

TOWN OF GREENFIELD

PLANNING BOARD

OCTOBER 27, 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, John Streit, Tonya Yasenchak, and Nathan Duffney, Alternate. Thomas Siragusa, Michael Thrailkill and Gerry McKenna, Zoning Administrator are absent. Charlie Baker, Town Engineer, is present.

MINUTES – September 29, 2009

MOTION: T. Yasenchak

SECOND: B. Duffney

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of September 29, 2009, as submitted.

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

Noes: None

Absent: Siragusa, Thrailkill

DISCUSSION

G. Dake states that he had a call from a member of the UDAG Committee who told him that they had done a survey about the wants and needs of the resident's of the Town of Greenfield. He went on line and got a copy of the results. There was a very low return rate, around 100 people responding so it is not statistically valid, but these are interested people. Looking at question #1 rating the availability of various business services in Greenfield, most areas were determined adequate. Some of the highest ranked for inadequate were grocery stores, medical care, retail stores and restaurants. As to what types of services the respondents would like to see, the results correlate. The third question was regarding whether the respondents opposed or favored certain similar businesses and the strongest responses were in 'Mildly favor' with the exception of recreation, which was 'strongly favor.' G. Dake states that of the people who responded, they were not really opposed to much at all. He states that as we are looking at projects and as we rethink over time, not anything immediately in front of us, what do we want to do with zoning, taking a good look at what are the things we want to attract and not attract. There are not a lot of grocery services, however, G. Dake does not believe that based on his professional opinion and what he has seen elsewhere, that Greenfield could support it's own grocery store. There is just not enough population density and quite frankly, it could be detrimental to the town because if we built one and it went out of business, then you would have a huge empty building left. It is something to keep in mind should a general store become available that is going to offer a full line of products, perhaps something we might want to look slightly more favorably to than something else. The same thing when it comes to some of the other services. Medical care is something that we have talked about. We do have Dr. Peacock here in town, but people do want certain shopping services, medical services and restaurants close to where they live. J. Streit states that when we did the master review plan, just about everyone said that they wanted to maintain the rural and isolated nature of Greenfield. B. Duffney asks how this survey was done. G. Dake states that something was in the Town newsletter asking people to take the survey.

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G. Dake states that he also received, on the work side, information on a bill before the State Senate which would change the DEC regs, Bill S848, as far as wetlands go. Currently DEC regulates wetlands that are 12 acres or larger and this would take it down to wetlands of 1 acre in size. He states that their research with our State Senator suggests that this is not likely to happen this year, but because on Federal wetlands there is no buffer and on State there is, this would have a rather dramatic effect. You could have one acre of wetlands that ends up, because of the buffer, chewing up 4 acres. This is just something to be aware of.

TOWN CODE CHANGES

T. Yasenchak states that she was part of the committee discussions, but not of writing this language. G. Dake states that the first item is the **Right-to-Farm Law**, which is something this Board has talked about and we talked about during the Master Plan whether we want to encourage agriculture in the Town of Greenfield. This talks about a way to resolve disputes, it is modeled after other towns and something that most everyone in town is in favor of, certainly this Board has shown itself to be favorable to agriculture. T. Yasenchak states that it is also there so that people know that if there is a farm already in place and someone moves into an area, that they are allowed to continue to have that farm and people will be made aware when they move into an area. M. Ginley questions, on a practical matter, that S. 30-4, Notification of Real Estate Buyers, do you leave it up to the realtor to determine if there is a farm within 500' and then disclose it. He states that he does some closings in Washington County and they do have that disclosure in their MLS countywide contract. Saratoga does not have it. He states that from a practical standpoint, he does not know how it would get disclosed. G. Dake states that we will make sure that these concerns get to the Town Board. How do we make sure that the S. 30-4 notification takes place? M. Ginley states that it could be a form that the Town comes up with that the realtor just slides in there. T. Yasenchak states that she believes that is what this is saying, provide notice as follows and then there is a paragraph in quotes. If they just put it in their contract, she believes that was the intent of it. G. Dake states that he forwarded a copy of all of this to the County Planning Board so that they could provide comment, which they have not yet done. He knows that Northumberland has a right-to-farm law, Town of Saratoga, and there may be some other towns that have a mechanism like this that we can steal an idea from. T. Yasenchak states that we did put that into a subdivision that we did on Locust Grove Road, that it was to be disclosed with the deed. **In-Law and Garage Apartments** – G. Dake states that he believes that this section is to clarify what a garage apartment is vs. an in-law apartment; the difference in the main entrance in each; the septic system requirements, etc. T. Yasenchak states that she deals with this all the time and it is very important to clarify that the in-law apartment shall not have a separate front entrance. In Saratoga it is not just that it shall not have it's own front entrance, but that it shall have it's direct entrance from the main dwelling unit. C. Baker has a concern about the definition for Public Road. He states that he does not know if that has changed, if this is a suggested change? G. Dake states that this is saying that a private road is still a public road, but the only reason that we ever had an issue with that is for the frontage definition, and our frontage definition doesn't say public road, it is a road built to town specs. This could create some confusion because you could have a public road by definition that does not meet the definition of frontage. T. Yasenchak states that it could say a road maintained by the municipality. C. Baker states that he feels that the way this is worded, we may be opening up issues. G. Dake states that at the very least we will create confusion. **Wind Facilities** – G. Dake states that as you get into this, there is a difference between one who wants to have a windmill to pump water or a small wind energy facility that only works for your own house, or a series of wind turbines and a wind energy facility in order to generate power for sale to the grid. That is how they are trying to distinguish the different scales of project that you could have. He states that he has not checked for consistency in language between the two different sections. A non-grid applicant who is only providing energy for themselves would only require a building permit from the building department and not the Planning Board. G. Dake states that when Airtricity first came in there was discussion about where the power lines were going to run between this and the main transmission lines. This document talks about encouraging as much below ground as possible, but G. Dake states that he has a feeling that when you are dealing with kinds of kilowatts, megawatts, whatever they are, that this thing would be dealing with, this is going to be high tension wire

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stuff and then how much say do we have. T. Yasenachak states that at Martinsburg everything is underground and it depends on the lay of the land. D. Cochran states that the Planning Board will have the power to make conditions on these applications. T. Yasenachak states that it would be project specific. B. Duffney states that in this area it would be expensive to put everything underground because of the blasting involved. G. Dake states that could be worse than having it above ground and that is where if we have that discretion, it may be of use to us, because there may be times when you are doing more harm to neighbors by blasting than you would be by putting up lines. Neither one is perfect, but we will have to take a look at that individually. G. Dake asks if the list of neighbors within 300' is just based on Martinsburg. D. Cochran states that a lot of the language was based on Martinsburg and they tweaked it a little bit. G. Dake states that the only reason he asks is because given the height of wind towers; 300' doesn't seem that far. T. Yasenachak states that when it says outer boundaries of the proposed site, that doesn't mean the tower, typically there is several hundred feet clearance. G. Dake states that maybe saying all adjacent property owners might work better. He states that it might be helpful to have copies of the Martinsburg plan here for people to look at. G. Dake states that he also forwarded this document to one of the Fire Commissioners so that they could take a look at it. He states that this is a nice set of minimums, in addition to anything else that the Planning Board would like to see. For the Archaeological review, it is suggested that a review be requested of the Town of Greenfield Historical Society and/or historian. G. Dake states that one thing that was not in the application requirements or review that he had a question about, and he does not know if it is really important, is whether on leased property we care to see a copy of the lease agreement. In the case that was brought to us, they have a lease to use that land, we don't care what they are paying, but if there are restrictions in that lease, that could be pretty important to us. That could fall under the other documents that the Planning Board deems important, but if they don't own the land, it would seem that the Board would want to know what the restrictions might be. The Board agrees. Discussion takes place regarding item N, 8 and the use of herbicides. G. Dake states that the way it is written, this would ban the use of even a household item like Roundup. D. Cochran states that during the workshops with people, that was a big concern. T. Yasenachak states that a lot of companies, for ease in excavation, go in and treat the underbrush with an herbicide making it easier to take out. She states that the committee was worried about what that would actually do if it ran off. G. Dake clarifies that in O, 2, regarding setbacks of "at least a distance equal to the total tower height", the document is referring to the applicant's residence and the property lines. If the tower is 35' it has to be 35' from the residence and from the property line so the Town is protecting the applicant from the tower falling on the residence as well as other properties. Non-grid only wind energy facilities have a height restriction of 35'. G. Dake states that is consistent with the maximum building height restriction in town and he assumes that would allow applicants to come to the ZBA for a variance. D. Cochran states that they originally didn't have a height restriction, but the Town Board felt that there should be some type of height restrictions. G. Dake states that proof of insurance is required but asks if proof of renewal of the insurance will be required. Suggestion is made to state that applicants will be required to provide annual proof. G. Dake states that he assumes this would be for the big projects and not the homeowner-type who is doing it for themselves and it is up to them to carry homeowner's insurance. D. Cochran states that if someone is going to buy a windmill to go on the grid, if you are going to go to that expense and effort, you are going to have a pretty big investment. Item P, 6 also deals with insurance and will be revised to read the same. Traffic issues are addressed and G. Dake states that if they ever do go up on the ridge that is something that will have to be dealt with. Bringing the road back up to condition is also outlined. Abatement – M. Ginley suggests that item #4 should indicate that the applicant will be charged back for the cost of removal of the facility. If the facility goes out of service or there is a problem, the permit can be revoked. L. Dupouy asks if these permits travel with the property or the applicant, and if so does the new owner have to come in and file for new permits. G. Dake states that this would be a permit on a structure such as when you build a garage and then someone purchases the property, you are purchasing a permitted structure. M. Ginley asks if the new owner should have to put the permit into their own name within a certain time of purchasing the property. G. Dake states that currently on special use permits, a new owner who wishes to continue the use must come in to the Planning Board for re-approval in their name and it is not a full review. He suggests that perhaps the committee would want to state that upon change of ownership the Town must be notified. C. Baker asks if we care about the agreement between the applicant and National Grid. G. Dake states that he

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doesn't know what we would do with that information. The only problem would be if they didn't have the customer, but he is assuming that the PSC is going to have a stake in that too. When you are talking about an independent power producer going into a public utility, he believes that New York State is going to be all over that. Whether there is anything in the Martinsburg documents is discussed. T. Yasenchak states that it is almost self-regulating. M. Ginley asks, regarding Martinsburg, what was in it for the town. T. Yasenchak states that there was a payment in lieu of taxes, which was very substantial, as well as the homeowners got a lot of benefit from having it on their properties. The infrastructure that needs to be done for these machines and to get the pieces to where they need to be, that infrastructure alone, the miles of new roads that they got because of that was a benefit to the town. G. Dake states that there would be a pretty big job growth and as he has shops in that area, business goes through the roof. T. Yasenchak states that people are looking for housing, restaurants, everything. M. Ginley states that when you get to that point you have to figure out how to compute the pilot, that is the big question. How much are they making off of it? T. Yasenchak states that they spoke with the Supervisor, it was really interesting because he said that he realized that this only had a certain life span. Instead of eliminating taxes as people felt should have happened, he realized that after the life span expired, people would have to go back to paying taxes, the Town Council allocated funds so that the community could benefit in different ways. The taxes did go down a little bit. M. Ginley asks why it is going to end, because of the technology or why? T. Yasenchak states that after 20 or 30 years if they don't continue to provide energy, don't maintain it or whatever, and they are not paying that tax, everything would change for the town. Dan Cochran asks if there were any comments on the Right to Farm section. G. Dake states that there was, Section 30-4 regarding notification to real estate buyers. Discussion took place as to how one would go about that notification. B. Duffney asks how this protects the small guy with only a dozen or two chickens, etc. G. Dake states that is why the notification and conflict resolution sections are in here. J. Streit asks if there was any discussion about passing this on to the County. D. Cochran states that the County has already adopted this. J. Streit asks if it covers the whole county. B. Duffney states that New York State has a right to farm law. J. Streit asks why we then need this. M. Ginley states that you have to have local regulations for it to be enforceable within a town. T. Yasenchak states that there are some towns who still do not have their own zoning. There are also some proposed revisions to the outdoor furnace law. D. Cochran will make changes and pass them along.

ZBA REFERRAL

Mary Ann Fiore – The applicant is seeking an area variance for height for a vertical axis wind turbine and she has been encouraged to wait because this rule is coming in and she wants to proceed. G. Dake states that while this has no planning significance, we should send it with some comment about either – be careful what you set as a precedent, because this is the first of many, or to say be aware of the new proposed code. If the ZBA is going to approve the variance, they should at least think about what the regs are going to be because we are this close to the implementation. The only reason she currently needs a variance is because it is possibly 36', it has nothing to do with the fact that they are wind turbines. B. Duffney states that according to the dimensions of the house on the drawing, the turbine would only be about 25' away from the house. M. Ginley asks what the standard is for height for a home turbine, because if every single one of them is 40' then you will have to go for a variance every time. He suggests that maybe we should look into that. C. Baker states that he believes that they are site specific. G. Dake suggests that the ZBA consider the proposed regs in their review.

DISCUSSION

S. Lieberman, Environmental Commission, asks what role the SEQRA is going to play in the code changes. G. Dake states that he spoke to Dick Rowland who asked that question this afternoon. G. Dake suggested that D. Rowland speak with Mark Schachner, Town Attorney as to whether adopting these regs in itself requires action under SEQRA. When we did the land use plan we had to do SEQRA on the change in

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zoning. G. Dake states that he could make the case either way on this and say that all this is doing is telling you how you do wind turbines and on the other hand you could say that this is a pretty big change, almost an encouragement of an activity, and we should. He believes it is kind of a judgment call, although M. Schachner might say one way or the other more definitely. S. Lieberman states that one of the concerns is for the outdoor wood burning furnaces, particularly in line with the fact that outdoor burning is now banned in this state, these things cause an environmental disaster. If people are going to be having these things, how are you going to protect the people who are in the immediate vicinity from those people who will not burn acceptable things. D. Cochran states that our rules and regs cover these. G. Dake states that he does not believe that the changes to the wood burners would require SEQRA because that is already a use and all this is doing is changing setbacks, etc. B. Duffney states that New York State for the past two years has been working on regulations and it is just a matter of time, within the next two or three years, before NYS regulates the catalytic converters or whatever the case may be on them. As he has a wood burner, he has a \$12,000 investment in his boiler and when you buy it they can tell when someone has been burning trash, plastic, whatever, because it burns the inside jacket out and it voids the warrantee. They have shown several where people are burning unacceptable things and how it burns out the liner. B. Duffney states that for him to take a \$12,000 investment and burn garbage in it, that is not going to happen. S. Lieberman states that is B. Duffney and there are people with less respect for their burner and less respect for their neighbors and have no problem putting dioxins into the air. These are the concerns of the Environmental Committee. She understands that the acreage is being decreased so that almost anyone can have them. She states that she is already feeling the effects of the one from the Town Garage, she knows that they are only burning wood but that doesn't mean that the neighbors are not already filling up with smoke. G. Dake states that he knows that the Supervisor did receive the letter and is asking the question. The Town Board will have to determine what the SEQRA review is and check with the Town Attorney. G. Dake states that he is confident that the Town Board will comply with the laws of the State in regard to that. G. Dake states that the Planning Board's role is only an advisory one and that is also why he took the liberty to forward this to the County and the Fire Department. G. Dake asks if there is any other business. S. Lieberman states that there is a picnic table from the Porter Corners park in the creek. D. Cochran states that he will talk to the Supervisor about that.

Meeting adjourned 8:08 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland