

## TOWN of ELMA PLANNING BOARD

1600 Bowen Road Elma, NY 14059

### MINUTES OF REGULAR MEETING –May 19, 2009

The Regular Meeting of the Town of Elma Planning Board, hereinafter referred to as the EPB, was held Tuesday, May 19, 2009 at 8:00 PM in the Elma Town Hall, 1600 Bowen Road, Elma, New York.

#### PRESENT:

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

#### TOWN REPRESENTATIVES:

Member David Baker  
Raymond Balcerzak, Asst. Building Inspector  
James Wyzylkiewicz, Town Engineer  
Phyllis Todoro, Town Attorney

#### I APPROVAL OF MINUTES

*Motion made by Chairman Reid and second by Gregory Kalinowski to amend Minutes of April 21, 2009, to change Final Site Plan Approval for Moog Building #12, delete "split-face block" and insert "masonry".*  
*Ayes: 7. Nays: 0. Motion Carried.*

*Motion to Approve Minutes of April 21, 2009 as amended made by Chairman Reid and second by Gregory Kalinowski.*  
*Ayes: 7. Nays: 0. Motion Carried.*

#### II CALVARY CHAPEL OF NIAGARA FRONTIER – 2090 BOWEN RD

Architect Thomas Caley and Pastor Mark Siena of the Calvary Chapel located at 5575 Broadway, Lancaster, NY appeared before the EPB.

In a three-page letter dated May 4, 2009, Pastor Siena submitted to the EPB detailed responses to the following questions raised as priority issues at the April 21, 2009 Meeting.

1. Where is an accurate deed? Who owns the front of the building?
2. Where are the federal wetlands on the site?
3. What are the suggestions to reduce impact of exiting traffic?
4. How do you plan to accommodate future growth?

A discussion of these items ensued and the letter is attached as part of the official record. Mr. Caley reviewed the history of various older surveys, also copies of those submitted. He said that they would not do an updated search and survey until it is required by the financing agency.

As to the ownership of the road, he claimed that it belongs to the current owner as a "prescriptive easement". ("A right to use another's property which is not inconsistent with the owner's rights and which is acquired by a use, open and notorious, adverse and continuous for the statutory period [e.g. twenty years].") James Wyzykiewicz refuted the argument, stating that according to the Highway Superintendent, it had not been "abandoned" and the Town has been maintaining the road.

Pastor Siena requested fifty-five parking spaces. He said he would like to have parking in the front but, if it is not available because it is a Town road, "there is plenty of parking in the back". Attorney Todoro stated that the number of parking spaces previously approved was related to the business. Relative to wetlands, Mr. Caley stated that the DEC is currently working on it and they will have to delineate the area. "If the Church has to add fifty-five parking spaces, it would have to be determined whether they were within the buffer. This is underway with New York State." He said this will be based upon the NYS DEC delivering an OP-9 map.

Chairman Reid said that before final approval can be given, the EPB will need to have better drawings of the exterior and interior. Mr. Cirocco said that the issue of road ownership would have to be resolved before Final Site Plan Approval could be given. Attorney Todoro, in reference to traffic safety concerns by the EPB, said that she did not know if the EPB could dictate "Right-Turn-Only" exiting onto Bowen Road proper.

After an informal poll of the EPB resulted in nobody objecting to the property being used for a church, Chairman Reid declared this as an acceptable use for the property.

*A Motion was made by Chairman Reid and a Second by Robert Waver to table consideration of Final Site Plan Approval until the Calvary Chapel owns the property.*

*Ayes: 7. Naves: 0. Motion Carried.*

### III LOT #1 – HESSE PROPERTY, GIRDLE ROAD

David Johnson of Nussbaumer & Clarke, 3556 Lake Shore Rd, #500, Buffalo, NY and Robert Hesse, owner of the property, noted that the request for a subdivision on this 41AC (+-) had been denied by the Town Board; and that they were now here to request approval of this single lot subdivision with 125' of frontage on Girdle Road. They said they were "breaking off about 1-1/8 (of the entire parcel) leaving about 40 AC.

In regard to the septic system, Mr. Johnson reported that its perc rate was eighteen minutes. A letter of approval from the Erie County Health Department, dated April 7, 2009 was also submitted.

*Motion made by Chairman Reid and second by James Millard to approve the SEQR indicating that the proposed action will not result in any significant environmental impact.*

*Ayes: 7. Nays: 0. Motion Carried.*

*Motion made by Michael Cirocco and second by Robert Waver to grant final site plan approval for the one-lot minor subdivision.*

*Ayes: 7. Nays: 0. Motion Carried.*

#### **IV EMW TRI-TOWN SOCCER @SAHLEN'S SPORT PARK – SENECA ST**

Patrick Martin appeared before the EPB, requesting approval for the construction of a 30' x 50' metal pole barn to house a concession stand and storage for the EMW (Elma, Marilla, Wales) Sports complex located across the street from Moog Inc. This will replace the current building which is 12' x 20'. Stored would be lawn mowers, aerators, etc.

Mr. Martin said that the money for the building will come from a \$20,000 grant provided by Senator Volker. Volunteers from EMW will be buying the supplies and erecting the building. It will be located about 450' back from Seneca Street, the east side facing Seneca Street and having two overhead doors. The west side will have three small windows. The south side of the building will face the field and farm property. The 10' overhang will also be facing the field. There will be three lights: one adjacent to the man door on the south side, one adjacent to the man door on the north side and a 300 watt light mounted near the roof on the north side.

The building will be all metal with white on the upper portion and black siding on the lower portion. The roof will be black metal. According to Mr. Martin, only the upper portion of the building and the roof will be visible from Seneca Street. The EPB reviewed what their usual design requirements are for metal buildings and determined that since most of the building will not be visible from Seneca Street, they will not require contrasting types of siding, windows on the street side nor a complimentary color scheme. It was also noted that Moog was allowed to construct an all metal building on Conley Road because it was not visible.

*Motion made by Chairman Reid and second by James Millard to approve the SEQR, noting that the proposed action will have no significant adverse environmental impact.*

*Ayes: 7. Nays: 0. Motion Carried.*

*Motion made by Chairman Reid and second by Gregory Kalinowski to grant Final Site Plan Approval as submitted, noting that the northeast corner of the building will not be visible from Seneca Street, Ayes: 7. Nays: 0. Motion Carried.*

**V ADDITION TO ELMA PLAZA – DOLLAR GENERAL**

Mr. Theodore Arlington, Engineer of Apex Consulting Survey & Engineering, 102 East Ave, Lockport, requested being placed on the EPB Agenda for Preliminary Site Plan Review subsequent to presenting a plan at a Town Board Work Session. He failed to appear.

Mrs. James and Joseph Rutkowski of Cy's Elma Pharmacy were in the audience and asked by Chairman Reid if they had any opinions on the proposal. Among other things, they said there have been issues with the septic system; the location would affect loading and unloading; it would affect the traffic flow; and they "did not feel it was a good fit as it is being proposed". Chairman Reid thanked them for their input.

**VI REPORT ON STEUBEN FOODS DRIVEWAY**

EPB Secretary Diane Rohl reported that she had been contacted by Mark Davies of Stahlman Brothers, the engineering firm representing Steuben Foods, regarding the installation of a new driveway previously approved by the EPB on 2/28/07, the third and final revision. After reviewing safety concerns expressed during the approval process, the EPB unanimously agreed that any further decisions should be made by the appropriate Erie County agencies.

**VII REQUIRED 4 HR ANNUAL TRAINING FOR EPB & ZBA**

By: Jaeckle, Fleischmann et al & UB Urban Design Project  
Saturday, June 6<sup>th</sup> @ Westwood Country Club, Williamsville  
Tuesday, June 16<sup>th</sup> @ Orchard Park Country Club, OPark  
Saturday, June 27<sup>th</sup> @ NCCC Campus, Sanborn

**VII FYI**

BNews 4/22/09 & 4/24/09 – Proposal for EC Planning Board  
Building Inspector's Report – April 2009  
ECB Minutes - Town Web Site  
ZBA Minutes – Town Web Site  
DGC Minutes - 4/30/09  
Town Board Minutes - Town Web Site

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VIII ADJOURN

Meeting adjourned at 9:25 PM by unanimous consent.

Respectfully submitted,

Diane Rohl,  
EPB Recording Secretary