TOWN OF SWEDEN
Planning Board Minutes - Workshop
September 27, 2021

A workshop of the Town of Sweden Planning Board was held on Monday, September 27, 2021, at the Sweden Town Courtroom, 18 State Street, Brockport, New York, commencing at 6 p.m.

Members present: Richard Dollard, David Hale, Matthew Minor, Chairman McAllister McAllister, Wayne Rickman, Peter Sharpe, David Strabel.

Also present: Nat O. Lester, III, Planning Board Counsel; James Oberst, P.E., Town Engineer; Mr. Shultz, Schultz Associates; Joe and Lori Maher; Mr. Shultz and Nancy Sanger.

Chairman McAllister opened the workshop at 6 p.m.

Maier Subdivision and Site Plan – 2 Lots – 2819 Colby Street. 099.01-1-1

Chairman McAllister explained the reason he called the workshop was to discuss the drainage issues on the Maier site with Mr. Oberst, Town Engineer, here so he could answer any questions from the Board.

Mr. Strabel stated he doesn't see a lot of grades on the site for any type of flow. The site appears to be sheet flowing through the woods. The proposed driveway, septic systems, and houses will exasperate the sheet flowing. There are two ditches. One has been delineated which we now have the report is an intermittent stream. The other wetland is located more on the neighbor's property to the west, the Sangers. This wetland appears to be two ditches which cross the site and is very flat. Mr. Strabel walked the site before the meeting and last week too. The flags on the site show where there is a makeshift ditch. Which is the regulated one?

Mr. Shultz explained there are two ditches. The wetland report shows that the southerly ditch is where the main flow is, and the northerly ditch is not as well defined and eventually connects in as it goes easterly into the southerly ditch. As each of the parcels by the swale are developed, the trees and the brush are removed and the swale gets defined, and the flow is improved. The proposed design directs the drainage from the northerly swale to connect sooner instead of meandering through the site so that it would augment the flow off the neighbors to the west. The wetland report states the northerly swale is not regulated so improvements can be made. The proposed site is downstream from the neighbors to the west. The goal is to help pull water off their site to the best of our ability. Redirecting the north swale to end sooner allows for more slope.

Mr. Strabel asked if more reinforcement could be provided by putting a pipe under the driveway. Mr. Schultz said yes but it doesn't serve any function because we are no longer pushing the north swale east before it turns south. Mr. Strabel's concern is the water heading south from the north swale with only .8 inches drop that a branch or puddle of leaves will block the flow. Mr. Shultz stated that is what happens today. Anything that falls off the tree backs up the flow and basically impacts the folks to the west.

Mr. Shultz added the neighbors to the west built their homes and redefined the ditch. From the aerials, you can see the main creek comes down, passes the northerly swale, and comes down another 100 ft. or so, and does a 90 degree and goes straight. It appears when those homes were built, they defined and cleaned out that swale and redirected it to pull water to help dry out those areas. Mr. Shultz stated his applicant is proposing the same thing by pulling any remnant from the northerly swale and pulling it down into the southerly ditch to help pull water. When the proposed homes are built and graded, the southerly swale will be very similar to what the neighbors to the west did, redefine and clean so it functions better moving the water away from them.

East of the proposed site, the swale runs through the edge of the woods and eventually dumps into the quarry which is several hundred feet behind any homes east of the site.

Mr. Strabel is still concerned about water backing up on the Sanger's property. His other concerns, after that, are the Mesiti and Maher properties. Is Zyra's property after that? Mr. Maher stated yes. Chairman McAllister stated that he did not plan to include public comment into the workshop. He added relative to Mr. Strabel's concern, the only thing this Board needs to look at is the requirements for development, which is this development cannot increase the rate or volume of runoff to another property. Mr. Strabel agreed but is concerned that the water will backup on the east property. Chairman McAllister stated only if it is not designed properly. That's why we rely on engineering to make sure it gets designed properly.

Mr. Oberst understands Mr. Strabel's concern that the driveway may interrupt the flow of the northerly swale. Mr. Strabel stated, for example, the diamond size wetland fills up when it rains, and currently sheet drains across some of the property, and then flows around the houses with .8 inches of drop, which is almost nothing. What recourse do the Sangers have if it starts building up and not draining the way it used to? He knows it drains on someone else's property, which it shouldn't, but the existing eco system is being disrupted as how it flows. Mr. Shultz is trying to pull it to the south, the southerly intermittent stream, a little quicker. The rate of flow is fairly flat. Mr. Shultz stated the length of the northerly swale is maybe 150 ft.

Mr. Strabel asked if the resolution could have conditions, such as, if the proposed development causes worse damage. Chairman McAllister stated no because the Town Engineer signs off on the plan that it is designed properly so that it will not increase the rate or volume of flow off the property. Mr. Strabel stated that is true, but we each have a say.

Mr. Minor stated the tributary has no design whatsoever. The far western inlet of the channeled stream is at 658 and leaves at 658. Chairman McAllister stated there is no development in that area so it's not changing anything. Mr. Minor stated but it is designed to flow in a water stream that affects that property and the upstream properties. How does water flow flat? Chairman McAllister stated it will flow just like it does today. Discussion followed between Mr. Minor and Chairman McAllister.

Mr. Oberst summarized the concern is that the water taken and graded to the south swale will not get there because leaves and branches can block the flow. Mr. Strabel asked could it be made a little wider, more defined? Mr. Oberst asked Mr. Schultz if a reliever culvert could be installed to provide a back up to keep the water flowing? Mr. Schultz stated yes, culverts carry water better, faster and onto the next property that much quicker.

The proposed development is downstream from the folks to the west by inches. All of Colby Street is like this. The water flowing on the proposed development cannot be blocked or do anything to cause it to back up. All that is happening is cleaning and defining. Mr. Shultz would be happy to show spot elevations on the survey map prior to the issuance of a certificate of occupancy to prove it is graded per the approved plan.

Mr. Schultz clarified that the design cannot hold any water coming onto the proposed development or in any way retain it, which the design does not. The design is improving the conditions of the water entering the site so that the folks to the west should see improvement from what they have today.

East of the proposed site, there are no potential impacts with an existing swale several hundred feet away that eventually dumps into the quarry. Like these folks who built their houses to the west, they cleaned, defined, and moved the swale. When people buy a property, they clean it up, rake it, and seed any muddy puddle areas so it can be mowed. The folks to the west have done a great job taking care of their property and put a lot of effort into it controlling the water. Mr. Schultz understands their concerns and the last thing he wants is this project to make it worse for them.

Mr. Schultz added he has been in front of this Board since 1983. This is not a project that he is going to set himself up, his license or his firm with something that is not a solid engineering designed plan. It's important the Board realizes that we didn't go into this project lightly and spent a good amount of time taking care of every concern Mr. Oberst had. This is America, if you buy property, you have the right to develop it to the fullest extent that the zoning regulations allow you to. Denying my applicant is basically saying this Board has made mistakes for years and no one should have been allowed to build on Colby Street, which is not true.

Mr. Sharpe asked Mr. Oberst if we found out what the mineral line was for the perc tests? Mr. Oberst stated the mineral deposits were 22 inches in one and 0 in the other. Mr. Schultz stated what that means is the DOH didn't see any. Both the proposed systems are sand beds. Mr. Sharpe stated another issue he has is with the terms, i.e., ditches, flow, and streams because the water doesn't flow, there are no streams back there. It's like the everglades where the water just slowly moves. The term is intermittent stream because it will occasionally have water in it. Mr. Sharpe stated so it doesn't flow like a ditch, like Sandy Creek flows. He asked if the plan is to construct that to happen?

Mr. Schultz stated the plan is to not create a creek. We are going to take the existing hummocky swale that doesn't flow and improve it so it does flow and the folks living there won't have issues with water laying in their yards and the folks to the west will see an improvement from what they have today.

Mr. Strabel asked Mr. Oberst if he is comfortable with this design? Mr. Oberst stated if you look where we came from, the original development was located to the south of the south swale and now it has been pulled to the north, not disrupting the intermittent stream, and minimizing the amount of grading by having a single driveway. Mr. Schultz has kept the two lots fairly close to the intermittent stream which helps. That way the grading for those lots can get there with a decent slope around the houses. The design is pretty compact. The site is like a lot of Sweden which is fairly flat with seasonal ponding and bedrock. Mr. Oberst feels that what they have presented with the latest plan is the best or most efficient design for the site conditions.

Mr. Strabel asked if there should be any improvement on the west side from the triangular wetland B over to the intermittent tributary? Mr. Oberst stated the only thing to do as a secondary means of water to continue flowing eastward is put a culvert under the driveway to provide a relief valve if for some reason the other side clogs. Mr. Schultz stated that wouldn't be an issue to do that.

Mr. Strabel also asked if we could request certain elevation flags for the final as built, and that we have it surveyed with grade flags in certain areas just to confirm. As part of the issuance of a certificate of occupancy, a survey map would show each house and the grading at the corners of the house and show the actual constructed elevations at those key points. Mr. Schultz stated doing this would provide him peace of mind that his design was followed. Also, it holds the contractor to making sure the grading is correct. Mr. Strabel agreed that an as built it is very important because the grades are so sensitive.

Mr. Minor asked about the 6-inch culvert under the driveway. Would it drain to the east, eight tenths of a foot from the bottom of the stream all the way to the front? Mr. Schultz explained there is a half percent of a slope, usually a grass slope is at least one percent. Building the driveway up to get more slope will help with the culvert. He added there is nothing really that can be done to drain the wetland because it can't be disturbed, but if it overflows, the drainage should be picked up.

Mr. Dollard stated the sump pump discharge for each house is shown coming off opposite sides, which is a short distance from the neighbor's property lines. Is there any reason why it wouldn't be better going to the ditch in the back? Mr. Schultz stated it was originally shown that way, but the ACOE had us change it because a sump pump can't directly drain into an intermittent stream.

Mr. Minor referenced the Wetland Delineation Report on page 7, intermittent tributary, second paragraph. The stream is identified as a Class C stream. Class C is not defined in the report. Mr. Schultz explained Class C streams are regulated at the local level by town highway superintendents or local jurisdiction. Class C streams are the lowest regulated, plain old swale. The ACOE regulates just about everything that is a puddle initially, and a marine biologist is hired to do testing to determine jurisdiction. If ACOE has jurisdiction, then there is no touching or impact to the corridor that is flagged. Mr. Oberst added the ACOE has changed their definitions over the years. For a period, roadside swales would fall under their jurisdiction. Mr. Schultz added some time ago, a wetland could be filled up to an acre without a permit, and then it was a half-acre.

Mr. Minor confirmed with Mr. Schultz that the stream channel is inside a federal wetland jurisdiction. When we thought it was the other channel, we would have needed a permit to pipe it. Now, the ACOE doesn't use pipes, but an arch over the wetland leaving the corridor alone. Mr. Minor asked what happens if a tree falls into the stream channel. Mr. Oberst stated the ACOE will issue a clear and snag permit if that happens. The work is done on the shores or banks without machinery. Mr. Schultz added you can cut trees, but no pulling of stumps which disrupts the dirt. The ACOE's big rule is you may not bring dirt and material into the wetland, and you may not remove dirt from the wetland.

Chairman McAllister closed the workshop to break for the regularly scheduled meeting.

The workshop ended at 7:35 p.m.

Respectfully submitted,
Phyllis Brudz - Planning Board Clerk