

SubDivision Code Review Committee

Elma Town Hall

1600 Bowen Road Elma, NY 14059

Phone: 716-652-3260

MINUTES – MEETING October 4, 2016

The meeting of the Town of Elma Subdivision Code Review Committee, hereinafter referred to as the SubD-CRC, was held on Tuesday October 4, 2016 at 6:00 PM in the Elma Town Hall Conference Room at 1600 Bowen Road, Elma, NY.

PRESENT:

Town Attorney - Dean Puleo, Chairman
Town Board - Thomas Fallon
ECB - Raymond Boy
ECB - Bryant Zilke
EPB - Charles Putzbach
EPB - Thomas Reid
ZBA - Gregory Kalinowski
ZBA - Harry Kwiek
Town Attorney - Phyllis Todoro (arrived at 7:00 PM)
Town Engineer - James Wyzykiewicz
Elma Resident - Warren Achman
Elma Resident/Secretary - Diane Rohl

ABSENT:

Town Board - Michael Nolan
Town Building Inspector - Joseph Colern
Town Historical Society - Marlene Baumgartner

I APPROVE MINUTES- AUGUST 2, 2016

Motion to approve the Minutes of August 2, 2016 made by Thomas Fallon and second by Charles Putzbach.

Ayes: 12. Nays: 0. Motion approved.

II REVIEW/COMMENTS FROM TOWN BOARD

Chairman Dean Puleo said that the Town Board has given its approval for Drew Reilly, Wendel, to provide further assistance to the SubD-CRC. In response to concerns raised at the SubD-CRC September meeting, Chairman Puleo also said that the Town Board agreed that zoning is an issue but it is not to be addressed by this Committee at this time.

III REVIEW/RECOMMENDED AMENDMENTS TO ELMA SUBDIVISION LAW - Reilly

Included in the Agenda materials were the following:

1. Chapter 123, other Chapters re: Subdivisions (Email 8/31/16)
2. Questions EPB vs. Town Board/Subdivision Approval Process (Email 9/27/16)
3. Subdivision Approval Process- For discussion - Reilly Handout (10/4/16)

Mr. Reilly commented on some of the inconsistencies in the current Codes regarding the approval process between the EPB and the Town Board.

- EPB *recommend* vs. EPB *approval*.
- Role of Town Board - Work Sessions vs. Meetings.
- Sketch Plan Approval by EPB.
- Preliminary Plat Approval by EPB.
- A public hearing is required by law for Preliminary Plat Approval.

Mr. Reilly questioned as to whether The Town Board is in agreement with the above. There are currently "dual approvals." "Who is responsible for the SEQR review and approval?" What is the current practice vs. the Town Code language? Mr. Wzykiewicz responded that past practice has been that any subdivision submitted begins with the Town Board.

Article I 123-1 A.- D. *The Planning Board of the Town was given authority to recommend approval, approval with modifications or disapproval of subdivision plats.....with final approval resting with the Town Board.* Mr. Reilly recommended that the EPB write a memo to the Town Board regarding their recommending approval. What happens when the EPB recommends and the Town Board says no? It is important to document reasons for either "yes" or "no". A comment was made that only a few parcels of land qualify for subdivisions under current law.

Article II 123.2 A. Should be language relating to subdivision code.

Article II 123.2 B. *Proper provisions shall be made for water supply, drainage, sewerage...*Mr. Reilly suggested that there should be language regarding septic systems and new drainage regulations. Do not allow septic systems in fill.

Article II 123.2 D. *Proposed streets.....*Minor subdivisions could be four or fewer lots on a Town road.

Article III Change language in various sections to: recommendation by EPB and approval by Town Board. Clarify definition of an "Interior Lot". Wording of Subdivision language vs. Zoning Law in reference to 5 AC. Definition of Zoning Law should match the NYS Law.

Article IV Mr. Reilly stated that NYS will not allow more than 49 (currently 30) lots on septic system. Timelines for approvals should remain at 30 days. Clarify Minor vs. Major subdivisions and roles of EPB vs. Town Board. Current Code does not recognize Town Board first (as is current practice).

MINOR SUBDIVISION - Grant power to EPB. Town Board does not need to be involved.

SEQR - Change deadline for process approval to 62 days.

MAJOR SUBDIVISION - Town Board receives first, including SEQR. They can then refer to EPB for recommendation to Town Board. Preliminary Plat signed by Supervisor. This allows the contractor to be grandfathered in case the law changes. Referral then to EPB for final recommendations of plat plan and SEQR. Final Plat stamped by Supervisor after infrastructure improvements.

Mr. Reilly confirmed that following the SEQR process is important and is also a tool that the Town Board can use in the decision process.

SEQR PROCESS Mr. Reilly stated that the NYS Law requires the SEQR process to begin after Preliminary Plat approval by the Town Board. Information is then sent to various agencies. In the meantime the EPB can review the SEQR and make a recommendation to the Town Board. They in turn must hold a public hearing. Any material new information that comes out as a result would allow the Town Board to refer it back to the EPB if necessary. Once again there needs to be changes in the recommendation vs. approval process language. Mr. Reilly also mentioned that if the Town Board wants public input, they can always hold a Public Information Meeting which is legally different from a Public Hearing.

Article 123-16 D. Minimum lot size in a subdivision shall be less than the minimum required by the Zoning Ordinance...provided the EPB may not reduce said frontage of an approved lot to less than ninety percent (90%)....

Discrepancy between this Code and Article VIII Clustering.

Article 123-17 C. (3) Parks & Open Spaces Payment in lieu of dedication... Payments made by the contractor "in lieu of" should be placed in a separate fund.

Article 123-17 D. (4) Perc tests are required on each individual lot.

Article VIII Cluster Subdivisions

Drew Reilly commented that this Law contains "poor language". He recommended one of two options: either remove the law entirely or create a more modern Cluster Law.

IV Summary - Drew Reilly

1. Mr. Reilly will email to the SubD-CRC suggested changes to current laws.
2. SubD-CRC members will review the information individually. Any questions would be directed to Mr. Reilly before the November meeting.
3. Mr. Reilly will determine whether he will meet again with the SubD-CRC; or attend a Town Board Work Session for clarification.
4. Mr. Reilly stated that most probably the Subdivision Moratorium will have to be extended for another six months. This is because of the legal process the Town Board needs to follow before adopting any changes to the law.

Article 144-78 Zoning Law - Bulk Requirements - Current code allows only road frontage. Have Town Board grant a four lot subdivision according to RCP and Design Performance Guidelines.

V ADJOURN

Motion made by Chairman Puleo and second by James Wyzykiewicz to adjourn at 7:54 PM.

Unanimous consent of all present.

Respectfully submitted,

**Diane Rohl,
Secretary SubD-CRC**