

Town of Hamilton Planning Board Meeting
Tuesday, March 1, 2016 at 7:00 pm
Held at Town Office 16, Broad Street, Hamilton, NY

Board Members Present: Mary Galvez, Darrell Griff -Chair, Elaine Hughes, Bettyann Miller. **Absent:** Bill Nolan. **Also in Attendance:** Town Clerk Sue Reymers, Deputy Town Clerk Elisa Robertson, Code Enforcement Officer (CEO) Don Forth, Penny Strong-Collins, Peter Darby, Or and Emily Oren (7:15 p.m.)

Meeting called to order by Darrell Griff, Chair at 7:03 p.m.

Resolution 2016-5: Approval of Minutes from January 19, 2016.

On the motion of Planning Board Member Galvez, seconded by Elaine Hughes the following resolution was ADOPTED: Ayes-4 Nays-0
Resolved that the minutes from the January 19, 2016 be approved.

A final copy will be circulated to the board.

Parties for first item on agenda not present.

Pleasure of the board to move to next item and return when parties are present.

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

Prior to meeting, members reviewed Madison County Planning Department GML Recommendation Report; Town Attorney Steve Jones to give update: Good move on Boards part to send it on to County for their review, they seem to agree with our assessment of the situation. There is not a legal subdivision at this point according to them, without approval by the Zoning Board of Appeals (ZBA). We have no provision for property line adjustment in our regulations; May want to consider in future much like eliminating this two lot subdivision waiver; this is a substandard lot created by two substandard lots-would require ZBA approval; our board could take no action; question as to whether this should be combined with 2-6 main application; Attorney feels Penny Strong-Collins is appropriate person to file; County states "We think a better approach would be to move both pursuits (acquiring property and developing it) along at the same time and for the 2-6 East Main Partnership to be the applicant in both pursuits." Question as to: how far do these gentlemen want to go before getting a decision from this board?

Penny Strong-Collins stated: *"That I really don't want to be associated with their plans. They came to me with a request to sell the back half of my property and I agreed to do that. But I do not want to be associated with what they planning to do with it, on the record; I don't want to be associated with their plans. I agreed to sell the back half of my land to them."*

Concern raised about the non conforming lots and one being landlocked; Chairperson Griff states that we do not have jurisdiction or legal standing to ask her to combine it with 2-6 Main; general consensus is that it is a ZBA issue; just determine that it is not Planning board issue, do not have to even deny.

Penny Strong-Collins: *"The reason that I say that I don't want to be associated with them; when they came to me and asked me to sell the back half of my property they did say it was for a wedding venue. At that time I did not know that they had bought the piece of property... if you face my property, to the left; which would have been previously owned by Tim Donovan, so I did not know the extent of what they had planned. So, I did not know that, so I did not know that all of this was going to come out etc., etc. So that is why I am saying I don't want to be associated with the plans going forward as I feel it might shine a bad light on: What I just thought, Ok buy the back half, great, your future business good luck. And here I am in the midst of...in the midst of ZBA..."*

Penny Strong-Collins expressed a desire to get an attorney before scheduling a time to go before the ZBA. She will be out of town for most of April. After discussion amongst the Board and Town Attorney it was determined that the Planning Board does not have the authority to grant a subdivision based on the evidence presented. It needs to go to ZBA. If Ms. Strong- Collins wants to seek a variance, it is her right to do so. Ms. Strong-Collins indicated that she wants to retain an attorney.

Steve Jones spoke directly to Ms. Strong-Collins: *"So it is written into the record that you do not want your application to the ZBA scheduled at this time, until you can consult an attorney, ok?"* Penny Strong-Collins replied, *"that, yes, please"*.

Codes Enforcement Officer Don Forth asks board to consider making a recommendation to the Town Board to place a moratorium on the two lot subdivision waiver exemption; Chairperson Griff asks to hold conversation until later in meeting.

Oren Construction, 2185 Spring Street, Hamilton, NY, Tax # 199.5-2-5 Minor Subdivision

Emily Oren presented packets to the board while reviewing their plans for Spring Street in more detail; currently a single piece of land; hope is to subdivide into 4 lots with 2 flag lots requiring special approval; have gotten perc and soil tests, slope evaluation; land has limiting factors; limited road frontage; zoning challenges, complicated slope; original idea was for townhomes, higher density housing; Emily has informally consulted with Geoff Snyder , Madison County Health Department Environmental Director, he advised that they may not meet DEC's requirements for water testing; still exploring annexation to Village for the 4 house option which is their fall back option; Orens feel that because of location higher density housing is needed; it is explained that the perc test is what is holding things up for them; the reason they are here is to see what they need to do to pursue this; to get approval for lot layout needs to go before ZBA; section 640 of the subdivision law says that all lots should abut by their full frontage on public roads to ensure suitable access; next step is to go to the ZBA to get

approval for a variance for the flag lots; cautioned what the standards for the ZBA may be, it cannot be a self-created hardship.

Codes Enforcer Don Forth brings up possibility of planned districts such as Five Trees; some discussion on when zoning laws were changed in 2009. Or Oren mentions duplicity of needing more dense housing but zoning laws that seems to discourage it. Perc test (deep bucket) actually passed

but zoning is a problem. Emily Oren explains that they are hoping for four houses, more than four and must meet DEC standards for water testing, which is very stringent, but they also desire to keep costs down; not the news that they were hoping for. Needs to go to the Zoning Board; Town Attorney Steve Jones states:

"There are other criteria that the zoning board looks at in terms of variances, self created hardship, I believe is the last one. It says, 'Which shall be relevant to the decision of the board but which shall not necessarily preclude the granting of the area variance'. Just because you created it, doesn't mean it knocks you out of the box. That is on Page 69."

General consensus is that they need to go to the Zoning Board of Appeals. Don Forth recommends that they contact the DEC about building close to stream, to make sure there are no special regulations.

2-6 East Main Partnership, 1245 Poolville Road, Poolville, NY, 13332 Tax map# 199.12-1-4- Special Use Permit Application

General update due to phone call received by Don Forth by party requesting to be added to agenda.

Chairperson Griff refers back to a question Codes Officer Forth brought up earlier about two lot subdivision waiver; Don Forth asks the Planning Board to recommend that the Town Council consider passing a moratorium on two lot subdivision exemptions; Town Attorney Steve Jones stated:

"There are two things that would have to be changed most likely: Number one is that Section 350, page 10 two lot subdivision waiver (see SUBDIVISION REGS). And number two, is the definition of a minor subdivision which is on page 5 (see SUBDIVISION REGS). Just elimination of section 350 does not necessarily address the problem. You would also have to change the definition of a minor subdivision. Now, what can we do? You could pass a resolution tonight saying to the town board: 'we recommend that the town board pass a moratorium to require that all subdivisions come before the planning board and eliminating the two lot subdivision waiver until a more careful review can be undertaken, through the comprehensive plan.'"

Discussion among board as to how long a moratorium should last; simpler process for minor subdivisions than major, unfair to make two lot subdivision go through more regulations than an three or four lot; Town Attorney Steve Jones:

"The town planning board recommends that the town board adopt a moratorium on the two lot subdivision waiver exemption and thereby require that all subdivisions be reviewed by the town planning board."

"...because there is another provision that allows us to waive certain provisions; waiver of a public hearing...380.3 if the final plan is in substantial agreement with the preliminary plan the planning board may waive the hearing requirement that's a possibility."

Resolution 2016-6: Moratorium on Two Lot Subdivision Waiver

On the motion of Planning Board Member Mary Galvez, seconded by Bettyann Miller the following resolution was ADOPTED: Ayes-4 Nays- 0

Motion carried to ask the Town of Hamilton Council to put a moratorium on Town of Hamilton Subdivision Regulations: Section 350 - Two Lot Subdivision Waiver. "Two lot subdivisions shall be exempt from this local law. This exemption does not apply to resubdivision of previously subdivided lots."

Back to the East Main application; still do not have completed application; no site plan; unsure of the direction of the project; discussion of application needing to be completed before being included on agenda; Town Clerk Sue Reymers stated:

" Page 56 Section 8.3-1 of the zoning law notes that to be on the planning board's agenda all materials must be presented to the clerk's office at least seven days prior to the date of the next planning board meeting and that includes five copies."

The Planning Board agreed that the application needs to be completed for consideration. There was discussion about the project as its currently understood, but all agreed that the project cannot be prejudged by the board and that they have a right to make application for special permit. It may need to go to the Zoning Board of Appeals. The Board agrees to not put them on the agenda until application is completed and they follow time limitations and copies presented as per the law. A decision was made to send a follow-up letter with a copy of the previous letter; Town Attorney Steve Jones suggests wording for new letter; agreed that this is appropriate response to phone call.

Any further business; Codes Enforcement Officer Forth brings board's attention to a prior matter; prior matter discussed in the Village Board Minutes:

"Vincent Durante at the airport. Durante is in the process of putting in a purchase offer on a property at the airport west of Vantine's. This will be for transfer facilities, but the pharmaceutical facility on Payne Street will include a space for future development, the planning board is advising us on the steps necessary to return the zoning to B6 and we hope to move that process forward in February."

Steve Jones reported that he received an e-mail from Mr. Durante's attorney to this effect and that when the village accepts it she will speak to him about dropping the legal action; will probably adjourn the legal action when decision is made.

Chairperson Griff inquires about other business, none.

A motion for adjournment was made by Chairperson Griff and seconded by Board member Hughes. Motion carried. Meeting was adjourned at 7:40 p.m.

Next meeting April 5, 2016 at 7 pm at Hamilton Town Office.

Respectfully Submitted by
Elisa Robertson, Deputy Clerk