

OGDEN PLANNING BOARD
February 14, 2008

Members Present

Lee Sinnebox
Marc Robinson
Mary Lou Hetzke
Linda DelRegno
Tom Coburn
Tony Halaris
Gary Parker

Members Absent

Others Present

Keith O'Toole, Planning Board Attorney
Jack Crooks, Building Inspector
John Freel, Town Engineer
Mark Scholand, Conservation Board
Carol LaBarbera, Secretary
Robert Fitzgerald, Avery Engineering
Carol DiBenedetto
Patrick Agostinelli
Ed Martin, Land Tech
Richard Gilmore
Chris Cubiotti

Dave Widger, Highway Superintendent

PLEDGE OF ALLEGIANCE

I. PUBLIC HEARING

1. 3900 Buffalo Road - application of Richard Gilmore, 3910 Buffalo Road, Rochester, New York for approval to construct a 4,950 sq.ft. building on 13.71-acre site with two existing buildings. The new building will be constructed between the existing buildings in an existing gravel area. It will be serviced by public utilities. (t.a. 132.02-1-1)

Mr. Ed Martin with Land Tech Surveying and Planning. I am here tonight representing Maingate Development and their application before you. Mr. Crooks explained it is a straightforward proposal. The building should come to 5000 sq. ft. to be sandwiched between 2 existing buildings. This property is west of Rohrbach's on the north side of Buffalo Road, west of Whittier Road. The proposal gets a little complicated in that there was a previous approval in 2001 for a plan that included a much larger building that did have a stormwater management pond. Mr. Gilmore, who is in attendance tonight, has committed to providing landscaping. We have submitted plans. They were done subsequent to submitting to you. I am confident I can work with Mr. Freel on the pond out front to meet any need there is. There is one clarification, if I can ask Mr. Freel. One of his comments has to do with the sewer. As I understand it, it is Gates-Chili-Ogden Sewer District. He asked for an access easement to the sewer behind the buildings, which I think we could accommodate but if Pure Waters is taking care of that, I would ask if you are okay with deferring to that.

Mr. Freel: That is fine. It might be easier for them. If they have to get in there, they can use your driveway.

Mr. Sinsebox: Your Gates-Chili-Ogden Sewer District sees that as something they would like to use. Do you have any problem providing that?

Mr. Martin: What we would probably do is drop an easement and defer to Mr. O'Toole with the description of providing access to the parking lot.

Mr. Gilmore spoke from the audience and could not be understood on tape.

Mr. Martin stated that he would be happy, at this time, to answer any questions the Board had. You are familiar with the site. You will note that there is a single access just west of the 2 existing buildings. We do propose to maintain that and use it for access to this new building.

Conservation Board's comments:

Mr. Scholand: The western third of this parcel is in a flood zone. There was no drainage information for the contract. The Conservation Board will recommend that a stormwater management plan be provided.

Town Engineer's comments:

Mr. Freel: I submitted a letter dated January 22 with 4 items in it that are pretty much detailed in nature. As Mr. Martin indicated they are going to be putting in the features that were outlined on the previous plan on this one, which includes the landscaping, sanitary lateral, etc. Also I recommended a Letter of Credit be posted for the storm pond, landscaping, sanitary sewer lateral connection (if required) and storm lateral. I also asked about a "Y". Do you know if there is an existing "Y" out there for this lot.

Mr. Martin: It did not get installed.

Mr. Freel: The easiest way would be to go into the manhole.

Mr. Sinsebox: Was that sewer put in when the first building went up?

Mr. Gilmore: (inaudible)

Highway Superintendent's comments:

Mr. Freel reading Mr. Widger's comments:

1. There is a prior plan called Ogden Mills Phase II that was approved but not built in 2001 by Avery Engineering. That plan showed detention ponds and a larger building footprint. This plan needs to show a detention pond also.
2. Where will the dumpster enclosure be?
3. The front of the building would be better if lined up with the existing buildings.

Mr. Martin: We propose to put the dumpster enclosure between the 2 western buildings, the western most existing one and the proposed one. Both he and Mr. Freel commented that to line the proposed building up with the other 2 would be a good idea. We can't do that. We have looked closely at the geometry and I think we can come up within a few feet of that.

No comment from the **Planning Board Attorney**.

Fire Marshall's comments:

Mr. Crooks: The Fire Marshall and I have reviewed the plans and made sure that they met building regulations. They do comply with the building codes.

We received comments from Monroe County. One refers to the Conservation Board talking about the flood plain boundary and there has been extensive research of the flood plain boundaries as it impacts that property, property to the north, and property to the south across the street. It also refers to woodland maps and again with the location of this building, there is no intake on any woodland maps or boundaries on this property.

At this time Mr. Sinsebox opened discussion up to the audience.

Carol DiBenedetto: I am the neighbor to this building and I am just wondering what is going to be in the building?

Mr. Gilmore: The two buildings were vacant for quite awhile but now we have a couple of inquiries. We have an office, dance studio, and possibly some storage.

There being no one else in the audience wishing to speak, Mr. Sinsebox closed the public hearing and brought questions back up to the Board.

Mr. Sinsebox: Mr. Martin, could you describe where the division is between the R-1 and the Light Industrial?

Mr. Martin: I would be happy to if I knew. How is that for honesty? I honestly don't know. Someone from our office noted that and I am not sure if it was from an old zoning map. I thought the whole thing was Light Industrial. I would defer it to the Building Department.

Mr. Sinsebox: Would your client be proposing anything in this building that isn't allowed under the zoning.

Mr. Gilmore: (inaudible)

Mr. Sinsebox: What kind of tenants are you trying to attract with the overhead doors?

Mr. Gilmore: We have had inquiries from machine companies, etc.

Mr. Crooks: I think there are some of things we would like to consider with the barn, and I think that reflects what the Comprehensive Plan is all about and rural character. To lose that barn would be really sad.

Mr. Sinsebox: I would be curious to see the landscaping plan you have proposed. I think that may give you an opportunity to tie this together with a little additional landscaping.

Mr. Robinson: What I would suggest is a few bollards out front.

Mr. Gilmore: We put the sidewalk out front, but we also extended it on the side.

Mr. Sinsebox: County and Conservations Board comments both mention the 100-year flood in that area. I know you know where the flood plain is and what is going on with all of that, as well as your client does. For the benefit of the Conservation Board there is a study going on in that area and there are plans to do a Letter of Mac amendment for the flood plain in there.

One thing that has been discussed with Engineering and Mr. Widger: I don't think there is a problem with this application but there is a little fear that six months or a year from now they come in for a building and then another building, etc. I think we condition this approval that you have some kind of overall drainage control plan through the entire site with any future applications. I don't think it is warranted with this one because you are

providing stormwater management in the front based on that earlier plan but any future plans we need to have some details on the overall drainage that is going to be planned for this site.

SEQR Determination

Introduced by Ms. Hetzke
Seconded by Mr. Robinson

MAY IT BE RESOLVED that the Planning Board grant SEQR approval to the application of Richard Gilmore, Rochester, NY, for 3900 Buffalo Road with an unlisted action, negative declaration upon recommendation of the Conservation Board and there do not appear to be any environmental concerns.

Ayes: Coburn, Parker, Halaris, Robinson, Hetzke, DelRegno and Sinsebox
Nays: None

RESOLUTION #1

Introduced by Mr. Sinsebox
Seconded by Ms. Halaris

MAY IT BE RESOLVED that the application of Richard Gilmore, Rochester, NY, was granted PRELIMINARY with the following contingencies:

- that the Highway Superintendent and Town Engineer's comments are satisfied.
- that updated plans be provided to the members of the Planning Board.
- that a document be provided to the Planning Board Attorney for review of easement rights with access to GCO.
- that a landscape plan be provided.

Vote of the Board

Ayes: Coburn, Parker, Robinson, Sinsebox, Hetzke, DelRegno and Halaris
Nays: None

2. ***Cubiotti-Whittier Subdivision (Lots #2 and #3)*** - application of George Cubiotti, 1360 Vroom Road Spencerport, New York, for approval to subdivide 4.8 acres from a 9.3-acre parcel for the purpose of constructing 2 single-family residential homes. This property is located 2900 feet east of Vroom Road, on the north side of Whittier Road and will be serviced by public water and a private leach system. It will be titled Cubiotti-Whittier Subdivision.

Mr. Rob Fitzgerald with Avery Engineering representing Mr. George Cubiotti and Chris Cubiotti, who is here tonight. The parcel, as Mr. Crooks spoke about, is on Whittier Road and we were in here about a year ago for approval of a one-lot site plan for Chris Cubiotti. These 2 lots that we are looking for approval on are to the west of his existing parcels. We are here for a 2 lot residential subdivision with single-family dwellings on those 2 lots. We will be extending the water line across the front of the lots. There is a twelve-inch line for a water service and 2 modified raised fill system. With that it is relatively straightforward. I did receive comments back from Mr. Freel, as well as the Highway Superintendent. This application will strip around 3½ acres but because we did disturb additional land on the first lot and there is the potential for future lots, Mr. Widger is looking for some kind of retention/detention water quantity/quality basin at this time. We did not have a chance to look into that further since our conversation today. This is

something we can accommodate. Mr. Cubiotti did construct a small pond on his parcel, which maybe we can incorporate that into an overall pond to take care of these 2 lots, his existing lot, and the potential for a new lot. We have roughly 50 acres for a maximum build out, so it is roughly 7 lots. It is not a huge decrease in runoff and, quite frankly, once we get the grass down there we will have less runoff than when it is a field. I don't necessarily have any objections or questions to either one of the comments. I just think we need to work out some of the technical issues.

Conservation Board comments:

Mr. Scholand: The Conservation Board had several findings. The proposed site is on prime agricultural soil and is in an agricultural district. Perc tests show very short perc time. Soil types indicate moderate to severe pollution hazards. Proposed action may disturb more than 2½ acres in an agricultural district, which make it a Type I action. The applicant did not provide that information with Part I of his form, so we could not complete it. There is also notifying swales around the parcel to prevent runoff from sheeting onto the adjacent parcel.

Town Engineer's comments:

Mr. Freel: I submitted a letter to the Planning Board dated February 6, 2008. I had 12 items but I will just hit some of the highlights. As Mr. Fitzpatrick stated, they were here about a year ago for approval of a single-lot subdivision and now they are here for two more lots. I would recommend an overall plan B developed for the site. I think we would like to know what is going on with the remaining land. The second item is we are going to need an overall storm-water pollution prevention plan in accordance with the Phase II requirements. Another item is that mineral deposits were encountered within the deep hole excavations for the septic systems. When mineral deposits are encountered within the septic system area, the town requires a deep hole excavation be performed at the home site and the home be elevated to make sure basement is above any potential high groundwater. The Developer's Engineer should certify the results of the deep hole.

They are proposing an extension of a watermain. One of the problems I see is if you have a water service to a house behind that cap without a valve when they go to extend the watermain they are going to have to shut off water to that house and if they don't put a valve there and extend it, they are going to have coordinate the whole portion of it. What I am recommending for the end of the waterline is put in a valve with a couple lengths of pipe. This way, no matter what goes on, the residents living in the homes will not be without water.

Highway Superintendent's comments:

Mr. John Freel speaking for **Mr. Widger** in his absence:

1. Due to the proximity of these 2 lots to the tributary, it may be better to have them extended to the center of the tributary. If you left this small area to future lots you would not be able to do much with it.
2. The amount of soil disturbance on these two lots plus the future lots will require a water quality pond.
3. More detailed topography to the west of lot 3 will be needed to ensure flows of surface water.
4. There is an existing 15-inch corrugated poly storm pipe located in the right-of-way on proposed lots 3 & 4. What is your intention with this? The highway department does not want 2 parallel.

Planning Board Attorney's comments:

Mr. O'Toole: The existing easement is proposed to be abandoned. Does that fall within the scope of the (inaudible) as well?

Mr. Fitzgerald: Yes, instead of adding 20 feet on either side of the existing easement, we are just going to abandon the existing one and do a new wider easement.

Mr. O'Toole: It may be simpler and cheaper for your client to do one brand new easement, otherwise, you have to go to the Town Board and get it released.

Mr. Fitzgerald: Just leave the existing one and add the new one?

Mr. O'Toole: Yes.

Building Department's comments:

Mr. Crooks: I do have one comment from the Assessor's office. These lots will be subjected to a conversion payment within the last 5 years of receiving an agricultural exemption. If you are currently receiving an agricultural exemption on that and construct on that within 5 years from that last exemption you will be subject to conversion repayment.

This being a public hearing, Mr. Sinsebox opened discussion to people in the audience.

There being no one in the audience to speak, Mr. Sinsebox closed the public hearing and brought it back up to the Board.

Mr. Sinsebox asked Mr. Fitzgerald regarding the 5th drawing you referred to that shows the seven lots in the front. Is that the overall plan for the balance of the copy that was requested by Engineering?

Mr. Fitzgerald: We assume that this Board would like to see a possible future plan. That would be my client's possible future plans.

Mr. Sinsebox: There is no intention to develop more than the 2 lots at this time.

Mr. Fitzgerald: If they were to develop in the future, potentially an additional 4 lots. We are not looking at doing any internal streets, or higher density than that.

Mr. Sinsebox: There would be no plans for the back part of the property for any kind of development?

Mr. Fitzgerald: The Cubiotti's wanted to maintain and continue to farm in the back.

Mr. Sinsebox: I understand his intention is to continue farming and not develop it but that doesn't mean that sometime down the road it may be possible and having said that maybe the access should be set up so that in the future the owner would have a proper access. I saw that your perc rates were pretty good. Your modified system is because of the high ground water in those areas.

Mr. Fitzgerald: We did perc back a little further which is a higher elevation where the houses generally sit. One question I would have is that the client feels pretty strong of leaving the back land alone because we want to keep the lots at 500 feet. We realize we are close to the tributary in this case unless we develop further west; it is going to open up more and more space. Our client was pretty strong in keeping that undeveloped now without extending to the creek. We talked with Mr. Widger about that and he said; "it is

more of a recommendation. It is sometimes cleaner to strike a property line down the same tributary.”

Mr. Sinsebox: I think if you did a quick layout based on current zoning, it will solidify that and give you a comfort level that that is what he wants to do. I wouldn't spend a lot of time on it but I think it is a good idea to look at that now, specifically with the access to it.

Mr. Halaris: Is there any concern about closing the drainage in the front?

Mr. Fitzgerald: We are actually going to open up the drainage in the front. There is a 15-inch culvert that runs down Whittier Road and is drastically undersized. The lot to the south had a pipe that was 24 x 30 inches. Instead of running that and having a huge expense and having a closed system, we are going to have a swale.

Mr. Sinsebox: It would be nice to see if it is in an agricultural district and your client has been informed as to the steps as to what he has to do to remove it from the Agricultural District. That should not hold up an approval. I think the overall plan would be a good thing to see, just so you are convinced, you would want an access and that the development of the back parcel, should it happen in the future, whatever is done out here would make sense. He may not have plans to develop it but some owner in the future may.

RESOLUTION #1

Introduced by Mr. Sinsebox

Seconded by Ms. Hetzke

MAY IT BE RESOLVED that the Board **TABLES** the application of George Cubiotti, 1360 Vroom Road Spencerport, New York, with the follow contingencies:

- that the Highway Superintendent and Town Engineer's concerns are satisfied;
- that the Planning Board Attorney receives a new easement plan;
- that a long form EAF be submitted and that the status of the agricultural district be reviewed;
- that more detail be provided on the overall planning for the balance of the property.

Vote of the Board

Ayes: Coburn, Parker, Robinson, Sinsebox, Hetzke, DelRegno and Halaris

Nays: None

II. OLD BUSINESS - None

III.

IV. III. CONCEPT - None

IV. EXPIRATIONS

V. MAPS FOR SIGNING – Please see map table in the Building Department

VI. APPROVAL OF MINUTES - None

VII. WORK SESSION

1. **Sandy Knoll Subdivision** - A brief discussion of the history of this project. This subdivision is part of the Euler Road Properties located on the northeast corner of Washington Street and Euler Road. SEQR Determination was given a Type I, negative declaration with Ogden as Lead Agency on January 12, 2006.

VIII. ADJOURNMENT

Introduced by Mr. Sinsebox
Seconded by Mr. Halaris

MAY IT BE RESOLVED that the Planning Board meeting of January 11, 2007 was adjourned at 7:31 PM.

Ayes: Parker, Hetzke, Sinsebox, Robinson, DelRegno, Coburn and Halaris
Nays: None

Respectfully submitted,

Jack Crooks, Secretary

PBA02-14-08
/cjl