

TOWN OF PENDLETON  
**PLANNING BOARD MINUTES**  
DECEMBER 16, 2014

MEMBERS PRESENT: Joe McCaffrey, *Dave Naus, Dan Vivian,*  
John Lavrich, Joe Killion and Tom Edbauer

Members Excused: Joe Kania

Others Present: Dave Britton, Town Engineer

1. Meeting called to order by Chairman McCaffrey at 7:30PM.

2. Informal Business

None

3. November 18, 2014 Meeting Minutes

A motion was made by Dan Vivian and seconded by Tom Edbauer to approve the Minutes of the November 18, 2014 Planning Board Meeting. All agreed.

4. Public Hearing -7:45- Douglas & Keri Clark - Two Lot Minor Subdivision - 6073 Townline Road.

HISTORY: Taken from the January 21, 2014 Planning Board Meeting Minutes

Since a condition of Subdivision Approval has not been completed within the agreed upon time frame, Admin. Assistant Kania distributed a draft of a letter he will be sending to the affected landowners advising them of the "Illegal Subdivision". All Members present agreed with the content of said letter and Admin. Assistant will promptly send said letter by certified mail.

HISTORY: Taken from the November 18, 2014 Planning Board Meeting Minutes

Administrative Assistant Kania advised the Board that Mr. Clark has made Application for Variance with the Town Zoning Board Appeals in an attempt to resolve the "Illegal Subdivision" violation that was created when a Barn that Mr. Clark agreed to remove was not accomplished within the agreed time period. The Variance decision is still pending with the Zoning Board of Appeals.

CURRENT:

It was first noted that at its November 26, 2014 Meeting the Town Board of Appeals approved an Area Variance allowing the owner (Douglas Clark) to " retain the existing farm and/or agriculture building on a lot of less than 7 acres where Town Code #247-11.J.(1) requires 7 acres or more."

The Variance approval requires a new Subdivision Application with the Planning Board for approval consideration.

A Public Hearing was opened at 7:45PM December 16, 2014 for a Two Lot Minor Subdivision located at 6073 Town Line Road.

The Subdivision consists of splitting an approximately 11.4 acre parcel into two lots. The first lot (Lot#1), containing an existing home, will measure 500' wide by 533' deep. The second lot (Lot#2) will measure 375' wide by 533' deep and contains a Barn that does not have the 7 acres to support it as required by the Town Zoning Code. (See Area Variance approval statement above).

Nobody had questions on said Subdivision, so on a motion by Dan Vivian and seconded by Joe Killion the Public Hearing was closed at 7:50PM. All agreed.

SEQR: The Planning Board then reviewed the Short Environmental Assessment Form and on a motion by Joe Killion and seconded by

Dan Vivian a Negative Declaration was issued and the Planning Board Chairman was authorized to sign the SEQR Form. All agreed.

A motion was then made by Joe Killion and seconded by Tom Edbauer to approve the Subdivision. All agreed.

5. Public Hearing - 8:00PM - Sanders - Two Lot Minor Subdivision - Resubdivision - Tonawanda Creek Road

A Public Hearing was opened at 8:00PM for a Two Lot Minor Subdivision/Resubdivision on the north side of Tonawanda Creek Road approximately 1,100 feet east of Townline Road.

It is noted that property owner Jeffry Sanders was in attendance.

The Subdivision/Resubdivision consists of splitting a 14 acre irregular shaped parcel into two pieces. The first piece designate as Lot#1 will have approximately 80' Tonawanda Creek Road frontage and be approximately 1,946' deep. the second piece designated as Lot#2 will be back land measuring approximately 1054' deep by 220' wide. After subdivision Lot#1 will be attached to the adjacent lot (4127 Tonawanda Creek Road) to the east also owned by Jeffrey Sanders. Lot#2 will be attached to adjacent lot (4145 Tonawanda Creek Road) to the east owned by Francis Burgett.

Both Jeffrey Sanders and Francis Burgett gave the Board certification that the aforementioned lots would be attached to their lots as indicated.

No one in attendance had any questions on said Subdivision, so on a motion by Tom Edbauer and seconded by Dave Naus the Public Hearing was closed at 8:05PM. All agreed.

SEQR: The Planning Board then reviewed the Short Environmental Assessment Form and on a motion by Tom Edbauer and seconded by Joe Killion a Negative Declaration was issued and the Planning Board Chairman was authorized to sign the SEQR Form. All agreed.

A motion was then made by Joe Killion and seconded by Tom Edbauer to approve the Subdivision conditioned on proper survey

and filing deed description with Niagara County within one year of today's date. All agreed.

6. Beach Ridge Meadows - 19 Lot Major Subdivision - 4214 Beach Ridge Rd. - Preliminary Plat

HISTORY: Taken from the November 18, 2014 Planning Board Meeting Minutes

Administrative Assistant Kania updated the Board as follows:

1. On October 30, 2014 Town Engineer Britton initiated SEQR Coordination for the proposed Beach Ridge Meadows Major Subdivision to Potentially Involved/Interested Agencies. At the same time Lead Agency under SEQR was requested.
2. A "No Impact" letter dated November 6, 2014 was received from New York State Office of Parks, Recreation and Historic Preservation.
3. An E-Mail was received from Kristin Savard of Advance Design Group stating that she had received comments on Preliminary Plat Drawings from Town Engineer Britton and is now awaiting comments from other Department Heads.

Tabled to the December 16, 2014 Planning Board Meeting.

CURRENT:

Town Engineer Britton advised the Board that the 30 day period for receiving responses to "SEQR Coordinated Review" has lapsed and only two responses were received (NYS Office of Parks...and NYSDEC). All comments have been addressed. Further Mr. Britton has been in touch with Kristin Savard of Advanced Design Group who stated that she is finalizing the Preliminary Plat Engineered Drawings and should have them available for review shortly.

Tabled to the January 20 2015 Planning Board Meeting.

7. Site Plan Review - Ronald LaRocque - (Gallery North) - 6535 Campbell Blvd

HISTORY: Taken from the October 19, 2014 Planning Board Meeting Minutes

It was first noted that the Town Board of Appeals at its

September 23, 2013 Meeting approved an Area Variance to allow "a commercial building with a side yard setback of 70 ft. from an adjacent property in residential use where 100 ft. minimum side yard setback is required per Town Code #247-12.H.(2)."

A Public Hearing was opened at 8:00PM October 19, 2014 for a Site Plan Review for Ronald LaRocque (Gallery North).

Site Plan Application along with Engineered Site Plan drawings were received for proposed construction of a 4200 square foot Wood Framed Building which will include an Art Gallery and Retail Space with asphalt driveway and parking lot. The structure and improvements are proposed to be located on an approximately 1.2 acre parcel (200' wide by 272') deep on the east side of Campbell Blvd. south of Fiegle Road

Tim Arlington of Apex Consulting was present to give the Board a short presentation on the project and answer any questions concerning the Site Plan. Mr. Arlington also advised the Board that he was in attendance at the Niagara County Planning Board June 2014 Meeting and said Board recommended approval of the Site Plan.

A letter dated October 20, 2014 from Earth Dimensions, Inc. was then reviewed and discussed. The letter stated in part "It is our opinion that in order to move forward with your proposed development, an Article 24 permit would be required from NYSDEC. In order to move forward with this permit process, a detailed wetland delineation will be required."

A letter from Town Engineer Dave Britton dated October 21, 2014 was then presented to the Board. The letter stated in part "According to Niagara County On-Line Mapping, there is potential for federal wetlands on the property."

On a motion by Joe Kania and seconded by Joe Killion the Public Hearing was then closed at 8:09PM. All agreed

SEQR DETERMINATION: The Board then addressed the State Environmental Assessment Form. All agreed that the State Environmental Assessment could not be properly addressed until both the Federal and New York State Wetlands issues were addressed and resolved.

A motion was then made by Tom Edbauer and seconded by Joe Kania to table the Site Plan Review to the November 18, 2014 Meeting pending resolution of both the Federal and New York State Wetlands issues All agreed.

HISTORY: Taken from the November 18, 2014 Planning Board Meeting Minutes

Ronald LaRocque was in attendance to give the Board an update on Federal and New York State Wetlands and Permitting issues that need be addressed before SEQR for the proposed project can be completed and acted upon by the Planning Board. He showed Documentation to the Board verifying that action has been initiated to make Wetland determinations for both location and permitting requirements.

After discussion, all Board Members agreed that documentation provided by Mr. LaRocque was incomplete and SEQR could not be accomplished until both Federal and New York State Wetlands and Permitting issues have been fully addressed and resolved. It was further noted that since a Public Hearing was held at the October 19, 2014 Planning Board Meeting, a Planning Board decision would have to be made in accordance with New York State Town Law at the December 16, 2014 Planning Board Meeting.

Tabled to the December 16, 2014 Planning Board Meeting.

CURRENT:

It is first noted that both New York State Town Law and the Town Of Pendleton Zoning Ordinance requires action within 62 days of a Public Hearing for Site Plan Review. Therefore, the Planning Board will act on "Gallery North" Site Plan at the December 16, 2014 Meeting.

It is further noted that nobody was present acting on behalf of the Gallery North Site Plan and no further information has been received by the Board on said Site Plan.

Noted in The November 18, 2014 History "documentation provided by Mr. LaRocque was incomplete and SEQR could not be accomplished until both Federal and New York State Wetlands and Permitting issues have been fully addressed and resolved. It was further noted that since a Public Hearing was held at the

October 19, 2014 Planning Board Meeting, a Planning Board decision would have to be made in accordance with New York State Town Law at the December 16, 2014 Planning Board Meeting."

Due to lack of required documentation as noted, a motion was made by Dave Naus and seconded by Tom Edbauer to disapprove the incomplete Site Plan for Gallery North. All agreed.

Note: The owner can file a new Site Plan Review Application with the Planning Board if and when pending wetland issues are resolved.

8. Waild 2 Lot Minor Subdivision - 4163 Beach Ridge Road - Update

HISTORY: Exerts taken from the October 21, 2014 Planning Board Meeting Minutes

It was then noted that a structure would exist alone on the 106.5' wide lot which is a part of the proposed subdivision application. Said structure would not be permitted per Town of Pendleton Zoning Code. Discussion then took place between Planning Board Members and Mr. Ken Morton which resulted in Mr. Morton agreeing to remove the structure within 90 days of Subdivision Approval date. This would thus become a condition of approval of the Subdivision Application.

A motion was then made by Joe Kania and seconded by Joe Killion to approve the Subdivision conditioned on filing deed description with Niagara County within one year of today's date and removal of above referenced structure within 90 days. All agreed.

CURRENT:

Chairman McCaffrey advised the Board that removal of the structure that was a condition of Waild 2 Lot Minor Subdivision Approval has been accomplished and thus the Subdivision Approval will no longer contain that condition.

9. Wind Energy Conversion Systems (WECS) - Proposed Ordinance

It is first noted that there were 5 people interested in the Proposed Wind Ordinance in attendance.

A copy of the 1st Draft outlining possible provisions of a Wind Energy Conversion Systems Ordinance was distributed to Board Members for review.

Chairman McCaffrey then opened the Meeting for Public Comment on both Commercial and Private "Windmills".

Issues that were discussed in conjunction with public comment included:

1. Setbacks
2. Height Restrictions
3. Noise Levels
4. Lattice vs. Monopole Construction
5. Safety
6. Adjoining Property Owner Protection
7. Inspection and Maintenance

Chairman McCaffrey then asked Board Members to review above mentioned "1st Draft" and be ready to discuss at the January 2015 Planning Board Work Meeting.

10. Public/Press Comments and Questions

None

11. Adjourn

Meeting adjourned at 8:40PM

Respectfully Submitted

John Lavrich, Secretary  
Planning Board, Town of Pendleton

NOTE: THE ABOVE PLANNING BOARD MINUTES ARE INFORMATIONAL AND FORMAL APPROVAL ACTION WILL NOT TAKE PLACE UNTIL THE January 20, 2015 PLANNING BOARD MEETING.