

TOWN of ELMA PLANNING BOARD

1600 Bowen Road Elma, NY 14059

The Regular Meeting of the Town of Elma Planning Board, hereinafter referred to as the EPB, was held Tuesday, December 18, 2007 at 8:00 p.m. in the Elma Town Hall, 1600 Bowen Road, Elma, New York.

PRESENT:

Chairman Thomas Reid
Member David Baker
Member Michael Cirocco
Member Anne Fanelli
Member Gregory Merkle
Member James Millard
Member Robert Waver
Alternate Gregory Kalinowski

ABSENT: NONE.

OTHERS PRESENT:

Joseph Colern, Building Inspector
James Wyzykiewicz, Town Engineer
Eugene Stevenson, Superintendent Water Department
Phyllis Todoro, Town Attorney

I APPROVAL OF MINUTES

*Motion to Approve Minutes of November 20, 2007 Made by James Millard and
Second by Michael Cirocco.*

Ayes: 7. Nays: 0. Motion Carried.

II OMINPOINT COMMUNICATIONS INC. – 881 Schultz Road

Phillips Lytle LLP – James Whitcomb, Attorney. Omnipoint - Dan Ford
Mr. Whitcomb reviewed the series of events leading to his return before the EPB to request the scheduling of a Public Hearing, notably on 11/7/07 Town Board negative declaration on Type I SEQR and on 12/11/07 Zoning Board Variance to construct a 170' monopole. He also cited the various sites around the Town that had been looked at for location of the tower including Town lands but said they were all unsatisfactory due to the increased height of the tower that would have been necessary for coverage. He also said they would be open to leasing space to other carriers.

Pursuant to investigation by Omnipoint with FAA and on-site, they are going to install a red light on the tower which will be lit only at night. This will provide an added measure of safety for airplanes from the Clinton Airpark, and for Mercy Flight when responding to emergencies in the area.

Mr. Whitcomb pointed out that this was not required by FAA but was recommended. Also safety reflectors will be put on the fence enclosure to warn snow mobilers riding in the vicinity. According to Mr. Ford, there will be a 50'x50' area enclosed by a chain link fence with barbed wire on top to house the PCS cabinets, with no lighting unless they need to be opened for repair. Mr. Whitcomb stated that Omnipoint is not proposing any more screening, either at the base or at the top of the tower.

The EPB made the following requests of Omnipoint:

- 1. Note on the drawing where the reflectors are to be placed with specifics regarding type and size.*
- 2. Note on drawing that there is no external lighting.*
- 3. Provide type and amount of Liability Insurance coverage.*
- 4. Provide amount of Demolition Bond coverage.*

*Motion to schedule a Public Hearing for Final Site Plan Approval on January 15, 2008 at 8:00 PM, Made by Chairman Reid and Second by James Millard.
Ayes: 7. Nays: 0. Motion Carried.*

Chairman Reid reminded Omnipoint that they will need to give notice to all property owners within 500' of the tower; and that they should contact the Assessor's Office for names and addresses.

III SPECIALIZED TREE SERVICE – 1241 Bowen Road

Mr. Michael Dugan has his permanent residence as well as his business at 1241 Bowen Road. He appeared before the EPB to request permission to erect an 8'x20' metal storage shed to store wood for a boiler which will heat his home and his business. Mr. Colern reminded Mr. Dugan that this does not allow him to bring in wood and process it on site.

Questions arose from EPB members. Mr. Millard cited Section 6. of the Building Code regarding "prefabricated units require a building permit". Mr. Colern responded that the section applied to new development and that this was for residential use. He also said that "there is nothing in the Code that specifies any metal container. It is before the EPB because of its uniqueness." Mr. Millard said he "did not think the Code intended the EPB to make metal containers as buildings".

Mr. Dugan submitted two drawings depicting a horse looking out of a barn window and rows of corn against the background of a barn. He said the metal storage shed will have a mural covering on all four sides. Painting will be completed before it is placed outside.

Mr. Reid questioned what this metal building will look like in five years and Mr. Colern responded that "there is nothing in the code to allow us to do something later". Mr. Dugan said his future plans include landscaping on the Jamison and Bowen Roads sides (Required by EPB) but he cannot afford it right now. He said he "spends a lot of time to keep his property nice".

Page -3- EPB (12/18/07)

Motion to grant Final Site Plan Approval on a metal shed for the storage of wood contingent upon the shipped container being built according to the plans submitted prior to the installation, Made by Michael Cirocco and Second by Robert Waver.

Ayes: 5. Nays: 2. (James Millard, Thomas Reid). Motion Carried.

IV MOOSE LODGE #370 – 6555 Seneca Street

From the Moose Fundraising Committee, 905 Big Tree Rd, East Aurora, Mr. Bert Martin appeared before the EPB. Mr. Martin indicated that the Lodge was awarded a \$20,000 grant from the NYS Parks Department in June of 2007; and that the building project had to be completed by June 2008 if the Lodge were to receive the funds. He stated that the Lodge's intent for the property was to "preserve green space and parks". He said that the cub scouts had put in a trail and that the Springbrook Fire Company was currently using the property for search and rescue practice.

A drawing of an enclosed pavilion was submitted as the site plan but Mr. Martin said that the Lodge's intent at this time was to erect only a pole barn with volunteer help since they failed to get enough donations to complete the building at this time. The floor would be dirt, not concrete, and the sides would be open. It would then be used for storage of three lawn mowers and would not be visible from Seneca Street.

Asked what the property is zoned, Mr. Martin said "the Town Board approved it years ago as agricultural, back 800-900 feet". He was not sure what part may be commercial.

The EPB made the following requests:

- 1. Clarification of zoning by Joseph Colern, Building Inspector.*
- 2. Submission by Moose Lodge #370 of a more accurate drawing, preferably a site plan drafted by an architect including a detailed description of the proposed 40' x 80' building.*

Mr. Martin was asked to return in January. No further action was taken.

V VELOCITEL/AT&T – Jamison Road, Elma (Town Water Tank Site)

Mr. Timothy Connelly of AT&T reviewed the series of circumstances which required them to return to the EPB after receiving Final Site Plan Approval for the construction of a cell tower adjacent to the Elma Water Tank. Subsequent to the rejection of the initial plan and the request by the Town Board to co-locate the

antennas on the existing Town of Elma Water Tank, VelociTel/AT&T is requesting Final Site Plan Approval for this co-location prior to appearing before the Town Board on 12/19/07.

A letter with attachments was submitted by an engineer from Armor Tower indicating that "the new equipment will have no appreciable impact on the vertical or horizontal loads imposed on the tank and that the tank is capable of supporting the proposed antennas".

Page -4- EPB (12/18/07)

The antennas will be about 7' high and 1 ½' wide, weighing about forty pounds each. A small building will be erected by the Water Tank to house equipment and there will be a motion detector on the door. Emergency backup power will be battery operated, good for about eight hours. If there is a need for power for a longer period of time, it will be necessary to bring in additional equipment for power supply. According to Mr. Connelly: "Because they will not be increasing the footprint of the site, they will not need to add a fence."

Chris Bevans of VelociTel is working on the Demolition Bond with the Town Attorney and he said he will have it when they appear before the Town Board on December 19th.

Motion to grant Final Site Plan Approval for the co-location of six antennas on the Town of Elma Water Tank Site at Seneca and Jamison Streets, Made by James Millard and Second by David Baker.
Ayes: 7. Nays: 0. Motion Carried.

VI PUPPY MEETS BABY LLC – 3211 Transit Road

William Adams, owner of the Transit Road building and Neal Gallivan, husband of Susan Gallivan, owner of the dog day care and pet sales business, and prospective tenant, appeared before the EPB subsequent to the Board's request at the November 20th meeting for a formal site plan.

The site plan was examined and it was determined that there were 78 parking spaces allocated, diagonal instead of horizontal. Mr. Adams said that ten spaces will be lost due to the fenced-in area to be erected as a dog enclosure. This fence will be located on the side of the building and at the site of a new door.

Mr. Millard stated that he had driven by many times and never saw any parking problems. He visited the site and said there would not be room for two-way traffic. Chairman Reid suggested that all employees be required to park in the back since nobody is parking there now. Mr. Gallivan said he "might have a concern about parking in the back because of the dogs". He indicated the hours of operation will be Monday through Friday, 7:00-7:00, possibly Saturday in the

future with no dogs staying overnight. Most dogs will be picked up in a two-three hour period.

In response to questions from the EPB, Mr. Millard said that parking is based upon the businesses there; and that if things change, then the EPB would have to look at parking again.

Page -5- EPB (12/18/07)

Joseph Colern expressed concern regarding compliance by Mr. Adams for installation of the required number of parking spaces and completion in a timely manner. He reviewed the history of Mr. Adam's failure to comply with various parking requirements when he had been issued business use permits in the past between April of 2004 through September 2006.

Mr. Cirocco commented that parking restrictions need to be enforced and that when the applicant agrees to them, then they must do the work or enforcement action will have to be taken by the Town. Mr. Colern stated a penalty for violation would be a fine.

Motion to grant Final Site Plan Approval contingent upon the installation by May 1, 2008 of seventy eight parking spaces according to the site plan submitted; and if the work is not completed by the designated deadline, the owner of the property will be subject to fine or possible litigation, and

*Final Site Plan Approval also contingent upon receipt of a letter from the Blossom Fire Company approving the parking layout for access by emergency vehicles Made by Chairman Reid and Second by Michael Cirocco.
Ayes: 6. Nays: 1. (David Baker) Motion Carried.*

VII TVGA SURVEY- Training Sessions for 2008 (Tabled November)

Diane Rohl collected the responses to the TVGA Survey from those who were unable to respond to the email sent out earlier. A recap of the choices for topics by EPB Members will be sent to TVGA, with a request to once again schedule joint sessions at the Elma Town Hall to allow other Towns' Planning and Zoning Board Members to attend as well.

VIII FYI

Town of Elma Zoning Map (RCP 2003)
Town of Elma Proposed Zoning Map (RCP 2003)
Building Inspector's Report – October & November 2007
Code Review Committee Minutes & Agenda 11/28/07
Conservation Board Agenda & Minutes 11/27/07
Town Board Minutes 11/21/07 & 12/5/07

IX ADJOURN

*Motion to adjourn at 10:40 PM, Made by Michael Cirocco and Second by
Chairman Thomas Reid, Unanimous.*

Respectfully Submitted,

Diane Rohl,
Recording Secretary