

**TOWN OF GREENFIELD**

**PLANNING BOARD**

**September 13, 2011**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Planning Board is called to order by T. Yasenchak at 7:00 p.m. On roll call, the following members are present: Tonya Yasenchak, Nathan Duffney, Michael Gyarmathy, Thomas Siragusa, Stan Weeks and John Bokus, Alternate. Lorna Dupouy and John Streit are absent. Charlie Baker, Town Engineer, is present.

---

**MINUTES – August 30, 2011**

MOTION: B. Duffney

SECOND: S. Weeks

RESOLVED, that the Planning Board waives the reading of and approves the minutes of August 30, 2011, as submitted.

VOTE: Ayes: Duffney, Gyarmathy, Siragusa, Weeks, Yasenchak

Noes: None

Abstain: Bokus

Absent: Dupouy, Streit

---

**MICHAEL HICKAM – Major Subdivision**

Medbury Road

Michael Hickam is present. T. Yasenchak reviews that M. Hickam was originally granted subdivision approval in 2006. M. Hickam states that subsequent to that the economy has been somewhat erratic and based on the cost of the infrastructure, he has not been able to move this. There have been a few people interested, but nothing has panned out. The property is currently listed with Realty USA and he is requesting another extension on his subdivision approval. T. Yasenchak reviews G. McKenna's notes stating that this was originally approved October 10, 2006 and at that time it was approved for 1 year. The applicant has been back every year for an extension. T. Yasenchak states that the thing that the Board is dealing with is that at some point codes and laws change that are beyond what this Planning Board has within their jurisdiction - Zoning Codes have changed; the SWPPP requirements have changed over the last several years. The Board is in a quandary because at some point we have to draw a line because the applicant has an approval for something that does already need to be updated because it doesn't meet some of the State codes. C. Baker states that about a year ago NYS did change the General Permit for Stormwater and it is quite different than what the applicant had his original approval from. The Town of Greenfield is an MS4 community which means that we are bound by the State to follow the General Permit guidelines and to file an annual report on certain projects and how they comply or how they do not comply. He states that right now, the set of plans that M. Hickam has would not comply with the current regulations. There is new language in there where you have to have certain amounts for green infrastructure, which there are a whole bunch of ways to accomplish that, but the current design would not meet that. C. Baker states that the Board has been very accommodating to the applicant over the past few years because we certainly understand the situation, he has been trying to sell the project. He states that he thinks that a lot of the people on this Board are new and that this project has been around for decades. The infrastructure was installed, a dewatering system was installed to lower the water table so that they could get the number of lots that they had in there, DOH reviewed the subdivision. DOH wrote a letter in 2007 that approved the subdivision, but it was

September 13, 2011

contingent on filing a map within 60 days, which hasn't happened, so DOH would have to reapprove the subdivision. The road bond is going to have to be updated to the current costs. C. Baker states that as T. Yasenchak said, there comes a point where we have to look at this, the zoning has changed to 6 acre lots, there are a whole lot of things that have changed and as he said, the Board has been pretty amenable to the applicant over the past few years, considering the situation and it is certainly something that needs to be discussed as to how long do you keep letting this thing go out there. M. Hickam states that he has been quite amenable to the Board also. He states that to remind the Board, the lot size was based on the Town of Greenfield's wishes and J. Witt, who originally owned this, was supposed to complete this project and didn't, that is why M. Hickam owns it. M. Hickam states that he went through two iterations of approval which cost him in excess of \$35,000 because he was led to believe that he could use the existing infrastructure and that would be approved. He states that his engineers were ready to sign and that was not approved. He spent another \$20,000 obtaining approvals. The only thing that would have to be done is to update the stormwater management system and he would expect that DOH would have to re-sign that. He states that it could be 4 or 5 years before the economy pulls out of this slump. He can understand some conditions on that with regard to reapplying to the DOH and updating the stormwater management system, but to just say that he has to start over would be quite gruesome. T. Yasenchak states that she is going to open this to the Board for any questions. Knowing the issues that are on the table as far as the codes, that may be something that we can do as a contingency. She states that there are some things that are out of our control. M. Hickam states that he understands that and does not feel compelled to spend any more money right now without an offer. He states that he would make it clear that it has to get revisited. He can't believe that when you look at the grandeur of that existing system that it is off by that much. T. Yasenchak states that there are different codes and that the green infrastructure, those are things that aren't in place. M. Hickam asks for a definition of the green infrastructure. C. Baker states that he can't do that because it is too involved to really summarize it. Basically what it says is that in any new development you have to take a certain percentage of the storm water and eliminate it, before it gets to the stormwater management area through a series of green infrastructure practices. There are about 10 of those that are available and this is a DEC code that we are obligated to follow, whether or not we all agree with it or not. He states that you can get the information on-line through DEC. It is quite a process to go through as far as design goes. C. Baker states that he understands the applicant's frustration and it is going to cost somebody some money to go through those steps. The only thing he is cautioning the Board on is that if they choose to extend the approval, which is certainly their option, they should make it clear that the approval is granted for a subdivision contingent upon DOH approval, revising the stormwater management to comply with current codes and posting a road bond. Those are the three critical things and they are three major issues that any buyer is going to look at and should be aware of. It is certainly something that should be in our records if the Board decides to extend the approval. T. Siragusa questions that one of the first things that M. Hickam stated was that the infrastructure costs were too high for prospective buyers. M. Hickam states that currently builders don't want to risk that kind of money right now based on the market and the return that it is going to take to get the money back. T. Siragusa states that when they come back to the applicant and say that the costs are too high, do they mean that if it was undeveloped that it would still be too high or that because there has already been development that would need to be redone, the costs are too high? M. Hickam states that he thinks that what has been done minus the drainage system wouldn't be a negative, because the power is all there. The Board chose not to accept the existing infrastructure even though for 16 years it has been functioning quite adequately. He states that his engineers were ready to sign off on that. T. Siragusa states that he is trying to understand whether it would be any different than an open lot that a prospective developer might look at. M. Hickam states that if they didn't have to build a road, those are the only lots that are selling. T. Siragusa states that even if the infrastructure costs, because there is already infrastructure in place – power and some of the hydrology, the cost would be lower. It still would be better than starting from a vacant field. M. Hickam states that the stormwater management cost is going to be somewhere in the vicinity of \$200,000. Right now they downed the number of lots to get approval and it is around \$50,000 per lot right now. T. Siragusa asks if the applicant has thought of any other uses for the lot. M. Hickam states that it is a really big yard with a lot of electricity on it. M. Hickam asks if someone wanted to clear cut it and put horses in there, would the

September 13, 2011

Town even approve that. He states that he would be open to suggestions. T. Siragusa states that there are other horse farms in town. M. Hickam states that the frustrating part is that he spent almost \$40,000 to get approval and if he had been told at the very first meeting that the Town was never going to accept the existing infrastructure, which he believes C. Baker knew. C. Baker states that he believes that there is a documented history that the Town was not going to accept that unless we had an engineer to certify it and sign off on it, and we never go that. M. Hickam states that is not true. He states that G. Dake clearly lead him to believe that if his engineer was ready to sign off on it, that he would approve it. M. Hickam states that he brought that to this Board, the engineer was ready to sign with a limited number of improvements to that system. C. Baker states that that is how M. Hickam got his approval. M. Hickam states that is not and that is when he had to start over and it was clearly stated. T. Yasenachak states that we are where we are and even if things got approved without any of those engineering issues, the fact is that the State changed the regs, things are different now. It is still 5 or 6 years later. That is what we are dealing with. How it actually transpired doesn't really matter at this point, because the State requires us to do certain things. We are trying to make accommodations and we are looking at the situation as it is. S. Weeks questions that if the lot sizes meet today's code or since it has already been approved is that not an issue. T. Yasenachak states that is a question. We have been re-approving this. The code has changed so that she believes that those lots are smaller than what would be allowed now and because we had approved it, this Board has continued to extend the original approval. B. Duffney states that this is now LDR and 6 acre lots. M. Hickam reviews the sizes on the lots. C. Baker states that he believes this was approved as a cluster. B. Duffney states that this has been approved by a previous Board and as we have said, a future Board cannot be bound by a current Board. T. Yasenachak states that technically when we grant an approval, it is contingent on the road bond, etc. If those things are not met, the Planning Board has the right to revisit that. It is not set in stone until the map is filed with the County which does not happen until the contingencies are met. J. Bokus questions that the applicant is seeking a one year extension but does not believe that things are going to improve for 4 to 5 years. M. Hickam states that it could be 3 to 4 years before things in this area turn around, but what are his choices. He states that if he had the \$200,000 he would do it himself and sell one lot at a time to whomever he wanted. He does not feel compelled to mortgage his house to do this. J. Bokus states that he does not quite understand. T. Yasenachak states that the issue is that we don't have anything in our code that specifically says that we even can grant an extension. The way that the Code reads is that the applicant has 180 days to get a subdivision map signed after our approval and then 62 days to file after signing. In order to file with the County the applicant must meet the contingencies. That is the way that the Town Code actually reads. When we gave Mr. Hickam the approval in 2006, we understood that it may take longer for him to sell, so we actually approved it for a year, rather than the 180 days that the code says. That is the quandary that we are in. We have been giving approvals where our Town law actually says 180 days. We have the right to extend that as a Planning Board and that is what we have been doing since 2006. M. Hickam states that if he had started three years before he did, he probably could have sold it for double what he has now. He states that he knew that all the zoning laws were going to be changing, so instead of putting a builder in charge of his destiny, he sought the subdivision approval himself so that he wouldn't be held captive to that. J. Bokus asks if we could approve this again for another year. T. Yasenachak states that the Board has the ability to do so, based on the plans that have been submitted and the contingencies that C. Baker mentioned. M. Hickam asks what would compel the Board to not re-approve it, other than meeting the current regulations, which he has never tried to work his way around. Discussion takes place regarding the original subdivision when it was owned by Bob Waldron, then John Witt and how the property reverted to M. Hickam. M. Gyarmathy asks who has been selling the lots along Medbury Road. M. Hickam explains that J. Witt had given or sold several of the lots to Habitat for Humanity. There are two listed for sale now. M. Gyarmathy states that if M. Hickam could have gotten those lots he could have been selling those and that could have been his saving grace. M. Hickam states that he does not know why Witt did what he did and that everything before 2006 was a different project. This became a new project in 2005 when he approached the Board. B. Duffney asks C. Baker to repeat the three items he mentioned. C. Baker states that one is to update the road bond to what ever year will be current; re-approval by DOH; and updating the stormwater management system to comply with the current SPEEDES general permit for stormwater discharge. A Notice of Intent would also need to be filed, which is going to trigger the requirement for the SWPPP

September 13, 2011

because in the NOI there is a section that asks whether or not this project is compliant with the current standards and green infrastructure techniques. M. Hickam asks if he can go to them and ask for a waiver. C. Baker states that the applicant can ask, but they are not very amenable. B. Duffney states that these three things are out of the Planning Board's hands and are required by the State. C. Baker states that the road bond is required by the Town, but everything else is required by the State for subdivisions. M. Hickam apologizes to the Board for being a little bit short but this has been a long process to be told that he might not get re-approved. He states it is somewhat distressing. B. Duffney states that the housing market is down the tubes and he has no problem with another year's extension. He states to the applicant that things are going to be tougher on him with the State the longer this goes on. M. Hickam states that his stormwater system is working perfectly. T. Yasenchak states that she understands M. Hickam's situation and that this has cost him considerably, but at some point where does he see that line. Officially we are setting a dangerous precedent, not for this applicant because she believes that this is a great project, but for someone else down the road if we continue to approve and re-approve and re-approve. At some point codes change because of where the Town is going now or where the State is. Is there somewhere where we could come to some kind of agreement? At this point the Planning Board is giving extension after extension beyond what our code says. She asks if there is something that the applicant can say. We at some point don't have a choice. We either just say no to the applicant because there is no middle ground. There is nothing coming from the applicant saying that he will meet the code. M. Hickam states that he would comply with the law. He does not see why he would say anything else. T. Yasenchak states that the last time the Board re-approved this there was a letter from DOH and the Board asked for the road bond. She asks if all that was done. M. Hickam states that he is not going to spend money on that until there is a buyer. T. Yasenchak states that on the other hand, a buyer looking at this paperwork is not looking at anything relevant anymore. They are looking at a SWPPP that is outdated and they don't know how much money they are going to have to spend. M. Hickam states that there have been numerous estimates done. T. Yasenchak states that as far as needing to be updated, there is the money in the engineering costs and the money that will change the estimate. Anyone who comes in today to buy that is going to get false numbers because it is not updated yet. M. Hickam asks if someone would be getting false numbers from the Town. T. Yasenchak states that we don't have an updated road bond or SWPPP, so the SWPPP is not relevant anymore. There may be things that need to be done beyond what the applicant is showing a potential buyer. She states that she is saying that a new SWPPP might say it is going to cost you \$5 more per lot. The person looking at the old SWPPP is not getting the whole picture. T. Yasenchak asks if there is something that we can come to a middle ground on because the Planning Board keeps saying that the approval is contingent upon items, but none of these things are acted on. M. Hickam states that without talking to an engineer or a lawyer, he is not going to say anything. There is no reason for him to do this. T. Siragusa states that maybe if he had that information, somebody who was going to come in and spend X-dollars to buy this undeveloped property, then even though there are more things to do, the applicant's proposal would say that by coming in here where some of the work is done and some needs to be updated, you would save Y-dollars. You don't know what that savings is because you don't know what the additional cost is. C. Baker states that one of the things that T. Yasenchak is trying to say is a concern, and one of the things that concerns C. Baker, is that the applicant is trying to market the property and C. Baker hopes that he finds someone to buy it from him. Ideally the applicant is going to sell that piece of property to someone who is then going to come in before this Board and try to get the final approval, file that map and start building houses. What the Planning Board is trying to avoid here is that when that person comes back before this Board and we tell them that they have to go to DOH for approval; update the SWPPP and stormwater management, which may change some of the grading, it may change the configuration of the stormwater basin, and what we are trying to avoid is that person standing in front of us and saying, wait a minute, "you guys approved this, I bought an approved subdivision." M. Hickam states that he does not have a dishonest bone in his body and anyone who has looked at this, he has made it quite clear what the contingencies are, he has shown them the letters that are associated with it. How is it the Board's problem? The Town has it documented on record and the applicant has all the letters, and he wouldn't keep a secret from someone. S. Weeks states that he thinks we would be somewhat covered if we decided to extend and spell out the contingencies, and any potential buyer should be looking at, reading and understanding that. M. Hickam states that he is honest with anyone and what good would it do to lie? T. Yasenchak states that is not

September 13, 2011

what she is saying. If it is not on paper, people who are buying things often don't look into all those things. It is not that the applicant is being deceitful. M. Hickam states that it is his speculation that the cost would not be lower, it would cost him another \$5,000 to go get that done and he does not see why he would do that at this point. Anyone who has the wherewithal to do a project like this is going to have some knowledge of what it is going to take to complete the project. M. Gyarmathy states that he thinks that the applicant would have a much more saleable project if he did it. M. Hickam asks what is to stop him from coming in here next year and the Board telling him no after he puts another \$5,000 into this. B. Duffney asks if \$5,000 is about right. C. Baker states that \$5,000 is on the low end for a major subdivision and it all depends on what needs to be done. B. Duffney asks C. Baker if he thinks that there will be more updates in the next couple years. C. Baker states that he does. They are already talking about testing water for stormwater water quality, etc. B. Duffney states that then the applicant would need to update again. C. Baker states that he understands what M. Hickam is saying, what is the point of doing it now. M. Hickam states that he will be back next September if this does not sell. B. Duffney asks about updating the road bond. C. Baker states that is an easy thing, it is just a matter of looking at current cost. DOH approval is discussed. C. Baker states that everything was good with the DOH. The applicant did follow all the requirements with DOH. J. Bokus asks if there is any negative aspects to the Board saying no. T. Yasenachak states that it comes down to at what point do things change so much that they are not relevant. There are some things that were already undersized from what our current regulations are. At some point it gets so far out, but it is a question for the Board. It doesn't mean that we don't approve it, but 10 years down the road when the subdivision is 30 years old, do you still give another year approval. J. Bokus asks what happens to the subdivision if we don't grant an extension. C. Baker states that he can give some examples as he works with a number of municipalities and has worked on projects where this has happened. Other municipalities are very rigid. They will grant up to two 180-day extensions. Once those expire, your approvals expire and you start from scratch. He states that he is not suggesting that we do this, but he has seen projects where developers have spent hundreds of thousands of dollars in losses because of that. He does understand the applicant's situation and he is not suggesting that the Board take that approach, but he thinks that what T. Yasenachak is saying is that there really is nothing in our code that allows us to do what we have been doing. He states that the Board has been trying to work with the applicant as much as they can. J. Bokus states that if we don't approve it, then what happens six months from now if someone looks at the project and wants to pursue it. M. Hickam states that it would never be approved again as is. T. Yasenachak states that the reason why we keep reapproving it is because there are things that are in the subdivision that are substandard to our code now – lot size, cul-de-sac size. We keep approving it for the applicant so that those things do not have to change. Her question is that at some point, 10 or 15 years down the road, when the code had changed 20 years before that, where do we draw the line if the applicant does not sell the property. This may not be something that we answer today, but at some point that infrastructure will be 15 or 20 years old, and 20 years beyond our code. At some point we have to draw the line. M. Hickam states that the infrastructure is not approved. T. Yasenachak states that we are approving something to help the applicant out, but at some point we have to draw a line. At some point, it is just like J. Witt cutting his losses and the applicant gained all this property.

**RESOLUTION – M. Hickam, Major Subdivision**

MOTION: S. Weeks

SECOND: B. Duffney

RESOLVED, that the Planning Board re-approves the subdivision request of Michael Hickam for a major subdivision for property located at Medbury Road, TM#137.-1-14.111, contingent upon:

- **One year extension to October 10, 2012**
- **Satisfaction of all EDP Engineering issues**
- **DOH re-approval**
- **Road bond being put into place and the road bond dollar amount being updated to a current cost**

September 13, 2011

- **Updating of SWPPP and stormwater information to the 2011 General Permit requirements**

VOTE: Ayes: Bokus, Duffney, Gyarmathy, Siragusa, Weeks, Yasenchak  
Noes: None  
Absent: Dupouy, Streit

M. Hickam asks what would be the mechanism without an approval that would allow him to go spend that money to update the information without some assurance from the Board that it would not be re-approved again. M. Gyarmathy states that wouldn't be the case because the contingencies we just approved, those are the contingencies that he has to meet. We are not looking to review the whole division of land. T. Yasenchak states that because we do not have anything in our law that says that you are guaranteed to have an approval in infinity, we are actually going beyond our code again in giving the approval because we want to see this be successful for the applicant. We don't want to see M. Hickam walk away like J. Witt did, and T. Yasenchak states she is sure J. Witt lost money on it also. We don't want to see the applicant lose it so we have approved it again, but unfortunately it is a fact that sometimes people lose money and we cannot say what the Board will say next year. B. Duffney states that if the applicant does make the updates, it is like a good faith effort on his part. T. Yasenchak states that it is now an approval with contingencies, but those are things that actually have to get done before it actually could get filed with the county.

---

**MICHAEL REMILLARD – Minor Subdivision**

Wilton Road

M. Remillard is not present. T. Yasenchak states that the Board members received the new information that the applicant submitted. C. Baker states that the wetlands were delineated and he has not looked at it in detail.

---

**ZBA REFERRAL**

**Saratoga-Wilton Elks** – are seeking an area variance for a sign on NYS Route 9, Maple Avenue. T. Yasenchak reads from G. McKenna's notes that there is a possible sight distance issue exiting the property. T. Yasenchak states that the Board has always been aware of sight distance due to the increased traffic on Elks Lane. R. Rowland states that she did call NYS DOT per the ZBA and has faxed them a copy of the application. We have not heard back from them yet. T. Siragusa states that he has one comment, not really for the ZBA but in general, they probably could use a sign because they are set back. The application is asking for a lit sign based on two other signs in the area. He states that comes up a lot and maybe the Town should review that in light of the applicant suggesting the new LED. This might be interesting because more lighting will be going to LED, rather than a bright spot light shining on something or being back lit. S. Weeks states that he is confident that the ZBA will look into the variance carefully. He does have concerns about the sizes of signs in general in Town and that a lot of businesses believe that larger signs are necessary. J. Bokus states that sometimes larger signs are helpful in allowing a driver to see where he wants to turn instead of waiting for the last minute.

**Planning Board referral** - suggest that the ZBA look into the sight issue from Route 9 as well as exiting from the driveways onto Route 9.

**Thomas Rock** – T. Yasenchak reviews the request. No Planning Board issues.

---

September 13, 2011

**CORRESPONDENCE**

T. Yasenchak comments that everyone has received copies of the correspondence between W. Barss and J. Collura. T. Yasenchak states that her thought is that perhaps when J. Colura comes back in with the additional information, we can ask W. Barss to be present so that the Planning Board can direct their own questions to him. B. Duffney asks when J. Witt built the development on Hovey Road if he was required to pave the road. C. Baker states that he was, he built the road and the cul-de-sac as part of his approval. J. Witt also did Ridge Road. There are a number of other precedents for that. B. Duffney asks if they were roads that the Town already owned and the developer was asked to pay for the paving. T. Yasenchak states that in allowing the developer the economic gain of more lots, they have been required to pave the road that would better serve those lots. C. Baker states that Cohen Road was built years ago by the developer in order to get the subdivision.

---

Meeting adjourned, 8:04 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary