

PRESENT: David Stringfellow, Chairman
Jennifer Lucachik, Secretary
David Bowen
Mitchell Martin
Mary Ann Rood
Paul Ziarnowski

ALSO Michael Kobiolka Town Attorney
PRESENT: Thelma Faulring Secretary to the Boards and Committees
Richard Brox Planning Consultant
Chris Wood Project Engineer – Heinrich Road Subdivision
Andrew Romanowski Developer – Heinrich Road Subdivision
John Schenne Project Engineer – Back Creek Cider Mill

Chairman Stringfellow called the meeting to order at 7:30 PM

Mr. Stringfellow asked if there were any corrections or additions to the minutes of July 22, 2014. Secretary Faulring said that she had already made corrections to the ‘draft’ minutes that were sent to the members. Mrs. Lucachik made a motion to accept the minutes with those corrections, seconded by Mr. Bowen and carried by a majority vote. Dr. Ziarnowski abstained from voting.

CORRESPONDENCE

Secretary Faulring reported:

- o Code Enforcement Officer Ferguson’s July end of month report
- o Letter sent to Joseph Gallagher asking for another meeting/interview prior to this evening’s meeting
- o Town Clerk letter to Planning Board advising that the Town Board ‘tabled sign revision suggestions for further review’

BACK CREEK CIDER MILL SITE PLAN DISCUSSION

Correspondence:

- Mr. Kobiolka distributed Town Engineer Jim Hannon’s review dated July 30, 2014
- Town Board letter dated August 7, 2014 stating:
 - o The Rice Road project will be an unlisted action
 - o This project will involve one or more agencies so a coordinated review will be necessary
 - o The Boston Town Board has assumed the role of Lead Agent pursuant to Part 617 of the NYS Code Rules and Regulations and all involved parties will be notified
- Richard Brox review of August 7, 2014 stating:
 - o that his remarks from July 27 still apply
 - o there still is no landscape plan

Mr. Stringfellow: I have reviewed my notes and compared them to new site plan and find that the suggestions that were made have been done. Do any of the Board members have any comments?

Mr. Kobiolka read the review from Town Engineer Hannon.

Mr. Stringfellow: I have received nothing more from Mr. Hannon which indicates to me that he is not at the point where he is ready to sign off on the project. Mr. Brox is not satisfied with the landscape plan. Does anyone else have questions, comments or things they want to bring up?

Discussion clearing up some questions regarding Mr. Hannon’s review.

Mr. Schenne: We have a landscape plan,

Mr. Brox: No you don’t.

Mr. Schenne: We show what the Town Code asks us; we called the variety of plants that are there; the number of plants and there is a planting schedule. What specifically does the Code ask for, that we don’t have?

Mr. Brox read parts of Town Code Section 97-12 and commented as follows:

- there is no designation on the paving used in front of the buildings or what the sidewalks are made out of
- you used a bunch of flowers
- you've got 14 Colorado Spruce that are 6 inches – high or caliper you don't tell us
- you've got Spring Snow Crabapples – 2 inches – assumed calipers

Mr. Schenne: Those are calipers, somehow the word caliper got left off the schedule.

Mr. Brox: Macintosh apples – 4 inch calipers; Black-eyed Susan's are a flower they aren't a landscape or a shrub; there are over 50 Hydrangea – which one are you going to use? The apple trees I'm not worried about because that's your orchard, but again a 6 inch caliper tree planted in an orchard, you don't see that in Niagara County they start out with whips.

Mr. Schenne: Our intent is to build this thing and be in operation. We were going to bring in larger trees and plant around our sales building so that it would look like it was a real cider mill; and we were going to go the expense and bring a tree spade and bring in large fruit bearing trees that would bear fruit the next year. That's our intent, that's why it's on the schedule, those sizes.

Mr. Brox: But you didn't bother to tell us where you're going to plant them, what the spacing is or anything.

Mr. Schenne: They're called out on our plan.

Mr. Brox: They are not. You've just got little stamps on your plan, you don't show where they're planted, the spacing or anything that is required on a landscape plan.

A back and forth discussion continued between Mr. Brox and Mr. Schenne regarding the planting plan and landscape plan.

Dr. Ziarnowski: We talked about the lighting and the environmental downcast, recess, shielded,

Mr. Schenne: They're all dark sky compliant fixtures.

Dr. Ziarnowski: I don't see any lot lighting on the ...

Mr. Schenne: We're not going to put lot lights in, we were worried about the dark sky compliance; we were going to light the lot with the wall packs that are on there with the shielding.

Dr. Ziarnowski: On the drawing it shows carriage lights on either side of the door.

Mr. Schenne: Those are decorative carriage lights to dress up the front, to make a homey kind of a building.

Dr. Ziarnowski: Are they shielded and dark sky compliant too?

Mr. Schenne: They're under our canopy; the answer is no but they're fixtures that throw very little light off; they're mostly for decoration.

Dr. Ziarnowski: Are they going to be on all night?

Mr. Schenne: Yes, they're on all night as a security light.

Dr. Ziarnowski: I would say your security lights are your wall packs. The reason being that's such a dark area and there's people and houses around; and the advertising on TV where the human eye can see a candle like two miles away and so this dark area no matter how dim those lights are, if they are shielded and dark sky, there's still people up there who can look straight in. So I would object to that unless they are shielded or unless they are turned off at night. You have enough wall packs for your security.

Mr. Schenne: We can turn them off at night.

Dr. Ziarnowski: Put that in writing if you would. The other thing, we talked about the metal wall panels on your storage building, if that still going to be metal wall panels? Remember we talked about the elevation look, is there some way you could dress up the metal wall panels?

Mr. Schenne: Don't we have an elevation in here that shows the...

Dr. Ziarnowski: From the front, but the other three sides...

Mr. Schenne: We added the stone because that's what you asked us for.

Dr. Ziarnowski: We talked about, actually David talked about the back elevation...with it being a Morton Building...isn't that correct David?

Mr. Stringfellow: I believe, Paul, that my concern was the side that people see when they come to the site; the back side is seen by the truck drivers and I guess whoever works in the orchard.

Mr. Schenne: I thought that we did exactly what you asked us to do.

Mr. Stringfellow: I thought so also.

Dr. Ziarnowski: Then my only objection is those lights being on all night, burning straight candle shooting out there in the pitch black for everybody else.

Mr. Stringfellow: Are you going to have some kind of lighting on for security purposes, or is the site going to be completely dark at night.

Mr. Schenne: We have the wall packs, we're using L.E.D. wall packs, they burn very little electricity and we were going to leave those on for security. They have a shield on them so they don't throw light very far.

Discussion followed about the decorative coach lights, under a roof, that do not burn that bright.

May be distracting to neighbors and people driving down Rice Road.

Mr. Schenne: We can put them on a time clock, it's very easy to do that.

Mr. Brox: You can't even scale off these drawings, they're inaccurate.

Mr. Stringfellow: We went through that at the meeting with the engineer; I thought that I had scaled this when it came in and it was correct. Here is a dimension listed as 150 and it scales to 136.

Mr. Brox: And 168 feet to the storage building actually scales to 15.

Mr. Stringfellow: Does your printer somehow shrink it to fit the page?

Mr. Schenne: It might have, I don't know. I thought those were printed to scale.

Mr. Schenne: Here's the deal: we've got about five sheets here; they all weren't done in one day so the sheet itself starts out with the date that the sheet was done, and then we've been back to this Planning Board half a dozen times, every time we come back here somebody asks for something to be changed. There is a revision block on the drawing so we've got the basic date of the drawing which is on the right hand side in the lower corner, that's the date that my office first finished the drawing; if you go to the far left of the drawing it says revisions and we list all the dates that we change something.

Mr. Brox: That doesn't make any difference on changing the scale, the scale didn't change, the paper doesn't change; the computer doesn't change and a 100 foot building is now 90 feet wide.

Mr. Schenne: I think it's pretty clear that our intent is to have a 100 foot building; and maybe there is something messed up on one of these drawings. If you guys want to nitpick my drawings and give us a hard time maybe you don't want this project approved in the Town. I don't know what it is with this Board. When I was in front of the Town Board last week we got a very good reception and it appears as though the Town Board would like this project to go forward.

Mr. Brox: When this Planning Board first heard of this project in February, they were all for it; but they have had to fight tooth and nail to get your office to provide us with the proper drawings.

Mr. Schenne: We weren't hired in February.

Mr. Kobiolka: That's correct. He just retained how long?

Mr. Schenne: April or May, I don't remember the exact date. We were not on board for this project when it started. I think we got a really good project.

Discussion continued regarding the agricultural aspect of the project, a project that has a good look to it and a project that fits into the neighborhood.

The discussion then went back to the scale on the drawings.

Mr. Kobiolka: David, we have another meeting before the Town Board meets, on the third Tuesday in September, maybe this Board could ask Mr. Schenne to get the drawings to scale have them to us in sufficient time for us to review it, work on the landscaping plan and the other matters which the Planning Board wants.

Mr. Martin: As long as they produce a scale, I have no problem with it as is. I think there is intent and at the last meeting I made the motion to do it with the revisions that we were asking for. I have no problem doing it again today. As long as they finally do produce it before it goes in front of the Town Board, I have no issue with it.

Dr. Ziarnowski: David, educate us on what will change from this drawing to having drawn to scale as far as the overall project.

Mr. Stringfellow: One of the requests was draw it to scale, it's closer now than it was before but as was pointed out it is still not exact; the stone and windows that break up the side of the huge building have been added; the address on the sign has been changed from Deer Run Road to Rice Road; offhand that's all I can think of. Mr. Schenne are there other things that you remember?

Mr. Schenne: We did substantial changes to the SEQR that went forward. If you remember in the meeting the other day some of the residents expressed concern about how much water we were going to withdraw. We went back:

- we are only going to withdraw 500 gallons a day, that's equivalent to what a four or five bedroom house would withdraw, the whole site
- we are putting in a reuse system to re-use our wash water
 - it will be run through filters
- we will discharge less than 1000 gallons so we won't be required to get a NYS SPDES permit, because we will reuse most of our...
- the sanitary water is going through the septic system and being discharged
- very little processed water
- we've spent a lot of time with the Town Engineer, outside of the meeting that we had; have to talked to Jim Hannon (Town Engineer) and we are very close to being in agreement with Hannon as your Town Engineer and complying with all the Town requirements

Dr. Ziarnowski: Is there going to be two wells?

Mr. Schenne: Depends on what we get on the first one. Our owner has not closed on the property so we can't drill a test well, but our intent is to go there as soon as he closes on the property, drill a well, do a draw down test and see what we get out of the well. I heard horror stories from a lot of people that the water quality up there is not the greatest. We've done work where we've had sulphur, manganese and iron contaminants in wells and we're set up to put in a small treatment process to clean the water up. We're hoping that we can get a well that produces 10 – 20 g/p/m. If the first well only produces on 4 or 5 we'd go to the far extremes of the property and drill another well and see if between 2 wells or 3 wells we can get enough water. If the wells are unproductive our client's is ready to haul in water to make this work, so even if we end up with dry holes we will go forward with this project.

Dr. Ziarnowski: Who follows, as far as the water table, if the residents are concerned that their wells are going to change height is that the D.E.C. who is that?

Mr. Stringfellow: I brought that up at the meeting when Mr. Hannon was here and essentially he said 'they're not drawing much more than a large house or a couple houses, and this is a 33 acre lot and you could put a lot more houses than that on it if you wanted to.

Mrs. Rood asked a question of Mr. Schenne that was not heard by all members of the Board.

Mr. Schennes response was: use 10,000 gallons a day, if you look at our plans we have large ponds blocked in there; we're going to collect our rainwater and whatever wash water we have we're going to filter it, discharge it into the pond, pump it back into the plant, run it through carbon filters, treat it to drinking water quality, chlorinate it and use that as our wash water. We think he needs only 5000 – 6000 gallons a day, we used 10,000 for a margin of safety.

Mr. Bowen: My understanding is that he still requires a maximum of 10,000 a day, not 500, to operate?

Mr. Schenne: It takes 10,000, we think it takes less, but our upper limit for everything, even if his production was more than what he thinks he's going to do, would be 10,000 gallons a day.

Mr. Bowen: And he's prepared to commit that if there is no water available he will haul it all in?

Mr. Schenne: We're building a couple of large ponds, on our stormwater management plan we're going to have a pond up there that holds 500 to 600 thousands of gallons; that water would be pumped back into the plant and treated and used and discharged back in there, so we would have a big circle going. If we would have a big drought here that runs months maybe the top goes down, we got to truck water in, if that's the case we would put out a 10 or 20,000 gallon storage tank inside the process building, probably going to do that anyway.

Mr. Stringfellow: I think that you are talking slightly different issues here. You are saying the process requires about 10,000 gallons a day and a lot of that is going to be recycled water.

Mr. Schenne: 9,500 gallons; we will need 500 new gallons a day. We will discharge through our septic system, we have some bathrooms in our sales pavilion, we think that will use less than 500 gallons a day.

Mr. Stringfellow: I would like to move this on and get it off our table. What does anyone recommend?

Several discussions around the table to finalize the wording of a motion.

Mrs. Lucachik: I'll make a motion to approve the cider mill project based on the modifications:

1. More details on location, size and varieties of plantings around the building
2. Indicate calipers of trees
3. From Town Engineer Hannon's review dated July 31, 2014:
'applicant must secure permits from the appropriate agencies'
 - a. Erie County Department of Health and New York State Department of Health for Water Supply
 - b. Erie County Department of Health (and New York State Department of Health if > 1,000 gallons per day) for the Sewage Disposal
 - c. Include the Town stormwater and prevention plan for SPDES
4. Town Engineer Hannon's overall approval of all modifications
5. Identify engineering approach to the water and sewage disposal

Mr. Martin: Second.

Mr. Stringfellow: Motion is made and seconded. Is there any discussion?

There was no further discussion.

Mr. Stringfellow: All in favor?

All were in favor of the motion

PRELIMINARY DISCUSSION – PROPOSED HEINRICH ROAD SUB-DIVISION

Mr. Stringfellow: We have received the short form EAF, a letter from their engineer describing it, Building Application for Permit, Richard Brox review. This proposal is for a subdivision which means the Planning Board has final approval, not the Town Board, in that case we would normally declare ourselves as Lead Agency for SEQR. It's 6 lots; generally large lots, one of them is slightly over the required 3 acres, all the rest are well over the 3 acre requirement; 2 of them are flag lots where there is a 75 foot strip running out to give them road frontage and the whole lot is further back.

For the remainder of this preliminary discussion:

- Will represent Planning Board member or associate question, comment or concern
 - Project representative response
- I don't have any problem with that, each lot will have its own driveway. There are two driveways in there now apparently occupied residences, at least there are mailboxes with numbers on them
 - Mr. Romanowski: Only one of them is on our parcel, the southerly one is adjacent.
- However its driveway completely crosses the frontage of your lot #6 - if you're going to put in a driveway for lot #6...
- This is owned by the State of New York.
 - Right there is a parcel in there purchased by the State of New York I believe after he had a driveway in there, so when it was sold the driveway happened to be on that piece of property.
 - The piece of property that is shaded in is the piece that was conveyed to the State of New York, which is now part of the Heinrich Road 219 Right of way, at the time it was conveyed, the driveway was on that piece of property
 - You can use that same driveway where it hits the road and come straight back to lot 6
 - That person doesn't own that driveway, it's in the right of way
 - Description of possible solution was given by pointing, here and there, on the site plan
 - Trying to minimize curb cuts
- How much road frontage is there on that bottom lot
 - A lot – 160 to 200 feet
- Does anybody own any of these lots and living there
 - I own the parcel, since the spring the entire 38 ½ acres
 - There is an existing structure on lot #5 which is not occupied now
 - We're proposing to create one of the lots with that structure, so we're not actually proposing to build anything new on there, just some fixing up
 - We've done some cross clearing, haven't taken any trees out, brush clearing so that we can get a better idea of what the topography is
- Do you have a topo?

There was a side discussion taking place which drowned out Mr. Woods response regarding a topo.

- You're right the property slopes from top and comes all the way down; aren't you concerned that may cause problems with drainage once you start developing and blacktopping the driveways, how is it after it rains like this afternoon the water was coming that second driveway
 - That was an existing driveway, the family of the deceased owner had a lot of clean-up to do, in doing so they pretty much destroyed the driveway; they ruined some of the drainage and we haven't remedied that yet, and so yes water does come down there
 - To the topography is a little uneven, there are several locations that we can direct stormwater and manage it and there is a pretty good road ditch at the street, so we have all kinds of opportunities to control the erosion
 - There are some swales there, and we can actually swale it and bring this water down these lot lines without creating, and don't forget we're creating lots with 8 or 9 acres, the vast majority of them are going to stay undisturbed
 - We're talking about stoned driveways, until we get up to about here, some of these driveways are going to be around 600 feet long, we're not talking about an impervious surface for those
 - The houses would be stacked so there would be lots of vegetative buffer between the houses
- We have a tremendous problem with runoff and if the guy that buys the bottom lot might wonder why this was ever approved
- They cannot increase existing overland flow, that State Law
 - It slopes more toward the road, rather than down hill
 - A lot of the trees are going to stay there

- Are you going to just sell the lots and people are going to build their own place
 - I'm a homebuilder, we're Alliance Homes
 - We don't typically sell lots without doing the construction
 - What value of a house is going to be up there
 - I think minimum price somewhere around 300, or could go much higher than that but it is difficult given the cost of the infrastructure
 - Why that odd lot #1
 - It's a 3 acre lot, it exceeds frontage requirement
 - It's expensive to build driveway, water back 700 feet
 - Setbacks will be staggered
 - Houses will not be right on top of each other; one neighbor will not be looking into another neighbor's backyard
 - Will clear enough room for driveways
 - With 25 years of homebuilding experience, we have tried to develop communities that are a little more unique, make the houses a little bit larger and have them fit into the natural setting
 - Need a copy of the deed
 - Is there sewer up there
 - No, septic
 - Submittal will have to include a location map, suggest that you follow the provisions of Article V – Preliminary Plat for your next submittal – EXACTLY.
 - This is just for a preliminary discussion to see what the feeling was of the Board, before we went ahead and started spending a lot of money
 - We will want to see a topo map of existing and significant changes of what your proposing
- More discussion followed on drainage and topography.
- Some of those issues would come with the actual building of the house
 - Is this parcel in the view shed?
 - No it is not in the view shed protection area

Mr. Wood: So where do we go from here?

Secretary Faulring: I gave them a subdivision check-off list like those that were in your folders this evening.

Mr. Wood: So we will be seeing you again?

Mr. Kobiolka: Yes, we've got to have two Public Hearings, you know the process.

Mr. Stringfellow: Are you planning on starting this fall yet?

Mr. Romanowski: I have a party that is interested in building on Lot #3 and they have a little hit time sensitivity since...late fall? Is that doable?

Secretary Faulring: Our next meeting is September 9.

Mr. Brox: If they come in September 9 with a preliminary plat, and is complete, we can schedule a Public Hearing for Final Plat the next meeting.

Mr. Kobiolka: Maybe.

Mr. Brox: You can do it that fast if there are no problems.

Mr. Wood: Have you declared yourselves as Lead Agency?

Mrs. Lucachik: We would have to do that at the end of this meeting.

Mr. Stringfellow: Yes we can do that.

Mr. Kobiolka: Perhaps you should wait until you receive the Town Engineer's report in terms of whether or not this is a listed action, unlisted or type 1 or type 2 action.

Secretary Faulring: When do you want the plans in for the September 9 meeting?

Mr. Brox: You should have your plans to Thelma by the 29th of August.

Secretary Faulring: Or sooner. Mr. Chairman, I also want to tell you and the Board that I am going to be out of town from October 7 – October 15, so I won't be here for the October 14 meeting.

Mr. Stringfellow: Jennifer will have to take the minutes.

Secretary Faulring: In case there are Public Hearings to be scheduled.

COUNCILMAN BOARDWAY – TOWN BOARD LIAISON

Mr. Boardway was not in attendance this evening.

TOWN ATTORNEY KOBIOŁKA

Mr. Kobiolka: The Town Board did approve itself as Lead Agency, unlisted action for the cider mill. The last two Board meetings there were residents coming screaming about flooding and drains getting plugged, and the Town really has nothing to do with a lot of it, but they're just upset. This is really a big issue and the people have a lot of complaints, so when they came with this project, the person on the bottom...and once you put a 600 foot driveway in, and all the water is going to come down that driveway, and in a storm you're going to have driveways of water coming down. So please we've got to be very careful on this project.

Mr. Bowen: I think the key there is that we have a preliminary top plan and we have a final drainage or topography plan, that's absolutely critical. We discussed that with the subdivision down here.

Mr. Kobiolka: Can't we require a bond of the developer for the protection of drainage on that for a certain period of time?

Mr. Brox: I think so, in case you have to go in and correct drainage.

EXECUTIVE SESSION

Mr. Stringfellow: I will move that we go into Executive Session to discuss the appointment of Mr. Gallagher to the Planning Board.

Mrs. Lucachik: I second. All were in favor of the motion.

Mr. Stringfellow: I'll make the motion to return to Regular Session.

Dr. Ziarnowski: I'll second. All were in favor of the motion.

Mr. Stringfellow: Does anyone wish to make a recommendation for the appointment of Mr. Gallagher.?

Dr. Ziarnowski: I'll make the motion that we recommend that the Town Board not appoint Mr. Gallagher to the Planning Board.

Mrs. Lucachik: I'll second.

Mr. Stringfellow: There is a motion and a second, any discussion? I will say to the best of my knowledge that this has never happened before, but be that as it may. All in favor of the motion please say aye?

Mr. Stringfellow: There are 5 'ayes', I will vote 'nay'

NON-AGENDA DISCUSSIONS

Mr. Stringfellow: There is one item I would like to bring up before we close. Sometime ago it was brought up at one of our meetings that if we see a Code violation that we think should be taken care of we should bring it up. Does anyone have anything that they want to bring up tonight? I have one – if you've noticed the motorcycle shop has fluttering ribbons going down from its sign and they violate the Code. What do we do at this point, how does that get to the Code Enforcement Officer.

Mr. Kobiolka: Thelma will be setting next to him on Thursday.

Mrs. Rood: I saw a For Sale or Lease sign at the same time is that why the ribbons are there?

Mr. Stringfellow: You can put up a For Sale sign if you want to but you can't put up ribbons.

Dr. Ziarnowski: Plus that second banner of his. He's got a fixed sign, the banner sign and now flags.

Mr. Martin: Shouldn't there be a letter to the Code Enforcement Officer so there is written record?

Mr. Kobiolka: Yes, that would be a good idea.

Mr. Stringfellow: Thelma, would you please compose that letter – brought up at the Town (Planning) Board that the sign at the motorcycle shop, please put the address on it, is in violation of the Town Code.

Mr. Kobiolka: Another thing from the Town Board, when the Town Board received the recommendation from the Planning Board on signs; one of the five weren't there and the other two just got their packet that day; so I asked them to please table it until the fifth member was there.

Mr. Brox: I'm thinking of retiring. I've been the one and only Planning Consultant the Town's had since the Planning Board hired me some 20 years ago. If I continue I will continue to do it the same way as now, budget-wise. If you want to think about advertising to find somebody else before I go, or I would maybe recommend having (Town Engineer) Hannon take over my duties, maybe. He does a pretty good job of reviewing the plans.

Mrs. Lucachik: I'll make a motion to adjourn (8:53 PM).

Dr. Ziarnowski: Second. All were in favor of the motion.

Respectfully Submitted,

Jennifer Lucachik

Secretary