

**TOWN OF SWEDEN
Planning Board Minutes
April 13, 2009**

A regular meeting of the Town of Sweden Planning Board was held on Monday, April 13, 2009, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7 p.m.

Members present: Richard Dollard, David Hale, Craig McAllister, Matthew Minor, David Strabel

Absent: William Hertweck, Arnold Monno

Also present: James Oberst, MRB, Reuben Ortenberg, Esq., Ken Reid, Kris Schultz

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

Correspondence passed to members for review.

Moved by Mr. Hale, seconded by Mr. Dollard, that the minutes of March 23, 2009, be approved.

Ayes – 5

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

Ayes - 5

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

1000 Transit Way Amended Site Plan. 084.01-1-1.113

Mr. Schultz explained that this project was previously before the planning and zoning boards. The applicant has made application to the ZBA again because the first two variances approved were for a smaller building than the one currently proposed. Mr. Shultz had conversations with the Town Attorney and Chairman McAllister, and it was determined that the easiest way to clean up this application was to revisit the ZBA and request that the original side and rear setback variances approved for a 5,600 sq. ft. building also be approved for a 5,839 sq. ft. building. The 5,600 sq. ft. building was specifically mentioned in the applicant's decision letter because the original application was for a building much larger at 6,200 sq. ft. with multiple variances requested.

LeFrois Builders and Developers hired Schultz Associates to come up with a building that was practical in design, which resulted in a 5,010 sq. ft. building being approved by the Planning Board. At the last ZBA public hearing, the applicant provided numbers to show that the potential return on investment for a building that size wasn't large enough for the bank to consider. To that end, the applicant proposed a 5,839 sq. ft. building with two additional variances. The ZBA granted the two variances requested for a 5,839 sq. ft. building.

Mr. Schultz stated until we have approval from the ZBA, it isn't necessary to review this application any further.

Chairman McAllister asked if there were any comments, questions, or concerns from the public relative to this application. There were none.

Moved by Mr. Hale, seconded by Mr. Minor, to adjourn the public hearing to the regular meeting.

Ayes – 5

TOWN OF SWEDEN
Planning Board Minutes
April 13, 2009

Chairman McAllister clarified that Mr. Schultz was asking the Board to postpone any further review of comments until the applicant was able to meet with the ZBA. Mr. Schultz agreed that it was appropriate because the ZBA may turn the applicant down.

He further explained that the Town Engineer's comments have to do with the sidewalk and parking. There is actually one more parking space than required. It is actually a better configuration than what is on the previously approved plan. Also, wheel stops were added to the parking spaces facing Rte. 31 to prevent cars from hanging over the sidewalk. One tree has been swapped out in the landscaped island and some bushes were added.

In summary, the ZBA public hearing is planned for May 7, and if all goes well, the applicant would like to be on the agenda for the next Planning Board meeting scheduled for May 11.

The Woods at Sable Ridge – Phase I. Lake and Redman Roads.

Attorney Ortenberg addressed the Board. He explained that he received a fax from GCR this morning. GCR is the other member of the two-member LLC. The person that died is the managing member of GCR. Attorney Ortenberg was able to review the operating agreement. The limited liability law sets forth rules as to what should happen unless agreed otherwise. A new member would have to be voted in.

There's a good possibility that there will be lawsuits, which the Town of Sweden could be named because it is holding the letter of credit, even though the money is being held appropriately. Chairman McAllister stated the Town would be in a better position to let the letter of credit expire. Attorney Ortenberg agreed, but the Town's goal is to get the public improvements done so the property doesn't look so bad.

Attorney Ortenberg explained that there were discussions with the bank because the bank stated the Town was required to put in public improvements, which the letter of credit doesn't reference. An agreement is being written to take care of the public improvements. Attorney Ortenberg further explained that the subdivision and site plan shall be reapproved because that's what the code states, and that an agreement must be reached between the developer and the Town as to what public improvements will be done, in what order, and in what amount of time. Mr. Oberst has recommended by December 31, 2009, all improvements be done, and by May 31, 2010, the roads and final seeding be completed.

A signed agreement still has not been completed due to the confusion with who's in charge with the passing member. Attorney Ortenberg has amended the resolution to be contingent upon the signing of the agreement so if it's completed, the Town Board could still approve the resolution before it expires. If this Board chooses to wait for the agreement to be signed before reapproving the subdivision and site plan, then a special meeting may have to be called. Due to the financial status of Mr. Spaziano, there's no way to know if an agreement will be reached.

Mr. Hale asked once a subdivision is approved and filed, does it expire. Attorney Ortenberg stated he checked into that issue, and the law states both the subdivision and site plan expire. Additional complications are that there are back taxes of about \$25,000, and claims of contractors not being paid for work or not paid enough. There are different ways to handle these issues, i.e., when dedication is taken, fees can be divided among the parcels, not the roads.

Mr. Schultz stated from a developer's standpoint, now that the 531 extension has been terminated, it would make more sense to redevelop the whole site.

TOWN OF SWEDEN
Planning Board Minutes
April 13, 2009

Chairman McAllister stated he doesn't have a problem with moving forward with a contingent resolution upon an agreement being put in place. He asked the Board for its thoughts.

Mr. Hale stated that he is inclined to sit tight due to the nature of the situation and hold a special meeting, if necessary. Mr. Dollard stated he is in favor of holding off until an agreement has been completed. Mr. Strabel agrees with holding off as well.

Mr. Minor asked if there was a priority list that could be reviewed. Mr. Oberst had a copy and Chairman McAllister read it as follows:

1. Installation of required temporary sedimentation and erosion control measures in accordance with the Storm Water Pollution Prevention Plan (SWPPP)
2. Complete installation of 8" and 12" watermain from NYS Route 19 to Redman Road
3. Installation of Sanitary Sewer improvements including laterals to R.O.W.
4. Completion of Stormwater ponds
5. Completion of Storm Sewer improvements including laterals and catch basins
6. Installation of any required watermain service taps that are within road area
7. Completion of Road construction and paving of base & binder
8. Installation of Sanitary Sewer Pump Station
9. Installation of final pavement top course
10. Installation of sidewalks
11. Final seeding/restoration within R.O.W.

Mr. Oberst stated the developer should get to #7 before running out of money. Mr. Dollard asked if the water is coming from Redman Road, wouldn't a pump be required. Mr. Minor stated the water is coming from Rte. 19. Mr. Oberst added all infrastructures would be done first before pavement. Stone roads would be sufficient.

Chairman McAllister stated if the Board doesn't close the meeting tonight, then it could call a special meeting once an agreement is in place, to finalize the resolution. Chairman McAllister will coordinate the meeting.

In summary, the Board considered the contingent resolution, and decided not to vote on it tonight because per code an agreement must be completed and signed.

Alexander Amended Subdivision. 1399 Reed Road.

Chairman McAllister read the correspondence from the engineer requesting the Town Engineer and Chairman resign the mylar.

The Board reviewed the changes from the previous approved plan to the amended one. Mr. Oberst is okay with the changes and signed the mylar.

Moved by Mr. Hale, seconded by Mr. Dollard,

WHEREAS the Alexander Subdivision, 1399 Reed Road, was approved by the Town of Sweden Planning Board on November 10, 2008; and

WHEREAS a survey error was detected by the Monroe County, and

WHEREAS and amended subdivision plat has been submitted to the Planning Board;

TOWN OF SWEDEN
Planning Board Minutes
April 13, 2009

NOW, THEREFORE, BE IT RESOLVED, the Planning Board reaffirms its determination that the Alexander Subdivision is an unlisted action which will not have a significant impact on the environment; and
BE IT FURTHER RESOLVED that the amended subdivision be approved, and the Chairman be authorized to sign the mylar.

Ayes – 5

Moved by Mr. Hale, seconded by Mr. Minor, that this meeting be reconvened at a future date to be determined by the Chairman.

Ayes – 5

Planning Board Secretary