

12/18/12 Planning Board Minutes

TOWN of ELMA PLANNING BOARD
1600 Bowen Road Elma, NY 14059
Phone: 716-652-3260

THE COMPLETE STREET IN-HOUSE WORKSHOP

On December 18th from 6-7:00 PM Fred Frank, Consultant with Wendel Duchscherer, gave a presentation to EPB, ZBA, Town Board members and one member of the Marilla Conservation Board . This workshop qualifies for one hour of NYS mandated educational credit.

MINUTES OF REGULAR MEETING - December 18, 2012

The Regular Meeting of the Town of Elma Planning Board, hereinafter referred to as the EPB, was held on Tuesday, December 18, 2012 at 7:15 PM in the Elma Town Hall at 1600 Bowen Road, Elma, New York. (The November 20, 2012 meeting was cancelled.)

PRESENT:

Chairman Thomas Reid
Member David Baker
Member Michael Cirocco
Member Gregory Merkle
Member James Millard
Member Robert Waver
Alternate Charles Putzbach

ABSENT:

Member Michael Cleary (left at 7:00 PM)

TOWN REPRESENTATIVES:

Attorney Dean Puleo - substituted for Phyllis Todoro
Raymond Balcerzak, Asst. Bldg. Inspector
James Wyzykiewicz, Town Engineer

I APPROVAL OF MINUTES - October 24., 2012

Motion made by James Millard and second by Gregory Merkle to approve the Minutes of the EPB Regular Meeting on October 24, 2012.

Ayes: 7. Nays: 0. Motion Carried.

II C.W. FARGO,LLC - TWO 280A BLDG LOTS - GAYLORD COURT

Representing owner Craig Fargo was his brother Gary Fargo, along with attorneys Tammy Riddle and Bruce Ikefugi of Hogan Willig. Craig Fargo is requesting that the EPB recommend to the Town Board the approval of one 280-A building lot for an area previously presented as "Fargo Court", now applied for as "Gaylord Court".

Lot#1 is 3.668 AC and Lot#2 (not part of this application) is 9.628 AC, accounting for the entire property. According to a letter from Hogan Willig dated 12/11/12: "The 60 feet of frontage for the entire parcel is used currently as a private roadway for three neighboring property owners. The roadway is privately maintained and would remain that way." "The proposed lot for development would have a separate 15' driveway.." The frontage for Lot#1 is 30 feet. Mr. Fargo is requesting an exception be made to the Elma Town Board Resolution which requires 35 feet of frontage under a 280A designation.

Attorney Phillips presented the argument that the five feet frontage difference is not that material and ultimately would like variances for the two proposed parcels to have 30 feet of frontage each instead of 35 feet. She also said that adjacent properties had easements to get to their own houses; are not allowed to park; had no right to maintain the roadway; "that this is not a shared driveway but an easement". The Town Board Resolution states that each 280A lot is to have its own driveway that connects to a public road. It was noted that the Application Fee for one 280A Lot in one year is \$400; this increases in this case to about \$5,000 if both lots are approved.

Attorney Puleo and the EPB reviewed the history of this property: How applications had been made for the past twenty years by Mr. Fargo and not been approved by the Town Board; how the 280A regulations had changed; how much money has been spent by Mr. Fargo during this process according to the attorney's letter. Gary Fargo admitted that Craig Fargo had created some of the design/code compliance problems due to past decisions. On the other hand, he said he was most anxious to resolve this matter now rather than have 14AC remain vacant and worthless. Attorney Puleo then commented that the attorneys are splitting hairs: a private road vs. shared driveway. He also referred to

Town of Elma Code Section 123-17 A. Lots (9) Access from private streets.

After much discussion regarding what is and isn't a "shared driveway", the problems encountered between homeowners with shared driveways and the Town's 280A Resolution, Attorney Ikefugi said that "it would be built into the deed (of Lot #1) that that property owner would be responsible for maintenance so that neighbors would not have an issue". Then if the owner failed to comply, the "neighbors would have a right to sue him". Lot#1 owns the driveway and the land.

Motion made by Chairman Reid and second by Robert Waver to recommend to the Town Board to approve the formation of Lot#1 as a 280A building lot allowing for thirty foot deeded frontage in lieu of the Town Board Resolution stating thirty-five feet, with the following conditions:

1. Formation of drainage district for the entire property including Lot #1 and future Lot #2.
2. Reserve two acres of the southwest corner of Lot#2 for future drainage improvements as directed by the Town Attorney.
3. It is understood that this does create a condition for Lot #2 that allows for only thirty-one feet of access and the likelihood of future exceptions to the Town Board 280A Resolution regarding shared driveways.

Among considerations for proposing this exception are:

1. The history of the parcel.
2. Timing, including what the Town Board 280A Resolution stated at the time.
3. Potential benefits to the residents of the Town relative to the drainage issues.

Ayes: 6. Nays: David Baker. Absent: Michael Cleary.
Motion Carried.

It should be noted that Secretary Rohl was not able to include much of the detailed discussions between the EPB and Attorney Riddle. Despite a request from the Secretary to the contrary, Attorney Riddle persisted in speaking with individual EPB members rather than the whole Board. This made it impossible to follow what she was referring to in the submitted schematics.

III CHANGES TO MS-4 REGULATIONS FOR ELMA

James, Wyzykiewicz, Town Engineer and designee on the WNY Coalition (basically Erie County members) regarding the MS-4 regulations, reviewed for the EPB the most recent changes from the DEC on pollution control:

1. Illicit discharge detection & elimination - One-third of the Town of Elma by definition, is required to have outflows from peoples' properties monitored. Representatives of the Town will be sent out to look for pollution.
2. Affects to Town Board and EPB - DEC also requires inspection of construction sites. During construction of and post construction for the entire Town of Elma, polluted storm water will have to be monitored and taken care of. This will not affect the EPB actions directly.
3. Inform citizens - The Town Board is required to inform the citizens of the Town that there is a plan in place to keep polluted water caused by such things as dirt, oil, dust, from leaving the site.

The SWPP is composed of guidelines and mandates. Currently there is no procedure in place for taking care of retention ponds. The manual will cover rain gardens, retention and detention ponds, permeable blacktop, etc. and will include anything over one AC disturbance.

IV RECOMMENDATION FOR 2013

The following recommendation was added to the Agenda:

Motion made by Chairman Thomas Reid and second by Deputy Chairman James Millard to recommend to the Town Board that Gregory Merkle be appointed to the Elma Planning Board for another seven year term beginning January 1, 2013 and ending December 21, 2019.

Ayes: 7. Nays: 0. Motion carried.

V WORKSHOPS/MEETINGS

A. List of four In-House Workshops conducted in 2012 for educational credit.

B. On-line Courses, NYS Div of Local Gov't Services

www.dos.ny.gov/lg/onlinetraining/interactive.html

VI FYI

EPB Attendance Sheet for 2012

EPB Meeting Schedule for 2013

Bldg Inspector's Reports - October & November 2012

ECB Minutes - Town Web Site

ZBA Minutes – Town Web Site

Town Board Minutes - Town Web Site

VII ADJOURN

Motion made unanimously to adjourn at 9:05 PM.

Respectfully submitted,

Diane Rohl,
EPB Secretary