

**TOWN OF SWEDEN
Planning Board Minutes
March 9, 2009**

A regular meeting of the Town of Sweden Planning Board was held on Monday, March 9, 2009, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7 p.m.

Members present: Richard Dollard, David Hale, William Hertweck, Craig McAllister, Matthew Minor, Arnold Monno, David Strabel

Also present: James Oberst, MRB, Jim Butler, CEO, Ken Reid, ZBA, Joseph Darweesh, Esq., Greg McMahon, Don Payne, Jim Pappas

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

Correspondence passed to members for review.

Moved by Richard Dollard, seconded by Mr. Monno, that the minutes of February 23, 2009, be approved as amended.

Page 1, last paragraph, change "front two" to "east and north" sides.

Ayes – 7

CountryMax Farm and Garden Center Site Plan. 4875 Lake Road. 083.02-1-17

Chairman McAllister stated he met with Mr. Don Payne and Supervisor Lester last week to discuss options for moving forward with this project. It was agreed to apply for subdivision approval and to make application for an area variance for greenspace. Mr. McMahon stated the current greenspace is at 22.5 percent and to move any closer to 30 percent, would require parking spaces and/or building to be eliminated. Chairman McAllister explained there is also a use variance required for the loading dock or door that faces a public R.O.W. He asked for confirmation that an application to the ZBA has been made for both variances.

Mr. Don Payne asked for clarification regarding the use variance for the loading dock/door, and whether or not it is contiguous to the public R.O.W. Chairman McAllister stated it doesn't matter if it's the dock or the door according to the Land Use Regulations, which is as follows:

Loading docks or doors shall not be located on building faces (sides) that are contiguous with public rights-of-way.

Chairman McAllister asked the Board to look at the subdivision plat to see if it is complete in order to accept it for review. The definition of the word contiguous was discussed to make sure a use variance was needed. Mr. Strabel added that an argument for application to the ZBA would be that the best location for the loading dock or door for satisfactory turning radius is at its existing location. Mr. McMahon stated that is correct, however, there is still a steep fee of \$1,000 to apply.

Moved by Mr. Minor, seconded by Mr. Hale, that the CountryMax Subdivision be accepted for review.

A signature block is required to be added to the subdivision plat/mylar.

Ayes – 7

The Public Hearing will be March 23, 2009.

Mr. Monno asked if the public hearing for the ZBA would be before or after the public hearing for the subdivision. The Clerk stated the ZBA hearing would be on March 19.

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Chairman McAllister explained to Mr. Reid, ZBA Chairman, that in 1998 the whole parcel was split into two tax accounts. The owner wants to maintain the northern parcel as a developable lot for the future. CountryMax would like to purchase the southern lot only. Chairman McAllister added the best thing to do is take care of the subdivision now and bring the southern lot into conformance. The need for variances is due to the site sitting idle for more than one year, which causes it to lose its pre-existing, nonconforming status. It is a physical site that the Board would like to rehab in order to enhance the community.

To accomplish conformance, the only place to put a loading dock with the proper turning radius is to back straight into the dock facing Rte.19 and use the existing door for offload. The other issue is the shortage of greenspace. It was suggested to put in planting beds in the front yard display to increase the greenspace.

Mr. McMahan stated the existing 16.5 percent greenspace would change with the addition of green area along the north property line, taking out pavement, and adding a green strip along the south property line; the total greenspace becomes 22.5 percent. This doesn't include the outdoor display where all the plants are located. The asphalt surface is needed to move all the plants around so removing any of it would not work.

Mr. Reid asked if the outdoor display could be included as part of the greenspace. Chairman McAllister stated not unless it was in permanent boxed islands just like islands in a parking lot. Mr. Payne stated he recalculated the green space with 3,500 sq. ft. of additional planting beds, which added about 2 percent of additional green space. Mr. Reid stated 24.5 percent would be better.

Mr. Reid also asked if the minimum parking was met. Mr. McMahan stated yes. Chairman McAllister stated this is a pre-existing, nonconforming use for which the Town would like to make into a viable entity again while getting as close to conformance as possible.

Mr. Monno asked if there was any other location for the loading door. Mr. Payne stated there's no other place for the loading dock or door. Mr. McMahan stated there would be a handrail along the loading dock retaining wall six to eight inches above grade. Mr. Payne wants the loading dock/door to be safe. Mr. Monno stated a problem with the loading dock during the winter is that it's going to fill up with snow. Aldi's has a similar situation. Chairman McAllister stated that Wal-Mart on the north side has four or five doors facing Rte.31.

Chairman McAllister stated that because the loading dock is in violation of our Land Use Regulations and not our Town Zoning Code, he would recommend a determination be made by the Planning Board instead of passing it on to the ZBA. Mr. Strabel agreed with Chairman McAllister in that the decision regarding the loading dock falls under the realm of the Planning Board. Plus, the Planning Board has already set a precedent with Lowe's on Owens Road. Chairman McAllister stated the resolution would have to state that the Planning Board recognizes that the Land Use Regulations state something that the Planning Board is overriding due to a pre-existing, nonconforming condition, and that the most appropriate location for the loading dock is at its existing location due to the existing building jog. The only variance needed would be for greenspace.

Mr. McMahan explained that the lighting detail for the four new poles has been shown on the plan, along with replacing the existing wall packs with dark sky compliant ones, which will significantly reduce the volume of light on the site. Mr. Minor asked what the number five meant on the lighting plan. Mr. McMahan stated the number five represents foot-candle contours.

Chairman McAllister asked that the same signature block on the site plan be put on the subdivision plat.

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Mr. Oberst asked if the owner of the northern lot would be coming in for variances, if any, at the same time as site plan approval. Attorney Darweesh stated that was correct and that there are currently no offers for Lot 1. He also asked if discussions have taken place regarding the connection to Lot 1 shown going across the DOT R.O.W. Mr. McMahon stated no, but that is the logical place. CountryMax will provide an easement, but whoever buys Lot 1, will have to address that issue with DOT by either obtaining an access over the R.O.W. or a curb cut off of Lake Road. Chairman McAllister stated there is a common access point with an easement directly through Friendly's parking lot.

Mr. Minor asked that Mr. McMahon consult with Mr. Oberst regarding the turning radius for access into Lot 1. Mr. McMahon stated right now the interior radius is shown at 20 ft. If Mr. Oberst has a recommendation for something different, Mr. McMahon would be willing to work with him.

Chairman McAllister asked if there were any other questions or concerns. The Board agreed to wait until after the public hearing on subdivision, March 23, and the ZBA public hearing for the area variance, March 19, to continue review of this project and to grant final approvals.

The meeting was adjourned on motion at 9:15 p.m.

Planning Board Secretary