

## **TOWN of ELMA PLANNING BOARD**

1600 Bowen Road Elma, NY 14059

Phone: 716-652-3260

### **MINUTES OF REGULAR MEETING -August 20, 2013**

The Regular Meeting of the Town of Elma Planning Board, hereinafter referred to as the EPB, was held on Tuesday, August 20, 2013 at 7:00 PM in the Elma Town Hall at 1600 Bowen Road, Elma, New York.

#### **PRESENT:**

Chairman Thomas Reid  
Member James Millard  
Member Michael Cirocco  
Member Michael Cleary  
Member Gregory Merkle

#### **ABSENT:**

Member David Baker  
Member Robert Waver  
Alternate Charles Putzbach

#### **TOWN REPRESENTATIVES:**

Phyllis Todoro, Town Attorney  
Raymond Balcerzak, Asst. Bldg. Inspector  
James Wyzykiewicz, Town Engineer

#### **I APPROVAL OF MINUTES July 16, 2013**

*Motion made by James Millard and second by Michael Cirocco to approve the Minutes as amended of the Public Hearing for NYSEG and the EPB Regular Meeting held on July 16, 2013.*

*Ayes: 5. Nays: 0. Motion Carried.*

#### **II NYSE&G COMMUNICATIONS TOWER, STOLLE RD**

Returning at the request of the EPB on 7/16/13 were Attorney Josh Silver of The Murray Law Firm and Engineer Peter Stritzinger of Clark, Patterson & Lee. Listed below are the items requested and the responses on behalf of NYSEG from their multi-page letter of 8/15/13 included in Town records:

1. **Submit an official copy of the survey of the entire parcel:**

*Received were revised site plans T-1, PP1-2, C1-2, C2A, C2B, C3-8, E1-2. All drawings were to scale and included survey lines for all of NYSEG parcels. Also included were four photographic simulations of the site and surrounding area along with the 300' tower simulated in various locations.*

2. **Consider locations for tower: north? east? distance from residents for each:**

*It evaluated shifting the site to the north of the substation and determined this was not feasible because a longer access road would be required which would disturb wetlands.*

*Similarly shifting to the west would have the same result. Shifting to the east side would require about 2000 feet of new access drive, requiring a storm water management plan per DEC reg's and disturbance of additional land. Locating to the north would require constructing a new access driveway from Bullis Road of about 1,300 feet and disturbance of 26,000+/- feet of land. In addition, the land surrounding the substation is currently leased and actively farmed. Placing the tower at the originally proposed site will require less disturbance to the land including that actively farmed; and will also provide the best screening for the bottom of the tower and the base equipment by using existing vegetation.*

**3. Copy indicating Wetlands delineation:**

*Specific to the wetlands was C2B, Utility & Wetland Plan showing locations.*

**4. Tower lighting detail including wattage:**

*A copy of the FAA Marking/Lighting requirement for towers, specifications sheets and wattages was provided.*

**5. Any health study information on short/long term affects.**

*Citing that the FCC has preempted State and local authorities to make siting decisions based on health effects, Attorney Silver referred to the World Health Organization publication No. 238. He stated that "substations also rarely produce significant electric fields outside their perimeter". The FCC's publication regarding antennas can be accessed on their web site.*

Chairman Reid requested of James Millard, Deputy Chairman, that he lead the review with NYSEG since Mr. Reid was absent for the July 16th meeting. Attorney Silver responded to questions from the EPB as outlined in his letter. He also answered questions about lighting detail, stating there would be two different kinds of lights: Types L864 and L865 - 300 watts, red and white flashing, as specifically required by the FAA for this type of tower, based upon the height and types of airplanes in the area. A fence around the substation is already in place. The EPB confirmed to NYSEG that their next step is to go before the ZBA.

*Motion made by Deputy Chairman Millard and second by Gregory Merkle to recommend site plan approval to Town Board under Code 59A-9 B (3), (6).*

**III ONE LOT SUBDIVISION - DELLWOOD DRIVE**

Owner Richard Corbetta appeared before the EPB telling them that he eventually bought the adjacent lot with the intent of some day downsizing and building another home. After reviewing the survey, the EPB determined that his lot could not qualify under Town Code Subdivision of Land 123-2 because Residential C minimum size is 32,000 square feet or 3/4 A/C. Calculating Mr. Corbetta's lot size resulted in about 30,000 square feet. Examining whether it would qualify under Residential 280-A Development Code, it could meet minimum frontage of 35 feet but was not at least two acres. The EPB suggested to Mr. Corbetta that possibly his only recourse would be to see if his adjacent neighbor would be willing to sell him enough of their land for his to qualify. It was determined that under Town Code no action may be taken by the EPB.

**IV PROPERTY/RENOVATION SPRINGBROOK FIRESIDE, 6294 Seneca St.**

Owner of properties at 6300 & 6320 Seneca Street, Todd B. Huber of Building Solutions was granted PSPA on 6/18/13 with the following stipulations and request for required information before FSPA could be given.

From 6/18/13 EPB Minutes: Depending upon the final decision by Mr. Huber of one or two lots, this list may or may not be all inclusive (items 1-13).

**1. Determine whether one combined lot or two lots:**

*Mr. Huber stated that the two lots will be separate but that driveway, parking lots and drainage plan will be shared by both.*

**2. Official, stamped survey of property or properties.**

*While some measurements of both buildings and property lines were indicated on certain drawings, no official survey was submitted.*

**3. Property lines and setbacks.**

*On #6300 there is a side entrance to assist people in coming into the building. The offsets do not comply with the 50' setback. Mr. Balcerzak said the Town Code says nothing should be built within the 50' ROW - no exceptions. He said this will need to go to the ZBA for consideration.*

**4. If non-conforming lot, need ZBA Variance.**

*Mr. Huber indicated that lot #6320 is - and was - a non-conforming lot.*

**5. Size and number of parking spaces:**

*Mr. Huber said there are a total of 48 spaces (9x20) for both properties. Assistant Building Inspector Balcerzak said that the location of the HC spaces are on the lower level and not accessible by a handicapped person. If used as a restaurant, two or three spaces would be required for every five seats. Chairman Reid said that the EPB cannot determine the appropriate number of parking spaces since no BUP has been approved by the Town Board. Town Attorney Todoro said that if there is to be shared parking, it must be taken care of by deed, lease or contract.*

**6. Exterior lighting/ building and parking lot:**

*On the south will be two light stands with down lighting and trees with lighting cast up. Lights on the building will be wall mounted with down lights in the overhang on the front. There will be two wall prisms (175W) and seven wall sconces (150W) on #6300 and two pole lights (175W) in the back parking lot; one wall sconce on #6320 (not shown).*

**7. Traffic pattern in proposed parking lot:**

*The driveway will be 23 1/2 feet wide with no "one-way" restrictions. There will be one common driveway (shared) for both properties*

**8. Identify landscaping and value:**

*Mr. Huber described the landscaping, saying that large boulders would act as a natural fence. There was a variety of evergreens and deciduous bushes and trees shown on the plan. Mr. Huber estimated the value to be \$4,000 (not listed). The EPB said that the dumpster must also be fenced in or hidden by landscaping.*

**9. Dimensions of existing buildings plus overhangs.**

*Dimensions of buildings were not shown. Mr. Balcerzak said that the overhangs did not meet code and would require a variance from the ZBA.*

**10. Rendering of proposed sign(s), placement and dimensions:**

*Mr. Huber said any signs would be on the building only. He did not know sizes nor hand any drawings since the use has not been determined.*

**11. Drainage Plan:**

*Town Engineer Wyzykiewicz said that a drainage district would be required for both properties. Both owners would then be responsible, sharing in any repair or maintenance costs. Town Attorney Todoro said that shared drainage and parking/access would have to have language in an easement in the deeds.*

**12. DEC determination of whether there are wetlands.**

*According to Mr. Huber, the DEC said there were no wetlands.*

**13. P-BUP from Town Board to determine intended usages/applicable codes.**

*Mr. Huber has not gone before the Town Board on this item.*

*Motion by Chairman Reid and second by Michael Cleary to approve the Type I Short Form SEQR on 6300 Seneca Street indicating that the proposed action will not result in any significant adverse environmental impacts.*

*Ayes: 5. Nays: 0. Motion Carried.*

*Motion by Chairman Reid and second by Michael Cleary to approve the Type I Short Form SEQR on 6320 Seneca Street indicating that the proposed action will not result in any significant adverse environmental impacts.*

*Ayes: 5. Nays: 0. Motion Carried.*

*Motion made by Chairman Reid and second by Michael Cleary to grant Final Site Plan Approval based upon a non-specified business use for 6300 Seneca Street and 6320 Seneca Street contingent upon:*

- ZBA approval of vestibule and overhang 6300; without vestibule for 6320.*
- Creation of a drainage district for 6300 & 6320 Seneca Street.*
- Approval of a drainage plan by the Town Engineer for 6300 & 6320.*
- Letter from Springbrook Fire Co. indicating no concerns.*
- Approval letter from EC Health Department for septic systems.*
- Receipt of two-year landscaping bond for \$4,000 for 6300 & 6320.*

*Ayes: 5. Nays: 0.*

Mr. Balcerzak asked if work can proceed at this time. Mr. Wyzykiewicz said that "they do not need a BUP with nothing there".

**VI REQUEST FOR EXTENSION - BALDUCCI CONSTRUCTION INC, 521 Pound Rd**

On August 20th Robert Balducci, owner, requested via email, an extension from the EPB to complete his drainage revision project which was required as a result of his enlarging the parking lot. It was supposed to be done by 7/31/13. He stated that it was complete with the exception of re-digging the pond; and that he was told by his contractor Custom Contracting, that it would be completed in two weeks. Mr. Balducci did not appear before the EPB.

*Motion made by Michael Cirocco and second by Michael Cleary to send the case to the Town Board, stating that Mr. Balducci is not in compliance with their directives; and that he did not meet the agreed to deadline of July 31st.*

*Yes: Cirocco, Cleary, Millard, Reid. No: Merkle.*

VI WORKSHOPS/MEETINGS - OCTOBER 15th IN-HOUSE 6-8 PM

The following tentative agenda was accepted by the EPB.

I TOWN BOARDS \* (1)

Town Board - James Malczewski  
Zoning Board - Robert Schafer  
Conservation Board - Bryant Zilke

II COMMITTEE UPDATES\* (2)

Historical Preservation - Baumgartner, Boy, Jackson  
Multiple Dwelling Code - Malczewski, Schafer, Boy, Reid

III OVERVIEW & COMPUTER APPLICATION - TOWN WEB SITE\* (3)

EPB - Michael Cirocco

IV UPDATE - PUBLISHED LEGAL OPINIONS

EPB Secretary Diane Rohl & Town Attorney Phyllis Todoro

VII FYI

Bldg Inspector's Report - none  
ECB Minutes - Town Web Site  
ZBA Minutes - Town Web Site  
Town Board Minutes - Town Web Site  
MDCC Minutes - June 26, 2013 enclosed

VII Audience Recognition

None.

VIII ADJOURN

The meeting was adjourned at 9:30 PM by unanimous consent.

Respectfully submitted,



Diane Rohl,  
EPB Secretary