

**TOWN OF SWEDEN
Planning Board Minutes
April 8, 2013**

A regular meeting of the Town of Sweden Planning Board was held on Monday, April 8, 2013, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7 p.m.

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

Also present: Lance Brabant, MRB, Nate O. Lester, III, Nick Montanaro, Fran Reese, John Zima, Lorie and Keith Bowers, Robert Lewis, Richard Klein, Dick Klein, Norm Klein.

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

Correspondence was passed to members for review.

Moved by Mr. Monno, seconded by Mr. Dollard, that the minutes of March 25, 2013, be approved.

Ayes – 6

Moved by Mr. Minor, seconded by Mr. Dollard, that the regular meeting be adjourned to the public hearing.

Ayes – 6

Chairman McAllister read the notice of public hearing and affidavit of publication.

Alexander Resubdivision – Lot 1. Reed and Lake Roads. 129.01-1-1.11/129.01-1-1.2

Chairman McAllister asked if there was anyone present with questions, comments or concerns.

Lorie and Keith Bowers, 5903 N. Lake Road, Bergen, NY – Mrs. Bowers explained that for the previous public hearing, they were not directly notified, or received a copy of the Agricultural Data Statement, which their names should have been included on. She stated they are the current owners of the property to the south, which is included in two different agricultural districts with wetlands on the property, and wanted to make sure the rules of an agricultural district are being followed. The Bowers do not have a concern with this application if it is just taking land and joining it to an existing parcel. She's concerned there are two plans, this one and plan B, which includes building a structure within 500 ft. of their property.

Mrs. Bowers asked for clarification regarding the parcel names and how many subdivisions have taken place. Chairman McAllister explained there has only been one previous Alexander Subdivision, Lot 1 and 2, and the application before us has not been signed or filed, so there would be no record at the County. The parcel names on this application are proposed.

Mrs. Bowers asked if the property has changed ownership. Chairman McAllister stated it may have. A person in attendance stated it changed ownership. Mrs. Bowers stated according to public record, the property is now owned by CY Farms as about a month ago.

Chairman McAllister asked if there were any further questions regarding the Alexander Subdivision. There were none.

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Klein Subdivision and Site Plan. Reed Road. 129.01-1-1.11.

Lorie and Keith Bowers, 5903 N. Lake Road, Bergen, New York – Mrs. Bowers addressed the Board. She displayed a map/drawing of the property. She explained that the subdivision is a long narrow flag lot of 1339 ft. off Reed Road to the Bowers' border. There is less than 5 acres where the house is proposed. There are silt berms shown to hold runoff. The drawing has a 500 ft. arc shown where the discharge of firearms would not be permitted from an occupied structure. The arc encompasses a very substantial, valuable area of land that the Bowers have used on their property, and would not be able to use with the proposed house. She finds it very offensive that the applicant would choose a long, narrow strip as an access and put the house right on top of their property line. The Bowers own 166.4 acres of farmland and the arc of land shown, approximately 5 acres, would be removed from being used to discharge firearms, etc., guns, bows or hunting of any kind.

The buffer is being pushed from the house onto the larger tracks of land around it. These larger tracks of land in Bergen or Genesee County include valued wetlands and farmland. The same doesn't hold true for the Town of Sweden, but Monroe County is very strong in the use of farmland. If the applicant is allowed to convert land that is farmland to a residence, it will change the specialness of the land by disintegrating the strategies, plans and activities, forcing restrictions across the Town, County and across two different agricultural districts. The Bowers' land was originally owned by the Indians, sold to the Reed family, then the Wing family, and then to the Bowers, who are great stewards of the land. Mrs. Bowers distributed maps showing the wetlands and farmland.

Chairman McAllister asked if Mrs. Bowers is stating the only impact is on the discharge of firearms. Mrs. Bowers stated she is also very concerned about runoff. Chairman McAllister stated State law prohibits increasing the amount of runoff with any development. Mrs. Bowers explained why that might be so on a piece of paper, but the laws of nature, chemistry, and physics still work, and gravity goes downhill.

Mrs. Bowers researched the Genesee County website and GIS Mapping, which is excellent. There are valuable large tracks of land that show drainage patterns and wetlands on the properties. There is a difference between understanding the qualities of the land and how to work with it best to protect it versus doing the least amount and not really looking at it. All drainage flows from the south and there is a lot of swamp land on Root Road and flooding on Reed Road. She pointed to the ponding and the PFO1E on the map. Mrs. Bowers stated there are a lot of discrepancies between Genesee and Monroe counties. She explained when things are mapped in Genesee County they are mapped up to the line, and in Monroe County, they are mapped down to the line so soil maps don't match, approvals, developments, etc. In other words, things get changed to meet the needs of that particular community.

Mrs. Bowers stated her property has been surveyed. She has two concerns with the notes on the large plan submitted. First, the owner of record for the parcel to the south references Keith Bowers only; it should include Lorie Bowers. Also, note #5, which is a survey done by Kevin O'Donoghue on June 25, 1997, isn't shown on the Monroe County map because it's in Genesee County. It should be noted that the property's survey has been filed.

Mrs. Bowers explained the four different types of wetlands. Chairman McAllister stated that NYSDEC and ACOE regulate all wetlands. Mrs. Bowers explained there is a Class II wetland shown on the maps at the Town office, but not on the applicant's plan. Mr. Montanaro explained that it's not on the map because their expert/consultant determined it wasn't a wetland. Mrs. Bowers is requesting delineation of the wetlands.

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Mrs. Bowers distributed an additional map showing the hydrology of the property. She has written a letter to the Bergen Supervisor explaining that out of the entire 166.4 acres, this upper corner of the property is very unique and special and has unusual local significance pertaining to the combination of hydrology, biology and geology, which should be preserved and protected.

Mr. Strabel arrived at 7:35 p.m.

Mr. Bowers requested that there be a 500 ft. buffer zone according to the agricultural district regulations. Mrs. Bowers explained that this land is farmland and that it doesn't have to do with whether the field is tilled or not, it has been used as an integral part of the farm.

The conversion of farmland to a residence was discussed. It is a manmade problem that needs to be controlled. It will create a continual conflict between the uses of the two properties. It infringes on the Bowers' rights because the five acres plus cannot be used the way their land has been used with the proposed development. She explained there are excavation rules that prevent construction within 100 ft. of the border or within 500 ft. of her existing tree stand, which is a structure that has grown into the tree and can be used all year around for human habitation. The tree stand is 24 ft. from the property line

Chairman McAllister asked if there was a certificate of occupancy for the structure. Mrs. Bowers stated there was not.

Mr. Bowers stated the main point is that if this application is approved, Mr. Klein will be able to hunt on his property as a residence, and they will not.

Mrs. Bowers requested the SEQRA form be corrected, as well as the agricultural data statement, to include the property owners to the south, the total amount of acreage affected, who the new owners are, and the intent of the remaining lands. Chairman McAllister stated all neighbors will be contacted again for any future developments.

Mrs. Bowers is requesting this project be denied on the basis of all the reasons she presented tonight.

Chairman McAllister asked if there were any more questions, comments or concerns.

John Zima, 1360 Reed Road – he attended the previous public hearing with questions regarding land that is converted from farmland to a residence, but felt it wasn't addressed. Chairman McAllister stated it was answered and is important. The land is zoned residential with an agricultural use. There is no agricultural zoning in the Town of Sweden.

Richard Klein, 75 Rahway Lane – he addressed the letter sent from the Bowers to the Bergen Supervisor. He called the Bergen Supervisor to discuss any issues he may have with the proposed application. In summary, the supervisor wanted to make sure that there were no impacts to the Town of Bergen and to ensure there would be a proper review. He asked about the wetlands. Mr. Klein explained that he hired an expert consultant who didn't find any wetlands on the property and that a report was on file with the Town of Sweden. Again, the supervisor asked that due diligence be done to make sure that the Town of Bergen isn't negatively impacted.

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Mr. Klein explained that the closest State wetland is approximately 1300 ft. away. Mr. Klein added that various members of the Klein family own land in Bergen and are stewards of that land. Presently, they are under contract with the Department of Agriculture to preserve and improve the wildlife habitat. At the end of the call, the supervisor seemed okay with the project as long as the Town of Bergen wouldn't be negatively impacted.

Nick Montanaro – 78 Quail Lane – as the surveyor representing this application, the property is zoned residential and its use is residential. At considerable expense, a consultant was hired to report on the wetlands. All the County comments of March 15 have been addressed. He submitted two copies of emails from the Department of Health and Department of Transportation that they are ready to sign off with appropriate fees paid. All requests of this Board and interested agencies have been addressed.

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

Ayes – 6
Abstain – Mr. Strabel

ASAP Medical Center. 6565 Fourth Section Road. 083.02-1-12.22

Mr. Chuck Smith, Design Works Architecture, representing Dr. Hany Nissiem, addressed the Board. He distributed updated plans, which no longer shows a proposed addition, but renovations/improvements to the north side of the building facing Fourth Section Road.

To open up the space, new storefront material will be installed and the brick veneer to be removed. Between the two new piers, there will be a new sign for the business. The entry has been relocated to the west side of the building which helps the interior flow. In addition, there are four dark sky compliant lights on the exterior with sconces. The sign will be lighted with dark sky compliant, LED lights.

The original site plan showed approved parking spaces in the rear, which weren't installed, but now will be improved. The dumpster will be installed in its originally approved location. Dumpster enclosure details have been included. There will be two pole-mounted light fixtures for the parking lots. The existing six parking spaces in front of the building will be restriped, as well as the sidewalk relocated. Existing landscaping will be redone.

An application to the ZBA will be made to address the issue of the site having less than the required number of parking spaces as originally approved in 1996.

Mr. Smith noted the location of the freestanding signage. Chairman McAllister stated the Planning Board approves the sign location for safety issues, but the sign is approved by the Building Department.

Mr. Monno stated common sense would tell you there should be more handicap parking spaces. Mr. Hale commented that wasn't necessarily true. When he visited an urgent care in Spencerport, he didn't use the handicap parking.

Mr. Strabel suggested looking in the code, Chapter 1100, to confirm handicap parking.

Mr. Dollard asked if the entry doors will be powered doors and is 40 inches wide enough. Mr. Strabel stated there is nothing in the code regarding powered doors. He wondered if a gurney can fit in and out.

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Mr. Minor asked if schematics for the pole-mounted lighting can be provided. Also, provide a dumpster enclosure detail on the plan. Mr. Minor asked if the two side doors would remain. Mr. Smith stated yes.

Mr. Strabel asked if it was okay for only an interior building permit to be issued at this time. The Board agreed it was.

Mr. Minor asked that the exterior updates be added to the plan.

Alexander Resubdivision, Lot 1, Reed and Lake Roads. 129.01-1-1.11.129.01-1-1.2

Mr. Robert Lewis addressed the Board.

Mr. Minor asked about whether there has been a change of ownership. Mr. Lewis stated he has signed paperwork, but it has not been filed with the County. His mother-in-law still owns the property until it is filed.

There were no comments received from NYSDEC because there were no improvements proposed.

Moved by Mr. Hale, seconded by Mr. Hertweck,

WHEREAS, the Town of Sweden Planning Board has received an application for approval of the Alexander Resubdivision – Lot R-1a-B, located on Reed Road and Lake Road, and

WHEREAS, the Town of Sweden Planning Board held public hearings on February 11, 2013, and April 8, 2013, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Short Environmental Assessment Form, Agricultural Data Statement, comments received from the Town Engineer, Monroe County Planning and Development, Environmental Conservation Board, and Fire Marshal,

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board affirms its determination of February 11, 2013, that the Alexander Resubdivision – Lot R-1a-B is an unlisted action which will not have a significant impact on the environment, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Board grants Preliminary Approval.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the final public hearing be waived, the Alexander Resubdivision – Lot R-1a-B be granted final approval, contingent upon receiving the required signatures, and the Chairman be authorized to sign the mylar.

Ayes – 6
Abstain – Mr. Minor

Klein Subdivision and Site Plan. Reed Road. 129.01-1-1.11

Mr. Nick Montanaro addressed the Board. He explained that all comments received have been addressed. County comments/responses were sent to the Town Engineer for review.

Mr. Lance Brabant, MRB, addressed the letter sent to the Supervisor, Town of Bergen. For the record, the Town of Sweden did coordinate with NYSDEC and Monroe County as verified by the March 1 and March 7 reviews received.

In regards to the wetlands, NYS requests that wetlands be verified by a qualified wetland professional. A report was done by Frances Reese, and is acceptable. A color coded map was provided and made part of the file. Mr. Montanaro referenced the map showing the nearest State wetland was approximately 1300 ft. from the Klein's

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property line with an additional 120 ft. to the residence. The nearest Federal wetland is approximately 1100 ft. to the nearest property line.

Ms. Fran Reese addressed the Board explaining on March 25, 2013, Mr. Klein, Mr. Montanaro, and she walked the site to determine the wetland boundaries, which are correct. They also walked along the tree line on the Klein property located in Bergen and found an area with distinct wetland characteristics. Two additional sample points were done in depression areas that were most likely to show hydric soil characteristics, and found evidence of a high water table, but that it didn't persist during the growing season.

Mr. Montanaro stated when the Department of Health witnessed the deep hole tests, there was no evidence of any mineral deposit in the holes. When the test holes were checked at a later date, there was no water in the holes. Mrs. Reese added that there was evidence of water flow through that area, but it did not persist for a long time.

Runoff was discussed. Mr. Brabant stated all requirements were met regarding storm water runoff with this application.

Mr. Brabant addressed the submittal issue of the Agriculture Data Statement and NOI. The Ag Data Statement is normally submitted at time of the application. An NOI is not necessary, sincere there are no public funds involved. He referenced an email from Dr. Robert King, Senior Agriculture Specialist, MCC, on the correct procedure to follow, which will be kept on file.

Mr. Montanaro read the 6 notes on sheet 2 of 3 of the site plan regarding Town requirements. He added that emails have been received from MCDOH that once SEQRA approval has been received, the plan can be signed and that MCDOT is ready to sign as well. Emails will be kept on file.

Chairman McAllister asked if there were any more questions, comments, or concerns.

Mr. Hale asked Attorney Lester if it is the Planning Board's responsibility to legally consider the 500 ft. arc for firearms when approving the application. Attorney Lester stated he believes it is not appropriate for the Planning Board to consider, it is a private matter and would ultimately be handled as a code enforcement matter.

Moved by Mr. Hale, seconded by Mr. Strabel,

WHEREAS, the Town of Sweden Planning Board has received an application for approval of the Klein Subdivision and Site Plan, located on the south side of Reed Road, 1776 ft. west of Root Road, and

WHEREAS, the Town of Sweden Planning Board held public hearings on February 11, 2013, and April 8, 2013, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Project Information Form, Short Environmental Assessment Form, Agricultural Data Statement, the report from Reese Environmental Consulting, comments received from the Town Engineer, Monroe County Planning and Development, Environmental Conservation Board, Building Inspector, Fire Marshal,

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board determines that the Klein Subdivision and Site Plan are unlisted actions which will not have a significant impact on the environment.

Ayes – 6
Abstain – Mr. Minor

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Wegmans Cart Corral Replacement

The Board discussed the proposal for new cart corrals at the Wegmans Plaza. The Planning Board has no concerns with the installation of the new covered cart corrals.

The meeting was adjourned on motion at 9:30 p.m.

Planning Board Clerk