

SubDivision Code Review Committee
Elma Town Hall
1600 Bowen Road Elma, NY 14059
Phone: 716-652-3260

MINUTES - MEETING November 1, 2016

The meeting of the Town of Elma Subdivision Code Review Committee, hereinafter referred to as the SubD-CRC, was held Tuesday, November 1, 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
ZBA - Gregory Kalinowski
ZBA - Harry Kwiek
Town Attorney - Phyllis Todoro
Town Engineer - James Wyzykiewicz
Town Building Inspector - Joseph Colern
Town Historical Society - Marlene Baumgartner
Elma Resident/Secretary - Diane Rohl

ABSENT:

Town Board - Michael Nolan
EPB - Charles Putzbach
EPB - Thomas Reid
Elma Resident - Warren Achman

I APPROVE MINUTES- OCTOBER 4, 2016

Motion made by Thomas Fallon and second by Raymond Boy to approve SubD-CRC Minutes of October 4, 2016. Motion Carried unanimous.

II Elma Subdivision Code Amendments - Second Draft 11/1/16 (Drew Reilly)

Chairman Puleo opened the meeting, stating that based upon the updated draft from our 10/4/16 meeting, "we are close to finalizing" recommendations to the Town Board. The Second Draft of 11/1/16 will be attached to the official Minutes.

Mr. Reilly reviewed the history of the Elma Regional Comprehensive Plan (RCP) as originally completed in 1984 and updated in 2003. He reminded the Committee that the Town has never officially adopted the RCP but that it does set the standard for retaining rural character and controlling growth. He said the Town Board has legislative authority to zone; and the expectation is that if the subdivision amendments comply with the RCP, there should be no legal problems. He mentioned that there are limits in Elma regarding where septic systems are allowed and that this should not be changed. "If there are requests to rezone, the Law says you must rezone in accordance with the RCP. The Town should refer to the RCP; and possibly consider updating it in the future."

Mr. Reilly guided the SubD-CRC through the Second Draft of Sections 123 and sought input:

- Declaration of Policy: Clarify language.
- Word Usage & Definitions: Specify difference between Major and Minor Subdivisions. "Any division of land is a subdivision."
- 4-Split Rule: Confusing. Have examples in the Code.
- Residential: A,B,C Lots: Minimum frontage and depth/lot size; buildable lots: There needs to be agreement between Building Inspector, Town Engineer and Town Board.
- Explanation of process and options: Mr. Reilly explained that a decision on SEQR has to be made before a Public Hearing. The Town Board can hold a Public Informational Meeting instead. NYS Law says you do not need to schedule a second Public Hearing if the Preliminary Plat is exactly the same as the Final Plat. The EPB can continue to review the SEQR and make a recommendation to the Town Board. This allows the Town Board authority to rescind the SEQR if they disagree with the EPB. The EPB will not sign the Plat on a Minor Subdivision. This will then be the role of the Town Board to approve.
- Flag Lots: Remove 90% clause which would allow for Flag Lots.
- Dedication of Required Land: Payment is allowed in lieu of dedicated land for park or public open space. A report (by whom undetermined) should be required by Town Law and kept on file in the Building Department, with any funds collected to be placed in a separate Trust & Agency Account. This money cannot be used to purchase equipment or balance the budget.
- Submission Requirements: Suggested that the Town Engineer and the EPB review this section and provide their input before any changes are made.
- Chapter 87 Historic Preservation: Suggest a review by the Historic Board.
- Sewers, Stormwater Management, Waterlines: Town Engineer Wyzykiewicz said the entire Town of Elma is covered by the MS-4 regulations.
- Cluster Subdivisions: This section needs major revision.
- Zoning Code Issues: What constitutes a lot? What does that include - wetlands, slopes, size of lots?

Mr. Reilly said he would update the 11/1/16 Second Draft based upon the comments received from this meeting. He also said he planned to have a list of recommendations ready for the Town Board Work Session on 12/14/16.

Motion made by Gregory Kalinowski and second by Thomas Fallon to recommend to the Town Board that the Subdivision Moratorium be extended for six months to allow the SubD-CRC to complete its recommendations and the Town Board to complete the legal requirements before adopting any changes to the current codes. Motion carried.

Motion to adjourn at 7:47. Unanimous.

Respectfully submitted,

Diane Rohl
Secretary SubD-CRC

Chapter 123, Subdivision of Land:

1. *Article I, Section 123-1. Authority for Subdivision Control*
 - a. Comments/Questions/Answers from 10/4/16 meeting:
 - i. These paragraphs are confusing and do not match what is in the Sections 123-7, 123-8 and 123-9.
 - ii. Is the Town Board maintaining Final approval for Major and Minor Subdivisions? Yes, consider the TB maintaining approval powers for all subdivisions. If so, it becomes difficult if the Planning Board is approving Preliminary Plats (SEQR has to be done before Preliminary Plat approval is given- who is completing SEQR?). PB is only recommending Board for all Subdivisions, they do not complete SEQR (can recommend on SEQR).
 - iii. Can we have the Planning Board approve Minor Subdivisions, and the Town Board approve or sign-off/endorse the Final Plats on Major Subdivisions? If not, then the Code cannot give the power of preliminary plat approval to the PB (what the Code says). Code needs to be amended to match PB only being a recommending Board
 - b. Suggested Amendments:
 - i. **See attached documents for possible amendments.**

2. *Article II, Section 123-2 Declaration of Policy*
 - a. Comments/Questions/Answers from 10/4/16 meeting:
 - i. Do you want to add or amend the Guidelines? May want to add some items about the vision of the Town. This would bring into the subdivision process those things that are important to the Town and what the Town uses in making their decisions. Complete direction not given but did not object to some changes.
 - ii. Paragraph B. (1) is a very important clause in the Town's subdivision law. Leave as is, but clarify as necessary.
 - b. Suggested Amendments
 - * i. **Suggestions made on amending Guidelines.**
 - ii. Item B. (1) clarify: "In areas not having sewers, all lots must have a percolation rate (done in accordance with NYS and Erie County Health Department standards) of one inch in 30 minutes or better."
 - * iii. Item B. (3) clarify: "...., minor subdivisions may be allowed in the Residential C zoning districts." (Must still meet B. (1) requirement?) **YES**

3. *Article III, Sections 123-3 and 123-4. Word Usage & Definitions:*
 - a. Questions/**Direction received:**
 - i. Will need to decide what you are defining as a "subdivision", which will then define what is not a subdivision. **See suggested amendment.**
 - ii. Are there other definitions that you do not like or think should be added? **No input received**

 - b. Suggested Amendments:
 - i. Fix typo: 123-3 H. - "play" should be "plat".

Town Engineer and Planning Board can review and provide input on this. We must also consider any new guidelines that may be added. If add new guidelines, we may need to add additional submittal requirements.

8. Articles IX through XIII: standard sections- no changes needed (note though that the TB is granted the power to waive or modify, not the PB). It is suggested that the Town Attorney confirm that no changes are necessary.

Other Sections of the Town Code that Affect Subdivisions

1. Separate §100-1 Acreage Lot Development, and §144 Zoning (lot size, etc.): will need to discuss at later date- critical sections of the law: **No Changes?**
2. Chapter 52 (Section 52-4 A.- B.: Recreation Filing Fee @ Building Permit (Question practice vs. code)
3. Chapter 82 Article V Section 82-14D.: Requirements for Subdivision Proposals- Flooding; items (1) – (4) - Suggest review by Town Engineer.
4. Chapter 87 Historic Preservation Section 87-6): Cert. of Appropriateness, Application Procedure: Before acting on the Subdivision, the Historic Board can review.
5. Chapter 97 (Section 97-2): Mobile Home Parks – No issues (unless you have had problems with this)
6. Chapter 115 Sewers Section 115-29 New Sewers for Subdivisions- requirements- Suggest review by Town Engineer.
7. Chapter 120: Stormwater Management (2015)- New Law
8. Chapter 120A: Stormwater Management Overlay District (All Lands) - Confused regarding its purpose. Suggest review by Town Engineer.
9. Chapter 140 (Section 140-49): Any new road must include waterlines (or payment/ bond). Appears in order. Suggest review by Town Engineer.

Other More Difficult Sections of Subdivision Law and Other Laws Affecting Subdivisions.

We would recommend that the Town take those items (sections of Subdivision law, zoning law and other laws) that have been identified as being more difficult and important and begin to think about them and decide if changes need to be made now.

FOR TONIGHT, IF WE HAVE TIME, CAN WE DISCUSS THE CLAUSE CONCERNING LIMITING THE NUMBER OF SPLITS FROM THE ORIGINAL FARM LOT AND THE DEFINITION OF A SUBDIVISION.

Article I Amendments:

Amend 123-1 A. as follows:

- A. By authority of Town Law Section 276, the Town Board of the Town of Elma authorizes the Planning board of the Town of Elma to review each plat for land subdivision within the Town and to recommend to the Town Board approval, approval with modifications, or disapproval in accordance with the procedures and standards herein after stated.

Article IV Amendments (Minor Subdivision)

Amend 123-7 D as follows:

D. Approval Procedure

- 1) The Minor Subdivision Application shall be placed on the next available Town Board meeting agenda (submission must take place prior to the deadline for the Town Board Agenda).
- 2) The Town Board shall complete a cursory review of the application and refer the application to the Planning Board with any comments they have. If warranted the Town Board could also begin the SEQR process by authorizing a coordinated review.
- 3) The Planning board, within 62 days of referral of the Plan to them, shall act by resolution on the application. In the event the Planning Board does not act within the 62 day period, the application will automatically be placed on the next Town Board agenda.
- 4) The Planning Board shall either recommend approval, conditional approval with or without modifications or disapproval of the plat. The Planning Board may also provide input on SEQR to the Town Board. The Planning Board shall specify in writing its supporting reasons for recommending approval with conditions or disapproval of the minor subdivision.
- 5) The Town Board will receive the recommendation and make a SEQR decision on the Minor Subdivision. If a SEQR Negative Declaration is issued, the Town Board can set a Public Hearing on the application.
- 6) Once the Public Hearing is scheduled, noticed and held in accordance with Town Law, the Town Board can act on the application; approve, approve with conditions, with or without modifications, or disapprove.

Article IV Amendments (Preliminary Plat – Major Subdivision)

(123-8)

E. Approval Procedure

- 1) Upon receipt of the Preliminary Plat Application by the Town Clerk, the application shall be placed on the next available Town Board meeting.
- 2) At the Town Board meeting, the Town Board shall review the application, provide input to the applicant, and refer the application to the Planning Board for their review and comment.
- 3) The Town Board may also begin a SEQR coordinated review process by authorizing the mailing of SEQR Lead Agency documentation to appropriate Interested and Involved Agencies.
- 4) The application will then be placed on the next available Planning Board meeting agenda.