percentages. Debbie

Zimmerman asked about state funding for the buildings. Bob Miller stated that there is funding out there, but it would need to be looked into to see if it was worth having. Barb Spanitz asked if the board could limit the buildings to just seniors in Marilla. She wonders how the medium income would apply with seniors in coming from different towns. Judy Gillman stated that she was wondering the same thing. Bob Miller stated that he did not believe that you could exclude seniors living outside the town. Chairman Nathan Barnard stated that Marilla would set the medium income seeing that the building was in the Town of Marilla. Debbie Zimmerman asked if the owners of the property where the homes would be built had come to the Town Board with any more information. Barb Spanitz stated that nothing more had been discussed. Barb Spanitz stated that the Town Board did not feel the moratorium on building was necessary at this time. Chairman Nathan Barnard suggested that the board take all the information and read it at home and come to next month's meeting with some notes and ideas. Bob Miller stated that he would ask Jason to join next months meeting.

D. Chairman Nathan Barnard stated that the Town Board wanted clarification on the motion dealing with sizes of accessory buildings in the Town of Marilla. Barb Spanitz stated that the motion stated 800 square feet per acre. The board was wondering if the Planning Board meant that an individual could build a 3,200 square feet building on 4 acres of property. Chairman Nathan Barnard looked up the motion made in the April meeting. Chairman Nathan Barnard read the motion:

A recommendation was made at the April 17, 2008 Planning Board meeting regarding accessory building sizes. The Planning Board accepted a motion by Dan Handy and seconded by Rich Janiga to change the wording in the code book on page 700-33 letter d. #1 and #2 would read to say that any accessory building built on up to 5 acres or less is to be 800 square foot per acre. There is no change to any accessory building being built on more than 5 acres. #3 under letter d would not be changed.

Rich Janiga stated that 800 square feet per acre was correct.

E. Chairman Nathan Barnard stated that George Gertz sent out three local laws via email. The Town Board will be talking about them at there September meeting and would like to know if the Planning Board had any input. The first law deals with the alarm devices. Chairman Nathan Barnard stated that he did not have anything to add to the law. The second law deals with animal shelters. Barb Spanitz explained that they wanted to change the terminology in the code book with regards to kennels. The last law deals with the Zoning Board of Appeals. Barb Spanitz explained that the Town Board does not want people going to the Zoning Board of Appeals that should be going to the Code Enforcement Officer. Before going to the Zoning Board of Appeals the first step should be to go to Code Enforcement Officer. Bob Miller explained that purpose of the Zoning Board of Appeals is to act on the decision of the Code Enforcement Officer. The Zoning Board of Appeals can not change the zoning laws; they can just act on them. The Zoning Board of Appeals can grant a variance on the laws, but they do not have the ability to change the laws. Chairman Nathan Barnard stated that the Planning Board did not see any need for additions to the laws.

IV. New Business

Planning Board Clerk Melissa Stark shared the new voice recording device with the board. I will try the device for this month's meeting. If the device works, then I will submit the receipt to George Gertz for reimbursement.

- V. CEO Report
None.
- VI. Town Board Report
None.
- VII. Open Presentations from the Floor

The Planning Board celebrated with Barb Spanitz on her finishing her chemo treatments.

Dan Handy asked if anyone was left from Greenwood Terrace. He was wondering if all the people living on Greenwood Terrace knew about the public hearing. Dan Handy stated that he would like to see the town send out a mailing to anyone within 500 feet of the place of discussion when there is a public hearing and have it in the paper. He does not feel that people know when there is a public hearing for the Planning Board. Chairman Nathan Barnard suggested that postcards be sent out. Barb Spanitz stated that she would bring it up to the Town Board.

Chairman Nathan Barnard shared the Planning Board mail and stated that the TVGA put out a memo for classes. Chairman Nathan Barnard suggested choosing two days in October to hold meetings. Chairman Nathan Barnard suggested October 2 for two hours at the Town Hall. Bob Miller stated that two topics that had been brought up were wetlands and retention-detention. Chairman Nathan Barnard said that they would continue the meeting on October 23 from 7-9. Barb Spanitz asked if other towns would be invited. Chairman Nathan Barnard stated that we could invite other towns around the area. He suggested Dawn Pearce could post the meetings in the Town Hall.

The Planning Board was happy to see Rich Janiga at the meeting. He thanked the Board for the card.

MOTION to adjourn at 8:44 p.m. moved by Dan Handy, seconded by Tom Wantuck, all in favor 7/0.

Respectfully submitted,

Melissa R. Stark