

**TOWN OF SWEDEN
Planning Board Minutes**

February 23, 2004

A regular meeting of the Town of Sweden Planning Board was held on Monday, February 23, 2004, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7:00 p.m.

Members present: Ellen Bahr, David Hale, William Hertweck, Craig McAllister, Matthew Minor, Arnold Monno, Edward Williams

Also present: Jerry Foster and Whitney Autin-Environmental Conservation Board, Charles Sanford, Fire Marshal, James Oberst, Town Engineer, James Bates, Kris Schultz, Thomas Lucey and John Bennett, APD, Kelly Pronti, Esq., Wal-Mart, Jerry Goldman, Esq., Daniel Mills, Jim and Ruth Moore and Harry and Deanna Shifton

The meeting was called to order at 7:00 p.m. by Chairman McAllister.

Correspondence passed to members for review.

Moved by Mr. Hale, seconded by Mr. Minor, that the minutes of January 26, 2004 be approved.

Ayes – 5
Abstain – E. Bahr
E. Williams

Mr. Hale inquired about the status of the Brockport Bowl situation. Mr. Sanford commented that the matter is being taken care of. Mr. Bardol didn't realize the shed had to be removed and/or didn't want to comply with the Planning Board's request.

Moved by Mr. Hertweck, seconded by Mr. Monno, that the regular meeting be adjourned to the public hearing.

Ayes - 7

The Chairman read the notice of Public Hearing and Affidavit of Publication. The Chairman asked if there were any questions or comments from anyone present at the Public Hearing.

Resubdivision – Lot 59, Highlands at Brandonwood. 55 Talamora Trail. 084.01-2-78

Mr. James Bates of Grover & Bates stated since the last meeting all questions have been addressed in the revised copies of which Mr. Bates distributed to the Board.

- Revised location sketch to make it clearer
- Revised plans to show 60 ft. at the closest point of access

A person asked if the parcel was landlocked and Mr. Bates stated it is not.

Moved by Mr. Monno, seconded by Mr. Williams, to adjourn the public hearing to the regular meeting.

Ayes - 7

J. W. Mulkin Resubdivision. Brockport-Spencerport Road. 084.01-1-6.1, 6.2, 6.3

Engineer Kris Schultz addressed the Board. This project consists of two parts with the first being a resubdivision. Currently, the parcel is divided into three lots. Spurr Dealership is the existing building shown on the map. This project parcel has been up for sale for awhile and there are currently two separate purchasers interested as follows:

The east side, labeled Lot 2, is being purchased by Mr. Randy Spurr and Mr. Spurr is proposing to do an expansion to the parking lot.

Mr. Hale inquired if Mr. Spurr will add this parcel to his existing business and the answer was no. Chairman McAllister commented that because Mr. Spurr is keeping this a separate parcel, a 7 foot buffer is required on both sides of the lot line.

Lot 1 is being purchased by Tractor Supply which is similar to the Agway Company. There will be some offsite drainage improvements. A separate site plan will be issued for this project.

Mr. Hale inquired as to why not do both subdivision and site plan applications at the same time. Mr. Schultz stated due to financial reasons and the two different owners, the proposed projects will have separate public hearings.

Mrs. Bahr inquired if both lots would have access off Rt. 31 and Mr. Schultz stated Lot 1 will only have access off Rt. 31 and Lot 2 will have access from the Spurr Dealership. Mr. Schultz indicated there are no plans to go out onto Rt. 31 for Lot 2.

Drainage issues were discussed and options for improvements will be reviewed and issues resolved. Some of the comments mentioned were that there is a roadside ditch with two culverts that empty to a low point by the dealership. There is a double ditch system which makes no sense. The "Mulkin Canal" has never been approved. The "Mulkin Canal" flows east to west. Mr. Schultz added this is an opportunity to sit down with Mr. Oberst and discuss options and improvements. With two site plans, all issues should be able to be resolved.

Moved by Mr. Hale, seconded by Mr. Williams, that the J.W. Mulkin Resubdivision be accepted for review.

Ayes - 7

The Public Hearing will be held on March 22, 2004.

Holiday Inn Express Amended Site Plan. 4908 Lake Road. 084.01-1-2.4

Engineer Kris Schultz stated it has been just about a year since the Board reviewed this project.

Mr. Schultz commented the plans still needed to be signed by the Town Engineer and Fire Marshal. All comments from the Fire Marshal have been addressed. Mr. Schultz added the water was going to be extended internally in the building as well as the sanitary extended. A slight modification to the storm water pond was made.

Mr. Hale inquired as to when specifically this project went before the Board last. Discussion took place and it was determined that February 24, 2003 was the date of the public hearing. Mr. Schultz commented that Mr. Oberst had recently signed the mylar. Mr. Hale inquired if there was an environmental motion on the project and it was determined there was not one. Mr. Hale added, per ECB's comments, that trees should be protected. Mr. Hale asked if the Fire Marshal was okay with the plans and Mr. Sanford stated he was.

Mr. Williams asked Mr. Oberst to comment on the status of the project. Mr. Oberst stated last winter there were changes made and then nothing happened until Pat Laber, Schultz Associates, contacted him a couple weeks ago to go over final details. Also, there was some additional information needed for the storm water plan.

Moved by Mr. Hale, seconded by Mr. Hertweck, that having reviewed the Project Information Form, comments from the Monroe County Planning, Town Engineer, the Environmental Conservation Board, and the Fire Marshal, the Planning Board determines that the Holiday Inn Express Amended Site Plan is an unlisted action which will not have a significant impact on the environment.

Ayes – 7

Moved by Mr. Hale, seconded by Mr. Hertweck, that the final public hearing be waived, the Holiday Inn Express Amended Site Plan be granted final approval, and the Chairman be authorized to sign the mylar.

Mr. Monno wanted to know about the change in elevation from 649 to 650 and Mr. Schultz commented that was already part of the existing parking lot.

Ayes – 7

Resubdivision – Lot 59, Highlands at Brandonwood. 55 Talamora Trail. 084.01-2-78

Chairman McAllister confirmed that Mr. Bates had the opportunity to go over all of the Town Engineer's comments. Chairman McAllister asked Mr. Oberst if he was satisfied with the revisions made. Mr. Oberst asked if Mr. Bates could go over the changes one more time.

1. Mr. Bates stated he had a copy of the subdivision filed map showing access to Talamora Trail.
2. An amended subdivision map will be submitted to the Monroe County survey office.
3. The 240' dimension was intending to show the initial filed subdivision dimension on Lot 59. The Plan has been revised to show the Mills property dimension of 194.40 ft.
4. Map has been revised to show a 60' width at a point perpendicular from the proposed northeast Tasdeler property line to the western most point of intersection with the Mills/Lana properties.
5. Mr. Bates tried different road configurations and feels it can be done. Mr. Bates supplied the Board with a copy of one way it can be done if access should be provided into the Mills property.

Mr. Minor requested Mr. Bates to provide a legal description of the Mills property. There is a legal description in the owner's deed for the land north of the Mills property.

Discussion followed whether a resubdivision of the parcel is necessary or would an easement be enough to provide access to the Mills property.

Mr. Hale inquired if the Tasdelers have agreed to sell part of their parcel. If so, would Mr. Bates provide proof of this offer.

Mr. Bates was asked who would maintain this resubdivided parcel and Mr. Bates thought Mr. Mills would. Chairman McAllister stated that an easement would make the Town responsible for maintaining the lot.

Mr. Minor questioned if the resubdivision is approved, could the parcel be built on. Chairman McAllister added the parcel would probably be a Forever Wild or park land.

Chairmain McAllister restated to Mr. Bates that the Board would require supporting documentation of the purchase of the additional property. Discussion took place whether Mr. Mills has access to his property off of Shumway Road. Chairman McAllister stated Mr. Mills has road frontage not road access due to the major wetland area.

Moved by Mr. Hale, seconded by Mr. Monno, that having reviewed the Environmental Assessment Form, comments from the Town Engineer, Environmental Conservation Board, the Planning Board determines that the Lot 59 Resubdivision is an unlisted action which will not have a significant impact on the environment.

Ayes – 5
Nay – M. Minor
E. Williams

Mr. Monno discussed that he has mixed feelings regarding this resubdivision due to the Board Members having different views on how to accomplish this resubdivision. There are too many “what if’s” being put on the table.

Chairman McAllister replied it is hard to believe that the Board would have any legal recourse for not giving final approval on this project providing the Board has supporting information from the adjacent property owner. With that being said, Chairman McAllister deferred this project to Mr. Oberst to advise us if there is anything he is aware of on how the Board should proceed.

Moved by Mr. Hale, seconded by Mr. Hertweck, that the Lot 59 Resubdivision be granted preliminary approval.

Ayes – 4
Nay – Mr. Minor
Mr. Monno
Mr. Williams

Wal-Mart Supercenter. Brockport-Spencerport Rd.084.01-1-14.112, 14.2, 14.12

Mr. Lucey addressed the Board stating the applicant's purpose here tonight is to discuss where to go from here with the public comments and how to proceed with the Final Environmental Impact Statement ("FEIS").

Mr. Goldman began with reiterating that the public hearing was held on February 9 and the written comment period closed on February 19. Copies of those comments as well as earlier comments from the DOT, Town Engineer and Traffic Consultant have been distributed. The written comment period is closed and the Board can move onto the next phase which is dealing with the FEIS. At the same time, this Board has to consider the subdivision, site plan and special permit applications. These applications can run parallel with each other. More times than not, an applicant will either offer to prepare the FEIS in total for the Board's consideration or provide information to the Board in the form of answers to the questions raised during the comment period. The FEIS is the Board's final statement in response to those comments.

The applicant has offered to provide draft responses for the Board's consideration as part of the FEIS that the Lead Agency is responsible to prepare. This no way implies that the Board agrees with any of the responses prepared. The FEIS is suppose to be completed within 45 days of the close of the public hearing. The law also provides that if additional time is necessary, this Board can make a statement to extend that time in order to prepare a document that is comprehensive.

Chairman McAllister commented if it was correct to assume the applicant has made purchase offers on the properties involved. Based on getting proper approvals, it is possible to get through subdivision approval because the joining of properties is not a significant environmental event. Mr. Goldman commented that while this is true, legally the Board can't approve separate applications of the environmental review.

Mr. Hale asked if we are expecting to hear anything from the DEC. Mr. Lucey commented the only thing the Board may hear from the DEC is on cultural resources. Mr. Goldman commented the Board can contact the DEC. Also, Mr. Hale noticed in the DEIS, a lack of specificity of the history of the uses of the property. A general outline is provided, but not the date when the property was rezoned commercial, the first commercial use, when the car dealership and then the collision shop went in, the current automotive usage and when the homes were first built on Talamora Trail. This might strengthen the "we were here first" theory.

Mr. Lucey explained that a draft resolution was prepared for tonight. Mr. Goldman summarized the resolution with stating the three resolutions below:

- The Board will accept from the applicant draft responses if they so desire to present them to the Board;
- The Board will diligently pursue drafting of the FEIS, but it is understood at this time that there is a likelihood that we will be over the 45-day period because of the complexity of the issues and the amount of information that has to be incorporated;
- The Board will comply with all necessary requirements of filing which is required under the SEQR regulations.

Mrs. Bahr questioned why there had to be a resolution on the third point when it is the Board's responsibility to comply with SEQR regulations. Mrs. Bahr is not comfortable leaving this statement in the resolution.

The secretary was asked to make copies of the resolution. During this time, discussion took place regarding site plan issues, preference of building location, DOT letter and involvement, curb cuts and traffic issues. Copies were distributed to Board Members.

Chairman McAllister stated that one of the issues we will want to look at first is drainage and storm water facilities. This is one of the issues that was lacking from what the Board had identified for the regional detention facility.

Mr. Hale referred back to a previous discussion regarding a sketch of what Mr. Hassall should have put in, but did not. Attorney Goldman stated that DOT has a sketch. Mr. Hale stated this would help the Board in determining how turning lanes into Talamora Trail affect what improvements need to be done on Rt. 31. Attorney Goldman commented that one of the Board's most important issues is traffic safety and the DOT's input is necessary.

Chairman McAllister stated we can start with site plan issues. Mr. Williams commented it makes sense to start with retention pond, drainage and DOT issues, and then move to other areas such as building location, lighting, etc.

Mrs. Bahr commented that after reading the resolution, she has no objection with the way it is written.

RESOLUTION OF THE TOWN OF SWEDEN PLANNING BOARD
WAL-MART SUPERCENTER
FINAL ENVIRONMENTAL IMPACT STATEMENT

WHEREAS, Wal-Mart ("Wal-Mart") has proposed to construct a Wal-Mart Supercenter (the "Supercenter") in the Town of Sweden (the "action"); and

WHEREAS, this Board, on February 10, 2003, was established as Lead Agency for environmental review of this action under State Environmental Review Act ("SEQRA") pursuant to 6 NYCRR § 617.6(b)(3); and

WHEREAS, this Board, on March 24, 2003, pursuant to 6 NYCRR § 617.7 issued a positive declaration under SEQRA for the proposed action; and

WHEREAS, this Board, on May 29, 2003, adopted a Final Scoping Outline pursuant to 6 NYCRR § 617.8(f) for the Draft Environmental Impact Statement ("DEIS"); and

WHEREAS, on October 27, 2003, pursuant to 6 NYCRR § 617.9(a)(1), consultants to Wal-Mart submitted a proposed DEIS to the Board; and

WHEREAS, on December 8, 2003, this Board found that the DEIS lacked sufficient information that should have been included in accordance with the Final Scoping Outline and required that additional information be supplied by the project sponsor pursuant to 6 NYCRR § 617.9(a)(2); and

WHEREAS, on December 18, 2003, consultants to Wal-Mart resubmitted proposed DEIS materials to this Board pursuant to 6 NYCRR § 617.9(a)(3); and

WHEREAS, the DEIS was accepted by this Board on December 22, 2003, for the purpose of receiving comments from involved and interested Agencies and members of the public pursuant to 6 NYCRR § 617.9(a)(4); and

WHEREAS, a public hearing was held by this Board on February 9, 2004 pursuant to 6 NYCRR § 617.9(a)(4), and written comments on the DEIS were received through February 19, 2004 pursuant to 6 NYCRR § 617.9(a)(4); and

WHEREAS, this Board is responsible for the adequacy and accuracy of the Final Environmental Impact Statement ("FEIS") for the action pursuant to 6 NYCRR § 617.9(b)(8); and

WHEREAS, the applicant has offered to prepare draft responses to the substantive comments received during the public comment period for the Board's consideration and use.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Board, as Lead Agency, is willing to accept draft responses from the applicant to substantive comments received during the public comment period for the Board's consideration and use in preparation of the FEIS; and
2. It is the intention of this Board to diligently work on the preparation of the FEIS, but given the written and oral comments received, it is likely that additional time may be necessary for preparation of the FEIS pursuant to 6 NYCRR § 617.9(a)(5)(ii)(a); and
3. Upon completion of the FEIS, the Board will prepare, file and publish a notice of completion of the FEIS and file copies of the FEIS in accordance with 6 NYCRR § 617.12.

The foregoing Resolution was adopted by the Board by a majority vote.

Declared duly adopted,

Craig M. McAllister
Town Planning Board Chairman

Moved by Mrs. Bahr, seconded by Mr. Hale.

Ayes - 7

Chairman McAllister stated Wal-Mart will be on the next meeting's agenda. At this time, Mr. Oberst and the Planning Board should prepare a sequencing of items in order to begin a review.

Moved by Mr. Monno, seconded by Mr. Minor, that the meeting be adjourned.

Ayes - 7

Planning Board Secretary