

**Town of Hamilton Planning Board Meeting**  
**Tuesday, December 15, 2015 at 7:00 pm**  
**Held at Town Office 16, Broad Street, Hamilton, NY**

**Board Members Present:** Mary Galvez-Chair, Darrell Griff, Bill Nolan, Bettyann Miller.  
**Absent:** Elaine Hughes. **Also in Attendance:** Town Attorney Steve Jones, Town Clerk Sue Reymers, Code Enforcement Officer (CEO) Don Forth. **Others in Attendance:** Penny Strong-Collins, Travis DuBois, Beth DuBois

Meeting called to order by Mary Galvez, Chair at 7:02 p.m.  
On a motion of Darrell Griff, seconded by Bettyann Miller.

**RESOLUTION 2015-22: Approval of Minutes from October 19 2015.**

On a motion of Planning Board Member Darrell Griff, seconded by Bill Nolan, the following resolution was: ADOPTED: Ayes - 4, Nays - 0  
Resolved that the minutes from the October 19, 2015 be approved as submitted.

**RESOLUTION 2015-23: Approval of Minutes from November 23, 2015.**

On a motion of Planning Board Member Bettyann Miller, seconded by Darrell Griff, the following resolution was: ADOPTED: Ayes - 4, Nays - 0  
Resolved that the minutes from the November 23, 2015 be approved as submitted.

**Penny Strong-Collins, 1233 Earlville Rd, Earlville, NY; Tax Map # 199.12-1-4, Subdivision**

Codes Enforcement Officer Don Forth gave a quick review of the Variance Application submitted by Ms. Strong-Collins. Mr. Forth contacted Madison County regarding the situation and inquired about a waiver for the well and septic issue. The well and septic need to be separate by 100 feet. If not, there is a waiver you can get from the County, but its costly for owner because the well needs filtration and ultra violet lighting and septic would not be just a regular septic. If she sells the property in 10 years, this could be an issue.

Ms. Strong-Collins noted that she does not truly know where the septic is located.

Pertaining to the subdivision, it was noted that not only does the subdivision create two non-conforming lots, but the back lot would not be in compliance also with the Zoning Law because it is landlocked and does not have road frontage.

Mr. Forth informed the board that he met with two engineers from Meid who are working with 2-6 East Main Partnership for their application for Special Use. They are aware of the site plan checklist and assured the CEO they reviewed the Town's Zoning Law site plan requirements with the owners. They stated that they reviewed step by step the site plan checklist and the zoning law with the owners but that they said to not worry about including some items as they could get it passed without it. The engineers and CEO agreed that the biggest stumbling block is the septic. CEO told Meid that the Planning Board will not entertain the site plan review without a septic plan, perc test, etc. Mr. Forth thinks they may decide to scale down the project. They are short on parking for guests and staff in addition to the septic challenge. The owners were informed that they cannot use restaurant parking if restaurant is open while an event is occurring. It's a separate entity and does not count. In the end, Meid was clear of what was being asked and acknowledged that these are normal requirements. In a conversation the next day with one of the owners, Mr. Forth recapped the list of needs including the septic, contour lines, etc. Getting back to the meeting with Meid engineers, one of them had not seen the site, so after the meeting they planned on heading down to see the property.

Ms. Strong-Collins asked if the engineers had anything to say about the plans fitting into the property that surround her property. Mr. Forth stated no, that's for the Planning Board.

Discussion then continued with the Planning Board and Ms. Strong-Collins. She stated that a survey was done on the property and it is marked with sticks in the ground.

Discussion went back to the event center and the septic requirements and the County for the site plan for the event center. Also, the question of disturbing less than 1 acre was briefly discussed. Mr. Forth stated that the engineers are aware of the concerns and missing items and it's why they wanted to see the site.

At this stage, there is a Variance Application from Ms. Strong-Collins. The subdivision is on hold at the County until they hear from the Planning Board. The concern for her property is when she goes to sell the property and the well and septic issue. In the event that the well or septic needs to be replaced, it will be a problem for the owner.

Clerk Reymers stated that the variance application was paid for by Charles Wilburn and he also dropped off a copy of the Deed and Mortgage Agreement that was filed at the County Clerk's office on 12/22/14.

Ms. Strong-Collins stated that she did speak to an attorney about her situation, but did not have any advice other than she should have hired an attorney before this happened and gave no additional advice. She has not retained an attorney at this point. She believes that she understands where this will go and spoke with son and he is prepared to take over property when she retires. Next, she plans to go to Wampsville to find out where septic is located. Burt Marshall does not know where it is. It's unlikely that the County knows where it is located so the board recommended that she get a septic person to trace the septic. Mr. Forth noted that in his conversation with Madison County about her situation and the septic, if it was located on the back of the property, she could get an easement. However, if it is back there and they are building and digging, they could damage the septic confirming the need to know exactly where the septic is located.

Ms. Strong-Collins will ask Pat Sullivan who stated at the time she purchased the property that it had been pumped 3 years ago. She will find out who pumped it. She does know that the pipe goes out back of house.

Steve Jones reviewed the Deed and Mortgage Agreement with the Planning Board and Ms. Strong-Collins.

Steve Jones posed the question, where we are going with this now? The advice from the CEO is find the septic because if it's located on the property she deeded away that will be a problem. The discussion covered which application she needs to fill out and how it would progress, whether it's a subdivision or variance. In whatever direction it goes, knowing where the septic is located is necessary and Ms. Strong-Collins will investigate.

Mr. Jones walked through the scenario that if she had come to the board for a subdivision, it would have been denied and then she would have gone to the Zoning Board of Appeals, where they too, would have denied her because it is a self-created hardship. That is how it should have been done. Now it cannot be done that way now, because there is a deed recorded. No subdivision has been approved. We are all trying to find a way to bring the property into compliance. The way to do that is for her to

apply for a subdivision now as something that has already happened. It's called de facto (in fact, in reality) as opposed to de jure (in law). In fact, there is a subdivision. In law, there is not. So she would come to the board for a subdivision.

Mary Galvez wondered if she should get a cost estimate on a new well and septic because what if it costs tens of thousands of dollars. Who would pay for that? The board agreed she needs to get the septic location and more information as well as the information and requirements from the County.

The board agreed it should be a subdivision application. The application will be denied. The information on the location of the septic is important for the ZBA for a variance. Today was a pre-application meeting. Again, the board recommends that she get the septic information and that she get the subdivision application to the Planning Board. The variance will go to the ZBA after the Planning Board denies the subdivision.

Steve Jones wondered how to get the County involved. Does it need to go to County? What would the County say? After discussion, it was determined that Ms. Strong-Collins should also fill out a SEQRA short form because she is within 500 feet of a County Road. And that the subdivision forms and SEQRA will need to go to the County. All of the forms were given to her. Mr. forth will assist her with the documents.

**Travis DuBois, Willey Road, Earlville, NY, Tax Map # 199.-1-51 & 199.-1-50, Subdivision - Pre-view application.**

Mr. DuBois approached the board about a potential project that entails building a house for a family member on one of his lots. The lot, #199.-1-51, is located in Poolville next to the railroad, is .69 acres and used to have a building on it, which is now gone due to demolition. The -51 lot is in the Hamlet, but lot -50 next to it is not as it's in the AR District. In order to make the lot -51 large enough to build upon, he is considering a subdivision of part of lot -50, which he also owns.

The Planning Board reviewed the parcel map, the flood map as the property is close to the Sangerfield River, as well as the Zoning Law with particular attention to the Hamlet and AR district. The discussion entailed the property's history, the floodplain and building lot requirements.

Mr. DuBois wondered if it's possible or practical to do this.

Questions arose from the discussion about whether or not merging a portion of -50 into -51 would cause that property to be in the floodplain. It was recommended that the owner research this with the state. The next question had to do with the zoning of the lot. If merged, would it change zoning at all? After further discussion and review of the setbacks, the thinking was that the owner should consider approaching the ZBA for a variance on the existing -51 lot. It's a pre-existing lot, there was a building there beforehand. Mr. DuBois will consider this option and research the floodplain more.

**RESOLUTION 2015-24: Executive Session**

On a motion Planning Board member Bill Nolan, seconded by Darrell Griff, the following resolution was: ADOPTED: Ayes: 4 Nays: 0  
Resolved that this Board move into an Executive Session for the purposes of litigation at 8:24 p.m.

**RESOLUTION 2015-25: Return to Regular Session**

On a motion Planning Board member Bettyann Miller, seconded by Darrell Griff, the following resolution was: ADOPTED: Ayes: 4 Nays: 0  
Resolved that the Board return to regular session at 8:46 p.m.

There was a brief discussion on the subdivision and purchase on Earlville Road between 2-6 East Main Street Partnership and Ms. Penny Strong-Collins as to whether or not the Partnership needs to get a variance for the lot they purchased. Basically, should both lots request a variance? Once the back property is merged with the neighboring lot, would it address the problem? The merger may need to be done by a Special Use application.

A motion for adjournment was made by Darrell Griff and seconded by Bill Nolan.  
Meeting adjourned at 9:00 p.m.

Respectfully Submitted by  
Suzanne Reymers, Town Clerk