

PRESENT: David Stringfellow, Chairman  
Paul Ziarnowski, Vice Chairman  
Jennifer Lucachik, Secretary  
James Liegl  
Mary Ann Rood  
Paul Ziarnowski

ABSENT: David Bowen  
Mitch Martin (arrived at 8:15 PM)

ALSO Michael Kobiolka Town Attorney  
PRESENT: Thelma Faulring Secretary to the Boards and Committees  
Chris Wood Project Engineer – Heinrich Road Subdivision  
Andrew Romanowski Developer – Heinrich Road Subdivision  
Sarah desJardins Hamburg Planning Board Consultant

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 September 9, 2014. Being none, Dr. Ziarnowski made a motion to accept the minutes, seconded by Mrs. Rood and carried.

**CORRESPONDENCE**

Secretary Faulring reported:

- Planning Board letter dated September 15, 2014 to Joseph Gallagher requesting a second interview on Tuesday, September 23 at 7:15 PM
- Town Board letter dated September 18 advising of appointment of James Liegl; term expiration date of February 1, 2019
- Town Board letter dated September 18 advising Planning Board they approved the final site plan for the Back Creek Cider Mill project ‘subject to the final permits for the water supply, sewage disposal and storm water management systems are completed in regulation of the County of Erie County Health Department and Town of Boston’
- Town Board letter dated September dated September 18 advising Planning Board of Public Hearing scheduled for October 1, 2104, 7:40 PM for Local Law #2 – ‘Local Law to amend certain portions of Chapter 95 of the Boston Town Code regarding illuminated signage in the Town of Boston’
- Richard Brox letter dated September 19, 2014 formally advising of his retirement effective December 31, 2014
  - Copy of letter forwarded to Town Clerk Mulé

**HEINRICH ROAD SUBDIVISION**

Correspondence:

- Richard Brox Review dated September 19, 2014
- James Hannon Review September 22, 2014
  - Copies of these reviews were in members folder and given to Mr. Wood and Mr. Romanowski

Mr. Stringfellow: The Town Engineer’s letter has recommendations in as to what the Planning Board should do at this time. He’s recommending that the Planning Board assume status as Lead Agency for the purpose of conducting the State Environmental Quality Review.

Mr. Stringfellow: I will make a motion that the Planning Board assume Lead Agency for the purpose of SEQR review on this subdivision; is there a second?

Dr. Ziarnowski: Second.

There was no discussion and all were in favor of the motion.

Mr. Stringfellow: Again in accordance with the Engineer’s suggestions that the Board classify this as an unlisted action under SEQR. For SEQR everything is either Type I, Type II or Unlisted and this is not Type I or Type II.

Mr. Stringfellow: I will make the motion that we classify this action as an unlisted action under the SEQR Law...

Mr. Kobiolka: What I would add to that motion is to have it declared as unlisted and that the Board would recommend an uncoordinated SEQR review

Mr. Stringfellow: I will then amend the motion to declare it an unlisted act and the Board will conduct an uncoordinated SEQR Review. Uncoordinated simply means that we do not coordinate with other agencies, simply because there are no other agencies involved here except the Town of Boston.

Mrs. Rood: I'll second that.

There was no discussion and all were in favor of the motion.

Mr. Stringfellow: We have looked at this preliminary plat plan before; They did submit the deed as requested.

Further discussion will be recorded as follows:

- Planning Board member or associate comment, concern or question
  - Mr. Woods' or Mr. Romanowskis' response
  
- I have gone through the deed and compared it with what is on this plat and it is far, far off; if you go through exactly the words that are in the deed, you don't own most of this land; I think you need to correct something
  - We will look into that; we got that from our attorney when we did the closing, maybe he didn't send the entire package; I'll check on it
- Who was your counsel at closing?
  - Locke and Longo
- Town Engineer was not sure whether there was a water main crossing the fronts of all these lots
  - There is; we had that in the map
- It is a main that these lots can tap into then?
  - Right. The cabin that's on there currently has public water and so does the house
- The cabin on 5?
  - Yes
- Another point brought up by Mr. Hannon - Is there enough pressure in that main to feed houses set that far up?
- Mr. Hannon suggested that it is unlikely that you can build six houses and six driveways without disturbing an acre of land and therefore you would need a stormwater protection plan
  - Under the DEC general permit in appendix B it allows for single family subdivisions between one and five acres of disturbance; we're looking at probably half an acre per lot which would be under five acres; the only thing you would have to do is an erosion sediment control plan. I talked with Mr. Hannon and when we resubmit, that will be part of the resubmit; and fill out an NOI and get a SPEDES permit, but you don't have to have post construction control or green infrastructure or water quality; we'll take care of it
- You have an easement that crosses lot 5 for access to lot 6 and lot 6 has 280 feet of road frontage
  - We thought rather than to modify that existing driveway, we would come off that existing driveway that goes to the cabin and provide that easement across the frontage of lot 5 to get to lot 6; we thought that would be a cleaner way to do it..
  - rather than share a portion of the neighbors existing driveway, we realize that we have an option but we thought this was the...
- Then lots 5 and 6 are sharing a driveway; this Planning Board has been very careful to avoid access to a lot by an easement across another lot; because experience has taught us that 10 – 20 years different people own the properties and they get into arguments and they take it to the Town Board and they want the Town to settle it
  - It doesn't make a difference to us
  - Frankly, it's easier for us to use the other portion of the driveway, we just thought that it would be less disturbance to the existing neighbor
- His driveway is all in the state land, it's not in the subdivision
- I guess there is nothing preventing the owner of lot 6 from simply building a driveway straight out; my preference is not to have an easement and let lot6 build its own driveway
- Does lot 6 have a deep ditch that goes down?
  - Not across the entire frontage; the frontage is pretty much at the same elevation as the existing driveway; that ditch is between the driveway and the road
  - The driveway for the existing house comes across the whole frontage so we would probably tie into that driveway so we don't have to put in another road culvert across that ditch; otherwise we would have to cross the existing driveway that belongs to the neighbor which would be awkward

- Is there any question about putting driveways across that State owned land?
  - I talked with the guy at the DOT Real Estate Department and he said that piece of land is just part of the right-of-way; they bought it to construct that turnaround . so it's really the same as any other part of the Heinrich Road right-of-way
- Has the Highway Superintendent seen the plan
  - He has signed off, I have a copy of it
  - Mr. Brox's letter also said a signature line for Planning Board Chairman I can understand that; but not sure why County Finance and Health Department I don't think that needs to be on there, I don't think the County is going to sign this as a map cover
- Mr. Kobiolka will check into this with the County Real Property Tax Division to see if they want to sign off on it
- How did you pick the locations for your perc, just arbitrarily ? Some of the locations are like right in the driveway
  - We're going to do sand filters; we knew they weren't to perc anyway

Mr. Stringfellow: I believe at the last meeting Mr. Brox suggested that the hearing for the preliminary and final plat could be combined into one hearing and I believe Mr. Kobiolka was going to look into that.

Mr. Kobiolka: I have not had a response yet, but I will get one before the end of the week. Going back, you said that the cabin has water on lot #5, have you done a pressure test at all?

Mr. Romanowski: We haven't put a gauge on it; it will be tested to make sure there is adequate pressure.

Mr. Wood: Where do we go from here?

Mr. Stringfellow: Are we ready to schedule a Public Hearing? There are certainly some changes to be made before that could be done.

Mr. Wood: I think the changes to the plan are minimal.

RECAP of discussions (but not limited to): Get a deed that agrees with what you're showing; corrections that Mr. Hannon wanted on the EAF; Erosion and Sediment Control Plan;

Public Hearing time limitations: 'upon receipt of all information that may reasonably need to perform the environmental review your Board will have twenty days to make determination of significance'

Mr. Stringfellow: We meet again in two weeks if you get your whole list to him (Mr. Hannon) then he can have determination of significance ready for us by the next meeting.

Mr. Kobiolka: You have 'forty-five after receipt of a preliminary plot plan that complies with the provisions of these regulations, the Planning Board shall hold a Public Hearing;' so you have forty-five days from the time that we consider the Preliminary Plot has been complete; and think that Jim Hannon wanted to be sure that he was in a position to issue some type of statement with regard to SEQR before we hold the Public Hearing. So we will speed it up as much as we can but we do have steps to go through.

Mr. Stringfellow: From the time we decide to hold a Public Hearing, how long does it have to be before we can actually have it?

Secretary Faulring: Two weeks, actually ten days prior to the Public Hearing I have to have the Public Hearing Notice in the paper.

Mr. Stringfellow: I think we would stretch things pretty tightly here to try to schedule a Public Hearing two weeks from tonight.

Discussion followed regarding scheduling for Public Hearing.

Mr. Stringfellow: We should plan to make the determination of significance at our next meeting and hold a hearing two weeks after that.

Mr. Wood: That will be the final meeting? That will be preliminary and final?

Mr. Kobiolka: I will check on that; we don't want any of the neighbors to think we set the action aside, we have to notify the neighbors. It would be easier for us because then we wouldn't have to advertise twice.

Mr. Romanowski: We've done it in Orchard Park.

Mrs. Lucachik: I make a motion to table discussion until the next meeting.

Dr. Ziarnowski: I'll second.

There was no further discussion. All were in favor of the motion.

Mr. Leigl: Please clarify a question for me: where they have the easement for the driveway, there was discussion of the State of New York and that being their highway parcel. Isn't that kind of important to know if that is okay with the State of New York, to use that? Or do we just...is there anything in writing?

Mr. Stringfellow: I don't believe we have anything in writing, no. There is a driveway running through there now, I don't know if the State of New York even knows that it is there or cares.

Secretary Faulring: I pulled a list of neighboring property owners that would have to be notified for the Public Hearing and New York State is not on the list. There are two LLC's one of them Andy's (Romanowski), several residences but no Town or State Governments.

Mr. Kobiolka: Maybe when I talk to the County and the sign-off on the plans, maybe I can address that with them because they usually have a pretty good handle on who owns what.

Discussion continued.

**LIAISON – COUNCILMAN BOARDWAY**

Mr. Kobiolka: I did express your concerns of two weeks ago; and the Planning Board would like him to attend the meetings.

**TOWN ATTORNEY – MR. KOBIOLKA**

Mr. Kobiolka reported:

- The Town Board did approve the plans for the Back Creek Cider Mill with the conditions that he has to have the approval and permits from the water and sewer authority and drainage
  - Mr. Hannon asked me to give Code Enforcement Officer Ferguson the heads up that no Building Permits are not to be issued until those issues have been complied with
- Sign ordinance Public Hearing is coming up on October 1, and Jennifer we would like you to be in attendance at the Town Board meeting if possible, all of you of course are certainly welcome to attend
- Spoke with Jim Hannon, about Mr. Brox's retirement plans,
  - Jim is interested;
  - I did not get into any specifics because I didn't know what the Planning Board wanted to do
  - There was talk about one of the planner's from Hamburg
  - Mr. Hannon would be the logical choice
  - Are we doing anything in terms of any other planners?

Mr. Stringfellow: I have talked to the Supervisor and he essentially said get at least three candidates and interview them; he suggested that Mr. Boardway and I interview the candidates; I plan to do that; Mr. Brox had names of people that might be interested in it. I will get back to him. I think that's how we will do that – interview three and then make a recommendation to the Town Board.

Mr. Kobiolka: I thought the cost was pretty high, do you know anything about that?

Mr. Stringfellow: We got bids from several companies and the costs were quite high and I think Mr. Brox was trying to suggest individuals for the job.

Mr. Kobiolka: I just settled an Article 78 for the ZBA, who denied a request for a (front yard) six foot fence, and that it be made of wood instead of vinyl. The clients were requesting \$10,000.00 for legal fees, which they did not get. I just want the Board members to be well informed and educated as to what they can act on as far as Code.

Mr. Stringfellow: One thing that I feel should be brought up is that the cider mill that has just been approved has a driveway that goes across land that the State bought when they put the 219 Expressway in; they bought right-of-way on both sides of the road leading up to where the entrance is and exits are; that's the same situation we have with the subdivision.

**EXECUTIVE SESSION**

Mr. Gallagher called me and said that he would not be able to make our request for a second interview this evening and asked if he could be scheduled for another time, so please send another letter and schedule him again.

Mr. Stringfellow: Is there anything else to come before the Board this evening? If not is there a motion to adjourn?

Dr. Ziarnowski: What is being done about the shoulders on the State Road?

Discussion followed with complaints about the paving that was done on Boston State Road; not safe.

Mr. Stringfellow: I make a motion to adjourn. (8:14 PM)

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

Respectfully submitted,

Thelma Faulring

Secretary to the Boards & Committees