

TOWN OF GREENFIELD

PLANNING BOARD

SEPTEMBER 9, 2008

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Gary Dake at 7:00 p.m. On roll call, the following members are present: Gary Dake, Lorna Dupouy, Michael Ginley, John Streit, Michael Thrailkill and Nathan Duffney, Alternate. Thomas Siragusa and Tonya Yasenchak are absent. Gerry McKenna, Zoning Administrator and Charlie Baker, Town Engineer, are present.

AUGUST 26, 2008 MINUTES

MOTION: J. Streit

SECOND: L. Dupouy

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of August 26, 2008 as submitted.

VOTE: Ayes: Dake, Duffney, Dupouy, Ginley, Streit, Thrailkill

Noes: None

Absent: Siragusa, Yasenchak

DAVID MURRAY – Minor Subdivision

Route 9N

David Barass is present for David Murray. He explains that this subdivision was approved but there were concerns about adjacent wetlands. The decision was that the wetlands should be flagged but because it was January we couldn't accomplish that. The Planning Board granted approval as a two-phase project. Phase 1, which was approved and has been filed, kept lots 1 and 4 combined as one big long lot. The stipulation was after getting the wetlands flagged if they could demonstrate that there was no impact then the Planning Board could approve phase 2 and break lot 1 off of lot 4. They have had the wetlands flagged, are now shown on the map and they are actually a little further away from the property than they had guessed they were. They believe that there is no further impact and would like to see phase 2 approved. C. Baker states that the applicant did what was asked. G. Dake states that we encompassed both phases when we did the SEQRA and as the applicant indicated this was just sort of a timing issue, it was almost a conditional approval. M. Ginley asks if on the new map there will be a note that explains this. D. Barass states that they are going to have to file another Mylar. He has changed the title block to call it phase 2 and there is a phasing note that explains the situation with phase 1 and phase 2. They added that the wetlands were flagged on 6/19/08. (T. Yasenchak arrives at 7:04 p.m.) G. Dake reiterates that the SEQRA was completed for the whole project.

RESOLUTION – D. Murray, Minor Subdivision

MOTION: J. Streit

SECOND: T. Yasenchak

RESOLVED, that the Planning Board grants minor subdivision approval for phase 2 for David Murray for property located at 1665 – 1673 Route 9N, TM#151.-2-10.1 and TM#151.-2-10.2 and waives a public hearing.

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VOTE: Ayes: Dake, Duffney, Dupouy, Ginley, Streit, Thraillkill, Yasenchak
Noes: None
Absent: Siragusa

MICHAEL HICKAM – Major Subdivision

Medbury Road

Michael Hickam is present and G. Dake states that on August 28, 2007 he was granted an extension of his major subdivision approval to October 10, 2008 conditioned on DOH approval and road bond being in place with the dollar amount of the bond being updated. M. Hickam states that he is here to ask for another extension. He is currently working with Dan Gaba and they are working with a builder right now trying to bring everything together. L. Dupouy states that it sounds good and asks if it seems like the builder is pretty serious. M. Hickam states that he hopes so. The market has taken a down fall. There are lots of builders who wanted it but finances have been a problem. J. Streit states that the applicant should not be penalized because of the current market conditions. T. Yasenchak states that M. Hickam has always done everything that the Planning Board asked. He has been upfront and honest with the Board and T. Yasenchak states that is appreciated. M. Ginley states that he knows Dan Gaba personally and he is a serious realtor, a full-timer. M. Hickam states that is why he picked D. Gaba who was recommended by his engineering firm. C. Baker states that any approval should include the clause that the road bond be updated. G. Dake thanks M. Hickam for coming in before the approval expires and keeping it renewed. It is in everyone's best interest to get this completed. It will get further out of compliance, it is already a deviation from the standard and the Board knows that, but like discussed last month regarding the Chwaz application, we have to face what are the alternatives. The alternative would be to tell the applicant to rip out all the work that is there and a tremendous amount of work has been done, and that does not seem terribly practical. J. Streit states that the Planning Board members are agents for the Town and looking out for the Town's best interest, which this is.

RESOLUTION – M. Hickam, Major Subdivision

MOTION: L. Dupouy

SECOND: M. Thraillkill

RESOLVED, that the Planning Board extends its approval of a Major Subdivision for Michael Hickam for property located at Medbury Road, TM#137.-1-14.111, as follows:

- **Extension for an additional year to October 10, 2009**
- **All of the same conditions including DOH approval and road bond being in place**
- **The road bond dollar amount will need to be updated to a current cost at whatever time the road bond is put in place**

VOTE: Ayes: Dake, Duffney, Dupouy, Ginley, Streit, Thraillkill, Yasenchak
Noes: None
Absent: Siragusa

MICHAEL REMILLARD – Minor Subdivision

Wilton Road

Michael Remillard is present. B. Duffney recuses himself. M. Remillard states that he had a minor subdivision of 4 lots approved in April 2005 and he is here to request the approval of one additional lot so that he can sell the home he recently built. G. Dake states that what the applicant is actually asking for is a waiver of the 5-year rule, which was clear at that time. The map is discussed. M. Remillard explains that he would like to subdivide an 8-½ acre parcel and there is 325' of frontage. J. Streit asks for clarification. G.

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Dake states that the first time they came in they chopped 4 lots off and now they are looking to come in and take the remaining lands and carve a 5th lot of 8.49 acres out. L. Dupouy asks if there is a house. M. Remillard states that there is a house on there. M. Remillard states that originally they had wanted their house on the large parcel but he did have it surveyed on 8 ½ acres a couple of years ago for the mortgage. He states that they built their dream house and unfortunately, they have been recently divorced and he can't take control of the house nor can his ex-wife. M. Ginley asks what would remain if the applicant is allowed to cut out the 8-½ acres. M. Remillard states that there is property in Greenfield and a parcel in Wilton totaling approximately 140 acres. Right now they are partners in the property and he does not want to sell the property. He states that it means a lot to him, it is much more important than the house. He wants to obtain the property after the sale of the house. M. Ginley asks if the frontage requirements are met as far as the house lot and the remaining lot. G. Dake states that there are two things that need to be discussed – the question of whether the Board is willing to waive the 5 year rule and then the question of the minor subdivision. L. Dupouy states that she is not willing to waive the 5-year rule. She is sorry for the applicant's personal situation, but there are things that we have to hold firm and fast to. She states that there are other avenues, if they have to both move out and rent the property for a couple more years, etc. Those are issues that the applicants are going to have to figure out on their own. She states that this is not something that we let go lightly here and the minute you let it go for one applicant then you start down a slippery slope for a lot of people because then everybody feels that they have a unique issue. J. Streit states that with all respect to L. Dupouy, he thinks that the rule is important, he thinks he knows the reason that the rule exists and he thinks that rules should be enforced unless one judging the mitigating circumstances feels that this is an unforeseen situation in 2005. He would not be uncomfortable with waiving the variance. M. Thraikill states that he feels the same as J. Streit. He thinks that the rule is there for individuals who come in and benefit from dividing a piece of property and then a couple years later dividing it again for profit. He does not think this is the case here, he thinks it is a hardship. M. Remillard states that he never wanted this to happen. M. Thraikill states that he does not have a problem with waiving the rule. T. Yasenachak states that she is sorry for the applicant's difficulties. It is a really difficult choice when faced with having to look at something that is in our law and when it comes to someone's personal relational life. She hates to be one that starts to have to be a judge on that. She asks if any of the other 4 lots are occupied or sold. M. Remillard explains that one is still for sale. Lot 4 is owned by the Tookers. T. Yasenachak states that her suggestion is to do some sort of a lot line adjustment so that there are still the same number of lots and then cut out the house. She would be more comfortable if there was some way that we could do that. As much as she does feel for the applicant, there are other people who have circumstances that they do not foresee, it could be a financial hardship, and she would see that is just as important as the applicant's. Maybe there is some way that we can come to a middle ground with a lot line. M. Ginley states that he agrees with J. Streit and M. Thraikill. He thinks that it is a good rule and if he thinks that if there was anything indicating to him that the applicant had some sort of ulterior motive to make money and take advantage of it in some way, then he would certainly agree with L. Dupouy. He states that the Board has to take it on a case-to-case basis and judge it based upon the person's situation. Personally he has no problem waiving it. He would rather see if something could be done with T. Yasenachak's suggestion. M. Remillard states that the one lot they still own is in the center and would be no different. It does adjoin at the rear. M. Ginley asks if it would be possible to join that to the larger parcel. M. Remillard states that it would be, he could remove the rear line, but asks if that would be any different. M. Ginley states that it wouldn't create a new lot. T. Yasenachak states that then technically in the future if the applicant decided to move away, there would be two areas where someone else could put in a road. M. Ginley states that there are a couple of years left and then the 5 year rule would not apply anymore and if the applicant held onto it, he could divide it up more if he wanted to. M. Remillard states that they were very fortunate, bought this property and made things work. He built this house and these have been the worst three months of his life, he never dreamt that this would happen. He does not want to be here. He has children and would like to keep the property. C. Remillard would like to sell the house with the entire property. He wants to do his best to keep the property and raise his children here. Whatever it takes from the Planning Board, he is just asking whatever he can to be able to keep this piece of property. G. Dake states that one time on a project on lower Locust Grove Road in the case of a divorce, although they were only asking for about a three month waiver, the Board granted the waiver because of very similar

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circumstances. They had land that was tied up in a previously approved subdivision. The other difference in this case, and he is not sure it is a significant difference, is that this throws it from a minor to a major subdivision. If they had done this at the time, perhaps the reason we came up with this number of lots in the first place was to keep this as a minor subdivision. Had this additional lot been created it would have been a major subdivision which does have a different set of fees and he does not know that there is significantly different review. He doubts that this was the Remillard's intention, that is what is part of the intent of the 5 year rule – to prevent the segmentation and the creep of having minor subdivision after minor subdivision, etc., instead of one major subdivision. As Board members have said, there is that judging of intent. M. Remillard reiterates that it was his intention to grow old here with his wife and children. He states that they surveyed the house a couple of years ago and when the 5-year rule did come up they wanted to have the house re-subdivided for tax reasons. His goal now is to do what he can to keep this piece of property. G. Dake states that it appears that the majority of Board members are willing to consider the waiver, but that still leaves us with some engineering issues and he thinks it would be worthwhile taking a look at alternatives. He states that the objective is that the house is on the 8-½ acres. He asks if the applicant's objectives would be met by recombining the unsold lot back with the remaining 100+ acres and therefore saying there are 5 pieces of property and when done there are 5 pieces of property. This would not require a waiver of the 5-year rule as no new lot is being created. This could make it more marketable. G. Dake asks if Catherine Remillard is aware that M. Remillard is presenting this to the Planning Board. M. Remillard states that she is and R. Rowland states that she has spoken with C. Remillard who was questioning when it would be on an agenda. M. Thraikill asks if that would leave enough frontage. M. Remillard states that he thinks that lot 2 has 235'. G. McKenna states that if it was a stand-alone lot it wouldn't now, but the other lot still has 310' left so it would be all right. M. Remillard states that it would work for him, he just has to check with C. Remillard. G. Dake asks how the Board feels. L. Dupouy states that this works for her and she understands, but if Mrs. Remillard wants half of the land and the house, it might not work for her too well. The other thing that is staying in her mind, that makes the 5 year rule for her, which has nothing to do with the applicant, is the one lady who told us the reason she needed the 5 year rule waived and to this day we are still dealing with this lady. That is enough to frighten her as to why we should stand fast to the 5-year rule forever. G. Dake states that is what he likes about the solution. J. Streit asks if it is his understanding that we are asking him to come back with a map with the back lot line erased from lot 2 and joined to the large lot and the assurance that this is ok with all parties. G. Dake states that at some point probably an authorization of agent or something would be requested. It sounds like the Board is comfortable with that approach, it is a fairly good size lot and we did significant review and the house already exists. C. Baker does not see any engineering issues. G. McKenna states that the new lot will be 2 acres larger than required by zoning. G. Dake states that at that point it simply becomes a lot line adjustment. He asks if the Board would be comfortable with G. Dake and G. McKenna approving this lot line adjustment administratively, as he has done on some but would not have done it on this project without the Board's say so. The Board consensus is comfortable with G. Dake and G. McKenna taking care of this administratively. M. Ginley states that if the applicant comes back after the five years, he will not be able to draw that line back where it is exactly because the zoning has changed. G. Dake states that if there are any additional issues, the applicant will be asked to bring this back to the Planning Board.

RALPH MACCHIO – Major Subdivision

Locust Grove Road

Mark Earhardt is not present. G. McKenna explains that this goes back to the J. Collura subdivision on Locust Grove Road. Mark Earhardt is representing Ralph Macchio in the purchasing of some additional property for a future major subdivision. Apparently in the deed for the Collura subdivision, for some unknown reason, there is a restriction on further subdivision. The applicant bought approximately 65 acres east and behind the lot in question. They want to run a road through there and subdivide it with the rest of the property. G. Dake states that his assumption after talking with G. McKenna is that what J. Collura was talking about is the 5-year rule, which is on the final plat. We do not know if there is a clause in the deed.

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There was discussion during the initial project that someday this lot would provide access to the rear. If the lot in question is joined to the 65 acre parcel, G. Dake states then he is more comfortable waiving the 5 year rule in that case because then you get a look at a whole major subdivision. We had discussed this future development.

DISCUSSION

T. Yasenchak asks if we are waiting for traffic information on the Chwaz case before it is back on the agenda. G. Dake states that he would like to commend the Planning Board, at the meeting before we had kind of implied to the applicants that it was going to be a “slam bam” reapproval, but it was a good lesson in why we have a public hearing and we changed our position based upon the information we learned in the public hearing. It changed our view of the project and gave us some new information and that is why we have public hearings.

J. Streit states that tonight he saw some good problem resolution in an intelligent way. M. Thrailkill states that it was a good suggestion on T. Yasenchak’s part.

L. Dupouy states that there are a couple of things she would like to see the Board talk about and she is not sure what the right forum is for it. She states that this isn’t the first time and it won’t be the last time about the 5-year rule. She would like some time where we could hash it all out about all the different pros and cons about the 5-year rule, when we are not involved in a case. The other thing, also when we are not involved in a case, is the wood boilers. She found it really interesting reviewing what the ZBA minutes had to say considering what is going in with the Town garage and because of all the energy costs that are going to be coming up. This is going to be a viable thing that many people are going to jump on the bandwagon about. It is also going to be very contentious because of people with breathing problems. Instead of trying to react with a band-aid we should have a discussion before that so that we can discuss things knowledgeably. G. Dake states that on the 5-year rule, while it would be valuable and we could put it on an agenda on a light night, however, it is far more valuable in the context of an actual project. We can do that by simply going back and referring to several cases that we have looked at. Until you have a real project in front of you, unless we say ‘no, never’, it is always going to be a little bit case-by-case. On the wood boilers, G. Dake states that his visceral reaction would be that it is a zoning and legislative issue and not a planning issue. A ZBA referral always comes to us. G. Dake asks J. Streit as someone who served on the Master Plan committee, he does not remember discussing this as they were going through the entire Comprehensive Plan discussion. J. Streit states that they did, they talked about the height of stacks, etc. He states that it seems that one or more State agencies are involved with this issue and perhaps someone from the proper agency could come to discuss this. G. Dake states that the Planning Board is a referral board on a variance and if it comes before us as a permitted use with the proper setbacks, it doesn’t matter if we like it or not. Something that is permitted is permitted. It is not up to the Planning Board to say that it is permitted but we don’t like it. He states that the only time he sees the Planning Board having any action would be on a ZBA referral - that could change. He states that the Planning Board is unlikely to be the primary Board to review a wood boiler issue and he thinks that if the Town Board or the Zoning Board, and we might encourage them to have some education that the Planning Board could participate in, but the Zoning Board is going to see this over and over again. After having read their minutes, it would be helpful for them to get some education from DEC or whom ever. J. Streit asks if G. Dake would suggest to them that they have some education and include any Planning Board members interested in participating. G. Dake states that we can send a letter stating that should they choose to have an educational session on wood boilers, the Planning Board would welcome the invitation to participate. T. Yasenchak states that people should know that there are other types of wood burning without having a little black stove in your living room. There are other types of wood burning furnaces that you can put inside your house. She states that they just used one in a house here in Greenfield that is dual fuel so that they can use oil or wood. She states that as people educate themselves more, they may find the other options. G. Dake states that the reason it is valuable is because one of the things that

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disturbs him in the ZBA minutes, and is the most wasteful use of time, is arguing over facts. Find the facts, don't bother talking about it. Learn what is fact and what is opinion. He was reading arguments back and forth that were completely contradictory to each other and you will never come to a conclusion if you have divergent facts. B. Duffney states that when the new zoning was coming through he did extensive research on wood boilers and the stack heights, etc. He states that each wood-burning outfit has formulas that are real close to each other, stack heights per footage of the neighboring homes, etc. M. Ginley states that with the energy crisis, technology is going to get better and better. If the ZBA is saying use the best technological stove there is out there, the better they are going to be. Wood gasification boilers are discussed. G. Dake states that he knows next to nothing about outdoor boilers and it would be wonderful if we were to have a joint board educational session and would encourage the Zoning Board or the Town Board to be the lead people on that and would welcome any participation from this Board. He states that he did copy C. Baker on an e-mail he sent to the Supervisor. He did get a phone call from a local planner who has a client in the Lake Desolation area who is asking about the Town's position on wind power. They were unaware of what had gone on with Airtricity. So there is another landowner up there who is exploring wind power. Once we hear back from Airtricity as to how their testing went, it is going to behoove us to get ourselves up to speed because G. Dake believes that we will be getting that project. J. Streit asks if the test tower has been in operation and if the testing has been completed. G. McKenna states that it is ongoing. L. Dupouy states that is another great conversation for the Planning Board to have and all the information about what was going on in the Finger Lakes was great. T. Yasenchak states that the Town Board has put together a commission to investigate wind power and how towns can deal with that legally and how they can put together laws so that it benefits the towns as well as the community. She is on that commission along with representatives from the ZBA, the Environmental Commission and the Historical Society as well as a Town Board member. They are going to two different facilities in New York State to see how those towns dealt with this issue when it came up. Hopefully by the end of November they will be giving the Town Board an overview of what they find and how other towns have written laws. She states that there will probably be a public hearing at some point.

Meeting adjourned 7:51 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary