

TOWN OF GREENFIELD

PLANNING BOARD

AUGUST 11, 2009

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, Thomas Siragusa, John Streit, Michael Thraikill, Tonya Yasenchak and Nathan Duffney, Alternate. Gerry McKenna, Zoning Administrator, and Charlie Baker, Town Engineer, are present.

MINUTES – July 28, 2009

MOTION: T. Yasenchak

SECOND: M. Thraikill

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of July 28, 2009, as submitted.

VOTE: Ayes: Dake, Dupouy, Ginley, Siragusa, Streit, Thraikill, Yasenchak

Noes: None

PLANNING BOARD CASES

WALBRIDGE ENTERPRISES – Site Plan Review

Maple Avenue

Bill Walbridge is present. G. Dake reviews that this is in the existing Allied Maytag building and the space is being split into two rental spaces with no change in total square footage. B. Walbridge received a variance from the Zoning Board of Appeals. G. McKenna states that he has no comments. M. Thraikill states that the hockey shop has been open for 4 weeks and he thinks that the applicant has disregarded the whole process of the Zoning Board and the Planning Board by going ahead and opening without final approval. B. Walbridge states the tenant moving in from his existing space was made contingent upon getting the final approvals. He made it perfectly clear that if there were any problems he was going to have to move out. M. Thraikill states that it is very nice that B. Walbridge made it perfectly clear to the tenant, but M. Thraikill thinks that by coming in front of the Planning Board and the Zoning Board, the applicant disregarded what the Boards do here. B. Walbridge states that was not his intent and he apologizes for that. M. Thraikill states that he has been here for a number of years, and he thinks that this is one of the first times that this has occurred, that someone has gone ahead and opened something without getting final approval. C. Baker states that he had raised a question earlier about the septic system and it seems to him that there is an awful lot going on on that lot. He did speak with G. McKenna about it and there really is nothing in the Code to force the applicant to upgrade the system. G. Dake states that total square footage hasn't changed, it is going from one business to two with the same number of bathrooms, and while there may be a problem, in some ways like parking unless they are pushing people onto a road, the owner and tenants are the ones who suffer if the septic has a problem in general. He states that perhaps this is something we should make a note of and take a look at the Code. He does not think that SEQRA is required as there are no physical changes. L. Dupouy asks what does the Planning Board have available to them in the way of stopping future applicants from ignoring the process. She states that she is not suggesting holding up approval, but there seems that there should be something incurred so that people know that there is a process in place, you

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should follow the process and that it is there for a reason for everyone alike. G. Dake states that the Planning Board is a permitting board and not an enforcement board. It is not in the Planning Board's purview to do that, it would be G. McKenna's job to do that if he has a sense that there is a violation. G. McKenna states that he had not noticed it. M. Thraikill states that it has been open, he called yesterday after he saw it on the agenda and the person who answered the phone stated that they had been open for 4 weeks. That is even before the public hearing of the Zoning Board. G. Dake states that he does not encourage the process of opening before getting a permit. L. Dupouy agrees, but asks what is there so that other people will know to keep with the correct procedures. G. Dake states that would ultimately be with G. McKenna's office. G. McKenna states that if he had noticed it beforehand, the applicant would not be here tonight. G. Dake states that if an applicant is cited, the Board cannot permit them. On the other hand, if the Board permits them, they will not be in violation. M. Thraikill asks if they can be cited now. G. McKenna asks if he means right now, and that technically he could. G. Dake states that he understands the frustration, but is not sure that we are furthering the interests of the Town by making it any more difficult. M. Thraikill states that he has gone before this Board and the Wilton Board and done it correctly, as have others on this Board. T. Yasenchak states that we have seen on this Board where people have not received approval and they moved. As much as she gets frustrated with the same things being discussed, she feels that our Board has been fair in the way that we have made our decisions and haven't allowed that to sway decisions. G. Dake states that where it is more problematic is if we feel an obligation to approve because it is already done. It is sort of like someone who puts down a road before we approve it, you are allowed to put pavement on your property. He uses the example of the Glessing subdivision where they built the house first, that wasn't the smartest thing they could have done. The Planning Board didn't change its approval process because the applicant didn't follow the process and they ended up paying the penalty. He states that he does not think in this case we will come to a different conclusion and you could make the case that if they were open and you still didn't have any adverse comments at the public hearing, then that speaks to their favor. B. Duffney states that there are different circumstances in every different case. They are opening a different shop in an existing building that is already a commercial space. It is not like they are taking a house and turning it into the hockey shop. G. Dake states that the record should show that we have concerns and that we want to make it clear that it is not ok to just proceed. M. Ginley asks G. McKenna what the process is when someone is cited. G. McKenna states that it depends on when it happens. Had he known 4 weeks ago and given them a violation, they could have solved it before tonight's meeting. M. Ginley asks about fines. G. McKenna states that if they satisfy the violation prior to the expiration date it usually just goes away.

RESOLUTION – Walbridge Enterprises, Site Plan Review

MOTION: J. Streit

SECOND: M. Ginley

RESOLVED, that the Planning Board grants approval to Walbridge Enterprises for a Site Plan Review for property located at 455 Maple Avenue, TM#153.13-1-24.11.

VOTE: Ayes: Dake, Dupouy, Ginley, Siragusa, Streit, Thraikill, Yasenchak

Noes: None

ZBA REFERRALS

Lorraine and Paul Varley, Area Variance – G. McKenna explains that the applicants would like to subdivide a lot that was two lots at one point in time and they would like to put it back to what it was in 1996 when they bought it. It was one 5.706 acre lot and a 4.33 acre lot. It is currently 8 acre zoning. G. Dake asks if the applicant combined it by their actions. G. McKenna states that they did. L. Dupouy states that they want to give the daughter the other lot. G. Dake states that the trap in that argument is that it is won't always be for the daughter. He states that this is a straight area variance, there is nothing particularly unique for the Planning Board. B. Duffney states that being that the property was once subdivided and the daughter, Stephanie, and her fiancée are both volunteer firefighters and they both put a lot of time into this town, he

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believes it would be an asset for us to encourage and try to keep our young people in this town. G. Dake states that he believes it is an incredibly dangerous, slippery slope to say this person is good so we are going to treat them different than someone who is not good. He states that this can escalate into other areas and there is a line somewhere and it becomes very dangerous. The point is valid and we do need to find ways to make it affordable for the young people from Greenfield to stay in Greenfield. B. Duffney states that he understands G. Dake's point and the point of Zoning, and this is what puts him in a tough position, because his emotions get a little carried away with stuff like that. He understands that if we allow this for this applicant then someone else will come along and ask for the same. G. Dake states that the rules are the same for everyone, and we do want to find ways to reward our volunteers and show our appreciation for them, but holding them to a different standard is ultimately going to become problematic. No Planning Board issues.

DISCUSSION

G. Dake states that he had a phone call yesterday from Michael Hickam, the real estate market has not been kind and G. Dake asks if R. Rowland can put together a little bit of chronology of when which approvals have been granted, because M. Hickam is going to be calling to be on an agenda. To his credit, his approval does not run out until October, so he wants to get back before the Board before it runs out. The same thing we looked at last time, old rules, we would never approve it today, and he does not know what the right answer is, but he asks the Board to reflect upon it because it is going to be a very interesting, potentially difficult, or not, conversation. M. Thraikill states that he has it for sale. G. Dake states that it has been for sale, his real estate person is telling him that there is not a lot of market for this today. J. Streit states that this is a global phenomenon right now. G. Dake states that the applicant has been honest with us, but at some point it ceases to be the Planning Board's problem. M. Ginley asks if there is any reason the Planning Board would get into what he is asking price wise, etc. G. Dake states that unlike the ZBA, hardship is not a test, a standard, that we need to prove. We can just say that we do not think an applicant is trying or being unrealistic or that we are tired of dealing with something and just let the approval lapse. He states that we are under no obligation and there is no bright line, as Mark Schachner would say. This is a judgment call, which is why he is giving the Board plenty of time to think about it. There is no right or wrong answer. What serves the best interests of the citizens of Greenfield? M. Ginley states that he does all real estate transactions so he personally knows that the market is just awful now. He does not know what M. Hickam was doing a year and a half ago, how much he was asking for it, maybe he was asking too much. The Planning Board gets put in a tough position, do we ask for the listing agreement to see how much he was asking? G. Dake states that if that is going to help make a decision, feel free to ask. M. Thraikill states that if we don't approve it, it will just sit there with 9 empty lots or whatever. G. Dake states we have to weigh what is going to be in the best interest, long term, of the Town of Greenfield and its residents.

C. Baker states that he received a submission for site distance for Michael Vincent, Allen Road, and it was done by an architect. C. Baker is struggling with this one; he visited the site, B. Duffney has done an extensive amount of work up there and it is a huge improvement. He asks if we are comfortable with a certification from the architect? M. Thraikill states that B. Duffney has done a lot of work, there is no question, he cut the whole bank down. M. Thraikill states that it looks like there is a driveway in there now. B. Duffney states that is an old driveway. M. Thraikill states that he thought they were going all the way to the next line. B. Duffney states you can see where he cut the grade in there. It is basically on the crest of the hill. M. Thraikill states that when we talked about it, he thought it was going to be towards the property line, which he asks if that would give more sight distance. B. Duffney states that where they put the driveway, at the top of the hill, is where you can see in both directions. If you were to move the driveway towards the other property you would lose the sight distance to the left. G. Dake states that the Board has held people to the ASHTO standard, which is not referenced and the letter makes the blanket statement that 392' and 445' are acceptable at 40 mph. C. Baker states that he would have been comfortable with one more sentence in there stating that it complies with ASHTO. G. Dake suggests sending a letter back asking if it complies with ASHTO because that would be consistent with what we have done in the past. T. Siragusa

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states if we want a PE to sign off on the analysis to protect the town, does the architect's signature protect the town? G. Dake states that he does not know what is within the scope of their licensure. He states that he thinks that there is some debate, we have had RA's sign off on stuff like that. M. Ginley states that he has seen architects sign off on a lot of stuff, they are given a lot of leeway as far as engineering stuff and what they can sign off on. G. Dake states that the reason we do this is to make sure that if something does happen, someone other than the town is responsible. L. Dupouy states that when someone comes before the Board and it is not all about what they are going to do to meet the standards 'you tell me that are set', it is 'what are you going to do for me?' G. Dake states that the applicant is trying to meet the standards that we set, he is trying to get someone to certify that it meets ASHTO. That is what we told them to do. He has improved the sight distance, and if it does meet ASHTO, the way you say it meets ASHTO is to get someone who knows how to read the book and measure it. G. Dake reiterates that he does not know what the licensure limitations of an architect are and he would rely on C. Baker to make that determination. C. Baker states that he believes that is a State Ed question but he thinks that if we have a document in file from a New York State licensed professional, in this case being the architect, he would be satisfied with that. He does believe it is a stretch but he does not know if the architect would be practicing outside his license or not. G. Dake states that he does not know this architect at all, but if he is at all credible, he is not going to throw ASHTO in there if he doesn't know ASHTO. T. Yasenchak states that the letter can be phrased, 'to which standard are you referencing' that this is correct.

Discussion takes place regarding the bank on Daniels Road and whose responsibility it would be if it were to collapse, does the Town have any recourse or say in this, etc. C. Baker states that he does not believe that towns or cities were given any input in to the design. C. Baker agrees that some questions should be asked. R. Rowland is asked to send a letter to the County Water Authority.

Meeting adjourned 7:32 p.m., all members in favor.

Respectfully submitted,

Lorraine Fiorino