

**Minutes of the Town of Perinton
Planning Board Meeting of September 3, 2014**

Planning Board Members Present

Mark Anderson, Chairman
T.C. Lewis
James P. Brasley
Kenneth O'Brien
Craig Antonelli
Norm Gardner
Sandra Neu

Conservation Board Members Present

Jerry Leone
Andrew Rodman

Town Officials Present

Robert Place, Town Attorney
Thomas Beck, Commissioner, DPW
Robert Kozarits, Town Engineer
Michael Doser, Director Code Enforcement & Development (CED)
Lori Stid, Planning Board Clerk

Mr. Anderson called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures.

New Application(s):

Janders Run Subdivision. Parrone Engineering, as agent for Tomax Homes, Inc., owner of property located approximately 200 feet south of Pebble Hill Road and Ledgemont Drive (tax account # 166.06-3-59.1), requesting concept, preliminary, and final subdivision approval under Section 278 of Town Law for a 17-lot single family subdivision on approximately 10 acres of land.

Presenter: Parrone Engineering, Ed Parrone
Zoned: Residential B

Mr. Anderson states that this project was before the Town in 2006, at which time it was granted concept and preliminary subdivision approval. Final Phase 1 was granted in 2008. All of these approvals have expired at this time.

Mr. Parrone presented the application to the Board. With him are Robert Steehler and PieroForgensi, the owner and developer of the parcel from Tomax Builders. He states that conceptual is not an approval in the Town of Perinton, but they are asking for it. This was previously approved by this Board for an 18 lot subdivision. This project did not go forward at that time due to the crash that hit in 2008 and the project was not financially feasible. There have since been some changes on this project. The project is 10 acres of land and they are now proposing to dedicate approximately 2.5 acres of land to the Town of Perinton. The land proposed to be dedicated is located in the southwest corner of the property, and a strip along the Niagara Mohawk parcel of land and a strip behind lots 16 and 17. The Town has purchased the Hewes Estate property to the immediate south. The original project had a street that would continue all the way through and dead end at the Hewes property. There was discussion at that time about the developer purchasing a piece of that property and the Town obtaining another piece to develop a cul-de-sac. This never came to fruition and this new application is for 17 lots, because they have introduced a cul-de-sac (pointing). They have had multiple meetings with the Town Engineer regarding grading. The DPW had concern with 8% grade. By eliminating one of the lots and re-distributing the land the grade was changed. The side slope is now a 1 on 5. The lots are a little deeper. The rear slopes is a little more than a 1 on 3 which is doable. They have already secured the land as it goes underneath the Niagara Mohawk Power Company. This is a part of this project. They have met with the Conservation Board and feels that they have answered all of their questions. He acknowledges receipt of most recent comments from the DPW. They have a meeting tomorrow morning with the DPW to review these comments.

Mr. Anderson asked for questions or comments from the Conservation Board. Mr. Leone states that they have met with the applicant and have reviewed the proposal and are aware of the DPW comments/concerns and are prepared to make a SEQR recommendation.

Mr. Anderson asked for questions or comments from CED. Mr. Doser states that the application is a proposal for a 17-lot cluster development in a Residential B zoning district. The Planning Board has the discretion to modify the setbacks and development to promote the most appropriate use of the land, to facilitate the adequate and economical provision for streets and utilities and to preserve the natural and scenic qualities of open lands. The applicant is proposing to dedicate 2.8 acres of the 10 acre parcel to the Town of Perinton. Lot sizes are proposed to be between at least 11,460 square feet and an average of 14,513 square feet, instead of 14,400 square feet (as is required in Residential B). Three lots exceed the Residential B requirement. All are acceptable sizes for a cluster development. The application calls for 40-foot setbacks along lots 1 through 13 and 30-foot setbacks in the cul-de-sac (instead of 50 feet as is required in Residential B).

Mr. Anderson asked for questions or comments from DPW. Mr. Kozarits states that DPW issued comments as follows:

Janders Run Subdivision

Requesting Concept, Preliminary and Final Subdivision Approval (Town Law - Section 278 Clustering)

DPW Comments:

General

1. Deed of dedication for the portion of proposed Axel Rim Trail within the Niagara Mohawk (d.b.a. National Grid) property dated June 30, 2008 has been filed with the County Clerk's Office (Book 10637, Page 0499) and copy provided to the Town of Perinton.
2. The applicant needs to re-apply for approval to develop this site under the Town's 278 Law for Cluster Development. The conventional concept plan for developing the site per the designated zoning included with the submittal is adequate for this purpose.
3. The DPW would like to meet with applicants engineer to discuss revising the storm and sanitary sewer layout to reduce the number of manholes and maximize separation between the gutter edge and sanitary sewer. DPW would also like to discuss and resolve several comments on the SWPPP prior to signing the SWPPP acceptance form.
4. Provide a Construction Estimate to the DPW for review. The approved amount shall be secured in a Letter of Credit prior to plans receiving final approval signatures.
5. Provide descriptions for Easements, Dedications and Deed Restrictions to the DPW for review. The signed easement documents along with a check to the Monroe County Clerk for the appropriate filing fee shall be provided to DPW prior to filing the subdivision map.
6. If the Cluster Development Plan is approved, add a note to the subdivision plan that states "No end load garages will be permitted."
7. Provide an Erosion and Sediment Control Plan that shows the stabilized construction entrance, temporary sediment traps, diversion swales, topsoil stockpile location, and construction sequence.
8. Provide a compaction testing schedule for the proposed fill area between stations 4+00 and 8+00.
9. Specify that all slopes 1 on 3 or greater and swale inverts shall be stabilized with jute mesh.
10. Specify that a Kor-N-Seal boot shall be used to connect new sewer pipe to the existing sanitary manhole at Sta 1+90. Remove the existing tree currently growing near existing manhole cover.
11. Revise the storm sewer schedule to specify that Structures DI-4.2 and DI-4.3 shall be flared inlets and relocated to Sta. 4+50.
12. Move DI-8.2 and 8.3 closer to cul-de-sac throat per Town Standard.
13. Deep hole test and infiltration test for proposed infiltration basin needs to be conducted at an elevation 7' below existing grade. The infiltration test needs to be completed prior to final plan submittals and the results noted on the plans.
14. Provide pretreatment stilling basin at outfall pipe upstream of infiltration facility. Proposed vegetated swale is not very long and may not provide effective sediment removal.
15. Add the following note to the grading plans: "Sediment shall not be allowed to enter the proposed infiltration basin during construction. The developer shall conduct a performance test on the infiltration basin upon completion of construction to ensure the actual infiltration rate is consistent with design assumptions."
16. Provide a single infiltration basin and outlet control structure per detail on C5.4 rather than two (2) separate infiltration basins. In the event that the infiltration tests do not produce desired results, infiltration basin shall also be analyzed as a detention pond and data provided to DPW for review.
17. Provide a project specific cross section of the proposed Stormwater Management area that shows the outlet control structure rim and spillway elevations and pond water elevations for 1, 2, 10 and 100 year storm events.
18. To reduce standing water concerns at the east side of trail near the basin outlet pipe, construct a 3'x3' drainage structure over the inlet side of the existing cross culvert and connect infiltration basin outlet pipe. Provide additional inlet pipes with end sections on north and south sides of this structure to collect swale drainage.
19. Regrade 15' wide area along east of trail between power lines and infiltration basin to provide positive drainage in vicinity of existing cross culvert.
20. Relocate FI-1.0 approximately 15' west and realign proposed 12" HDPE to be parallel to existing 12" csp (approximate 10' offset). Structure FI-1.0 should be a 4' manhole.
21. Regrade area behind property corner for lots 2 & 3 to drain towards new field inlet FI-1.0.
22. Revise manhole detail D27 to show a 6" minimum separation between the pipe invert and bottom slab.
23. Provide the Town Standard offset cul de sac detail (D7) in the plans.
24. Provide subdivision monuments at the corners of the subdivision.
25. Confirm whether or not earthwork for this site will balance.
26. Change ownership label of property south of the proposed subdivision from "Mary B. and Sandra M. Hewes" to "Town of Perinton".
27. Provide outlet control structure information on storm sewer schedule.
28. Provide 10' wide access road around infiltration basin.
29. Label pipe diameter and material for catch basin road crossing pipes and connections to manhole.
30. Confirm whether check dams along rear lot swale are permanent or temporary.
31. Adjust driveway grading to provide maximum 2% to 3% cross slope. Current driveway cross slopes appear to exceed 6%.
32. On the subdivision map, show Town Conservation Monuments at the following lot corners: Lot 8/9, Lot 10/11, Lot 12/13 and Lot 14/15. Eliminate the five (5) Monuments shown along the west side of the conservation area parallel to the RS&E Trail.

33. Provide a note on the grading plan that states "Prior to start of mass grading operation, developer and DPW shall walk the project's southerly property line to confirm all dead or fallen trees have been removed."
34. Extend the project mill and resurface limit to Pebble Hill Road.

Mr. Kozarits states that many of the comments are technical in nature and losing a lot helped with the grading. He inquires if the deep hole testing has been conducted. Mr. Parrone states that they will be conducted soon.

Mr. Beck states that there are no sidewalks required for this project.

Mr. Anderson asked for questions or comments from Attorney Place. Mr. Place states that concept approval is required for a 278 application. The Board should identify the maximum number of lots that are permitted and the minimum lot sizes and setbacks that are acceptable. We have received a deed from Niagara Mohawk for the road which will run under their power lines. He spoke with Diane Mendick today. This deed has a title issue; which is that a quit claim deed was filed and not a warranty deed. The title shows an open mortgage and Ms. Mendick is attempting to get that resolved. The developer is going to provide a fee policy to the Town to protect the Town's interest in that portion of the road; and this should be a condition of any approvals. If concept is granted, that approval should be made subject to the Town Board agreeing to accept the proposed open space. A formal application should be submitted to the Town Board for that. The Board will need to make park fund contribution and SEQR determinations. This is an unlisted action.

Mr. Anderson inquires who owns the lands marked as owned by Hewes. Mr. Place states that the Town now owns that and has acquired it since the last time this application was before the Board.

Mr. Anderson asked for questions or comments from the audience, and there were none.

Mr. Anderson states that this is a 278 application and in order to do a 278 application a conventional approval is required. The Planning Board did not receive the conventional layout. The Planning Board did not receive a statement of benefit to the Town for a 278 and the Board is required to make a finding to determine if the land supports the number of lots being proposed. Density needs to be established. The Planning Board is also required to make a recommendation to the Town Board for the proposed open space as to if there is a benefit and what it is. The Planning Board did not receive this information in what was submitted to the Town.

Mr. Parrone states that at the time the pre-meetings were had there were representatives from Town staff and the Planning Board at these meetings and the thought process was to go right to preliminary and final because there was so much previous history. A conventional plan was demonstrated to Town staff and he apologizes that it did not make it into the submission to the Planning Board. Mr. Anderson states that this prior approval was years ago and there are now two new Board members and in fairness to them they need to have the opportunity to look at this material. It is also fair to the Town Board, which is basically a new Town Board, except for one person, since this last approval and the Planning Board is required to make a recommendation to them and it is important that the recommendation has knowledge behind it. He understands that there is history; however, there is a process that needs to be followed. Mr. Parrone states that they were not advised of this. Mr. Beck states this was made clear that this is a new application and a conventional plan was not provided to the Planning Board as part of the submission, however a copy was provided to the DPW, which the Town incorrectly assumed was part of the Planning Board submission.

Mr. Anderson states that he is not comfortable going to concept approval tonight without the benefit of reviewing a conventional plan. It has been 8 years and he would like the two new members have an opportunity to review the complete submission. He also would like to see a listing of what the benefits to the Town are for a 278. He understands that benefits were given at the time of previous approval but does not know if those benefits are the same today. Mr. Parrone states that more benefits have been added; drainage has been improved.

Mr. Place states that with the level of detail for a plan of this type; it normally would require two meetings and that could still happen at the next meeting if all of the information is provided and the Board approves the proposal.

Mr. Anderson inquired why it could not be developed under conventional. Mr. Parrone states that it would be a very difficult process to cross NYMO. This is fixed and cannot move without another two year process. A 278 application affords them an opportunity to grade the site and preserve some of the land within the site to avoid grading. A conventional plan would require a significantly higher amount of grading to make it work. It took years to get the NYMO approval. Mr. Anderson inquires if the road layout on a conventional plan would show this road layout. Mr. Parrone states that there would be a two year delay or more to get approval from NYMO for a different approval. Mr. Parrone states that a conventional plan would show a number of flag lots.

Mr. Lewis would like to see a conventional layout; it is required as part of the process for a 278. He wants to know why not a conventional layout. It appears that the ROW is an issue. Mr. Parrone states that this was never told to them at site plan committee meetings; this Planning Board has already reviewed a conventional plan of 18 lots from the prior approval. The DPW told them this time they could not develop it for 18 lots so they came back with 17 lots. Nothing has changed with the site. Mr. Lewis states that the Planning Board needs to see the conventional layout for this approval in order to approve a 278. The past approvals have expired.

Mr. Brasley feels that a 278 plan with 17 lots will fit. There is a requirement that a conventional plan be submitted as part of the process in order to approve a cluster plan. He realizes that this was approved in 2006, but needs to see it now for this approval as the old approval has lapsed. He asks what the benefit to the Town is for a 278 as he doesn't remember what it was 8 years ago. Mr. Parrone states that he will provide this information to the Town. Mr. Brasley states that it sounds like the drainage is improved, less grading. Mr. Parrone states that the Town will also get the benefit of the land that they are proposing to dedicate to the Town. Mr. Brasley likes the layout of the 278 for 17 lots. He feels the lots are marketable. All of the past approvals have expired and the process has to be gone through again. A conventional plan is required to determine density in order to approve a 278 plan.

Mr. O'Brien states that this Board needs to see a conventional plan in order to go forward. He feels that 17 lots in a 278 will work.

Mr. Antonelli supports the 278 proposal. He is ok with the 8% grade. HE understands that more engineering has to take place with review from DPW. As he recalls from the prior approval a 278 plan benefits were that the grading would be better and the houses would be pulled away from the power lines. By eliminating a lot, it makes the site work better than the past approval. There is a benefit to the Town for the dedicated land. The DPW is asking for an access road and he would like to see that on the plans; this is also a benefit to the Town. He inquires when they would propose to develop. Mr. Forgens states that they would like to develop in the spring of 2015. Mr. Antonelli inquires if delaying this approval will hold him up. Mr. Forgens states that the NYMO easement is an issue on the conventional plan.

Mr. Gardner states that he first saw the proposed conventional plan tonight. If the NYMO easement is an issue, that needs to be reviewed. He inquires if NYMO is aware of the grade being raised fairly close to the middle of the sag in the power lines. Mr. Parrone states that all of the distances had to be measured and NYMO is aware. Mr. Gardner would like to see the conventional plan and to understand what the benefits to the Town are for development of a 278.

Ms. Neu inquires if the applicant feels this project has salability. Mr. Parrone states that they feel they are. Turk Hill Estates has power lines all over. People live in the homes on Freshfield Rise, Falling Brook and Norbrook. Mr. Parrone states that foliage will be added.

Mr. Anderson feels this is a good infill project and has been approved before. He feels that once the missing information is given to the Board they will then be in a position to make a decision. He would like to see the technical work being done and shown on plans, a conventional plan and a listing of benefits to the Town for a 278 application. He is not prepared to go to concept without this information.

Mr. Parrone would like to be on the 9/17 meeting. Mr. Kozarits feels that it will take longer than that to review infiltration basin/pond information. Mr. Doser suggests that they get all of the detail work done before they submit. Mr. Anderson suggests perhaps they could be on October 1 if they can get all of the information in to the Town within a time frame that allows the Town to review the proposal prior to the meeting. Mr. Parrone states that the conventional plan can be of any configuration that they desire; it doesn't have to mirror the 278. Mr. Place states that the conventional plan just has to show that they can build 17 lots. Mr. Brasley states that the conventional plan just has to be something that the Planning Board would likely approve.

Mr. Parrone asked if they could get a SEQR determination tonight. Mr. Anderson states no; that is for preliminary and concept has to be approved first and can't be without seeing a proposed conventional plan first.

Mr. Anderson made a motion to defer concept, preliminary and final subdivision approval under Section 278 of Town Law for a 17-lot single family subdivision on approximately 10 acres of land, for plans received by the Town on 8/26/14, subject to the following conditions:

1. Satisfaction of any remaining concerns of the DPW; applicant to work with Town staff to resolve these items.
2. Until such time as the applicant can provide to the Planning Board a proposed conventional plan, a statement of benefit to the Town for lands proposed to be dedicated to the Town, a statement of benefit to the Town for a 278 proposal.

Mr. Lewis seconds the motion.

Motion carries 7 – 0.

Discussion:

Recommendation to Town Board - Proposed Special Use Permit - ROC Martial Arts – 584 Whitney Road

Mr. Antonelli recuses himself due to a conflict of interest and steps down from the dais.

Daniel Carini, 68 Wheatstone Circle states that he is applying for a Special Use Permit under public buildings and grounds in the mixed-use zoning at 584 Whitney Road West to open a martial arts school. He showed the layout of the building on a map and stated that the school, which would be called ROC Martial Arts, would be in the front of the building with his construction company in the back of the same building. He added that there would be ample parking as the two businesses are not open at the same time. Mr. Carini stated that the school would be open from 6-10 pm Monday through Friday and 9am to 2pm on Saturday. He stated that the martial arts studio would be 870 sq. ft. and he plans to have a maximum of 10-15 students at one time.

Mr. Anderson inquired if there would be tournaments. Mr. Carini states no; there is not enough space to accommodate that.

Mr. Anderson asked for questions or comments from the Conservation Board. Mr. Leone states that the Conservation Board has already provided written comment to the Town Board.

Mr. Anderson asked for questions or comments from CED. Mr. Doser that this use would fall under public buildings and grounds code, so the question is if the use makes sense for this location. CED feels that this use will fit here.

Mr. Anderson asked for questions or comments from DPW. Mr. Beck states that the DPW has no comments on the proposed use, but will have comments at the time of site plan approval.

Ms. Neu inquired if the hours of operation will change during school breaks and the summer. Mr. Carini states no; he has a full time job and they can only do this at night during the week and on Saturdays.

Mr. Gardner supports the use. Mr. Gardner states that signage would be a separate application.

Mr. O'Brien feels that the room is too small to host a tournament so any concern of parking is not an issue. He supports the use.

Mr. Brasley supports the idea of occupying an unused portion of an existing building.

Mr. Lewis supports the use.

Mr. Anderson feels that the two uses in this building don't conflict, and he supports the use. If they were to ever propose a large event, parking would be an issue. Currently Mr. Carini is renting out the remainder of the building for use for a construction company so he has control over any potential parking issues. Currently the building is only partially occupied and the Karate Studio will utilize the remaining space. The proposed studio plans to have 10-15 individuals on site at any time and the hours of operation, Monday-Friday 6PM - 10PM / Saturday 9 AM - 2 PM, do not conflict with the existing tenant. The existing parking situation is sufficient to support the studio's demands. Further, the applicant does not plan any tournaments or extraordinary events which would generate excessive parking demands. This is a low intensity use which is consistent with the Whitney Road corridor goals and will provide the community with enhanced recreational options / facilities.

Mr. Anderson inquires when the site plan would be seen by the Planning Board. Mr. Doser states it should be October 1st, pending Town Board approval which is scheduled for September 10.

Recommendation to Town Board - Mixed Use Zoning District - Modification to Limited Commercial District zoning code (§208-43)

Mr. Doser states that this is to correct a procedural error which occurred when the Code change was originally submitted for revision in 2013 and is for what the Planning Board reviewed on 10/16/13. He described Limited Commercial as a zoning district that the Town entered into in 1990 as a way to emphasize small commercial development providing convenient shopping amenities to the neighborhood. In working with local planner, Matt Ingalls on modifying the Limited Commercial Zoning and he recommended that they keep the nucleus of the Code intact. They have modified some bulk area requirements, added specific architectural and site plan standards. The most significant change is adding residential uses and renaming the district from Limited Commercial to Mixed Use District. The idea is to create synergetic zoning where commercial office and residential uses exist side by side creating a thriving and pedestrian friendly atmosphere.

Mr. Anderson states that this was before the Town Board previously and the Planning Board did make a favorable recommendation to the Town Board at the Planning Board meeting of 10/16/13. There was a procedural error in that the proposed code change was not sent to Monroe County Planning for their comment prior to adopting the Code revision in 2013. Monroe County was solicited for comment this time and had no comment on the proposed Code changes. Mr. Anderson inquires of Mr. Doser if anything has changed since this Board reviewed it in October 2013 and provided written comment to the Town Board, and Mr. Doser states nothing has changed. Mr. Anderson feels that it gives the Town and developers more of an opportunity for different uses and more creative development and could help to revitalize areas of the Town.

Mr. Lewis supports.

Mr. Brasley has no comment.

Mr. O'Brien supports.

Mr. Antonelli has no comment.

Mr. Gardner states that these are pedestrian friendly environments and the Board needs to maintain those principles as the applications come in.

Ms. Neu has no comment.

Mr. Anderson states that he will write comments to the Town Board.

Planning Board 9/17/14 – cancelled

Mr. Anderson states that there are no applications for the Planning Board meeting of 9/17/14; therefore he is cancelling that meeting.

ZBA – 9/22/14

Mr. Antonelli states that there are three agenda items and none of them require a comment from the Planning Board.

Minutes

Mr. Anderson states that they just received the meeting minutes of 8/20/14 and the Board has not had an opportunity to review them, so they will defer consideration of those at this time.

There being no further business before the Board, the meeting adjourned at 8:22 PM.

Respectfully Submitted,

Lori L. Stid, Clerk