

**TOWN OF MAYFIELD PLANNING BOARD
NOVEMBER 20, 2013
6:30 P.M.
TOWN OF MAYFIELD TOWN HALL**

MEETING NOTES

PRESENT:

**ROBERT PHILLIPS, CHAIRMAN
MALCOLM (RICK) SIMMONS, VICE CHAIRMAN
JERRY MOORE
JOHN KESSLER
AARON HOWLAND, ALTERNATE**

**MICHAEL STEWART, CODE ENFORCEMENT OFFICER
SEAN M. GERAGHTY, SR. PLANNER**

OTHERS PRESENT:

**VINCE COLLETTI, TOWN COUNCILMAN
JAMES AND DONNA MAGIELDA
HENRY WHIPPLE**

I. CALL MEETING TO ORDER:

The meeting was called to order at 6:30 p.m.

Planning Board Chairman Robert Phillips asked Planning Board Alternate Aaron Howland to participate in this evening's meeting on behalf of Marilyn Salvione.

Town Councilman Vince Colletti thanked Board members for their support during his recent successful reelection campaign.

II. APPROVE MINUTES OF LAST REGULAR MEETING:

MOTION: To approve the minutes to the September 18, 2013 meeting.

MADE BY: John Kessler
SECONDED: Aaron Howland
VOTE: 5 in favor, 0 opposed

III. JAMES AND DONNA MAGIELDA – SUBDIVISION ALONG NINE MILE TREE ROAD:

A. Background:

James and Donna Magiella own a 2.38+/- acre parcel at the intersection of Nine Mile Tree Road and NYS Route 29A (Tax Map Parcel No. 136.-1-16). The Magiellas would like to subdivide the property into two (2) building lots that are 1.155 and 1.226 acres in size respectively.

B. Code Enforcement Office/Planning Department Review:

Section 501 of the Town of Mayfield Subdivision Regulations outlines the information an applicant is required to submit to the Planning Board for a proposed subdivision. Upon review of the proposed preliminary plat by the Town Code Enforcement Office and the Fulton County Planning Department, the following issues have been raised:

1. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.

STATUS: A location map should be superimposed on the subdivision plat.

2. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 250' thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 5'.

STATUS: The clearing limits on the property have been identified. However, there are no topographic conditions shown on the subdivision plat.

DISCUSSION: Planning Board Chairman Robert Phillips indicated that, given the relatively flat conditions on the property, he didn't feel topographic features needed to be shown on the subdivision plat.

Planning Board Member Rick Simmons noted that the back portion of Lot #2 drops off towards the lands of Jeffrey and Carleen Stewart. He expressed some concern that the location of the septic field could impact a well on the Stewart's property if it is located on the back portion of their site.

Mr. Magielda indicated that the well on the Stewart's property is located on the flat end of the property closer to NYS Route 29A. He indicated that the well on the adjacent Kucel property is located 100' beyond the property line.

Planning Board Member Jerry Moore pointed out that Town Code Enforcement Officer Mike Stewart wouldn't allow the construction of a septic field within 100' of an adjacent well.

Mr. Stewart confirmed Mr. Moore's comment and noted that septic systems for new construction need an engineer's design.

3. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.

STATUS: Provided.

4. The tax map sheet, block and lot number.

STATUS: Provided.

5. All available utilities on all existing streets.

STATUS: Provided.

6. The proposed pattern of lots, including lot width and depth, street layout, recreation areas, systems of drainage, sewer and water supply within the subdivided area.

STATUS: Provided.

7. All existing restrictions on the use of land including easements, covenants and zoning lines.

STATUS: There are no easements or covenants identified on the subdivision plat.

DISCUSSION: Mr. Magielda indicated that there are no easements or covenants attached to the property.

8. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings and distances made by a certified or licensed engineer or land surveyor.

STATUS: Provided.

9. All onsite sanitation and water supply facilities shall be designed to meet the minimum specifications of the Department of Health and a note to this effect shall be stated on the plat and signed by a licensed engineer.

STATUS: Percolation test results for the two (2) new building lots have not been provided and the pit test results are not very detailed.

DISCUSSION: Mr. Magiella explained that he did the excavation for the deep hole test and encountered nothing but sand on the property. He indicated that he also performed percolation tests on the property that were not witnessed by his surveyor Dave Bogardus. He indicated that those percolation tests showed a percolation rate of approximately 1½ minutes. The Planning Board felt that the location of the percolation and pit tests should be identified on the subdivision plat.

10. The proposed subdivision name and the name of the Town and County in which it is located.

STATUS: Provided.

11. The date, north arrow, map scale, name and address of record owner and subdivider.

STATUS: Provided.

12. A Short Environmental Assessment Form with Part 1 completed by the applicant.

STATUS: Provided.

C. State Environmental Quality Review:

Section 617.1 of 6 NYCRR states that, the basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision making processes of State, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant effect on the environment, and if it is determined that the actions may have a significant effect, prepare or request an environmental impact statement. Under these terms, the review of a subdivision application is subject to SEQR. Therefore, the following issues must be addressed:

1. Does the Planning Board feel that the Short Environmental Assessment Form, provided by the applicant, has been completed adequately?

DISCUSSION: The Planning Board felt that the Short Environmental Assessment Form had been completed adequately.

2. Does the Planning Board feel that any additional information should be provided as part of the SEQR process?

DISCUSSION: The Planning Board did not ask for any additional information.

3. Section 617.6 (b) of 6 NYCRR states that, when a single agency is involved, the agency will be the lead agency when it proposes to undertake, fund or approve a Type 1 or Unlisted Action that does not involve another agency. If the agency has received an application for funding or approval of the action, it must determine the significance of the action, within twenty (20) calendar days of its receipt of the application, an Environmental Assessment Form or any additional information reasonably necessary to make that determination, whichever is later. Therefore, does the Planning Board wish to issue a Determination of Significance under SEQR at this time?

MOTION: To file a negative declaration under SEQR for this proposed action since:

1. The applicant has sufficient acreage available to create two (2) building lots at the intersection of NYS Route 29A and Nine Mile Tree Road.
2. Public utilities are readily available to service both of the new building lots.
3. There will be no traffic impacts resulting from the proposed action.

MADE BY: Jerry Moore
SECONDED: Rick Simmons
VOTE: 5 in favor, 0 opposed

D. Planning Board Action:

In accordance with Article V of the Town of Mayfield Subdivision Regulations, the Planning Board, within sixty-two (62) days from the time it determines a preliminary plat for a proposed subdivision to be complete, shall hold a public hearing on the subdivision application. Consequently, does the Planning Board wish to schedule a public hearing at this time on the subdivision application for James and Donna Magiolda?

MOTION: To schedule a public hearing on James and Donna Magiolda's subdivision application for their piece of property along Nine Mile Tree Road for 6:30 p.m., Wednesday, December 18, 2013.

MADE BY: Jerry Moore
SECONDED: Aaron Howland
VOTE: 5 in favor, 0 opposed

IV. HENRY WHIPPLE – SUBDIVISION ALONG SAND HILL ROAD AND NYS ROUTE 30:

A. Background:

Mr. Whipple is purchasing two (2) pieces of property that are located between Sand Hill Road and NYS Route 30 in the Town of Mayfield (Tax Map Parcel Nos. 136.-3-25.11 and 136.-2-24.11). The two (2) parcels total approximately 75+/- acres in size. Mr. Whipple would like to subdivide the property into four (4) building lots ranging in size from 14.158 acres to 23.95 acres.

B. Code Enforcement Office/Planning Department Review:

Section 501 of the Town of Mayfield Subdivision Regulations outlines the information an applicant is required to submit to the Planning Board for a proposed subdivision. Upon review of the proposed preliminary plat by the Town Code Enforcement Office and the Fulton County Planning Department, the following issues have been raised:

1. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.

STATUS: A better location map should be provided on the subdivision plat.

DISCUSSION: Mr. Geraghty pointed out that the location map provided on the subdivision plat does not show the actual location of the applicant's property, nor does it even identify Sand Hill Road on the map. Mr. Geraghty suggested that a County Tax Map be used as the location map so that the individual outlines of the properties can be seen by Planning Board members.

2. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 250' thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 5'.

STATUS: There are no topographic features or structures identified on adjacent properties.

DISCUSSION: Planning Board Member John Kessler indicated that he would like to see the contours of the adjacent landfill property shown.

Mr. Simmons indicated that he didn't feel the contours for the former landfill property were as important as knowing the direction of groundwater flow from the landfill.

Mr. Stewart asked if the Planning Board was okay with the 10' contour intervals shown on the plat rather than the 5' contour intervals that are specified in the Town Subdivision Regulations?

Mr. Moore indicated that he was comfortable with the 10' contour intervals. Given the size of the proposed lots, there was a general consensus among the rest of the Planning Board that the 10' contour intervals would be acceptable.

Mr. Phillips asked if Planning Board members felt that the location of structures on adjacent properties should be identified?

Mr. Simmons indicated that, once again, he didn't feel this was as important a piece of information as addressing potential groundwater flow concerns from the landfill property.

3. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.

STATUS: Provided.

4. The tax map sheet, block and lot number.

STATUS: Provided.

5. All available utilities on all existing streets.

STATUS: Provided.

DISCUSSION: Mr. Moore pointed out that the subdivision plat drawing correctly shows that there are no power lines, cable or telephone lines along Sand Hill Road.

6. The proposed pattern of lots, including lot width and depth, street layout, recreation areas, systems of drainage, sewer and water supply within the subdivided area.

STATUS: There are no deep hole test results provided for the new building lots.

DISCUSSION: Mr. Phillips indicated that he believed the Planning Board needed to begin having a conversation about how potable water will be provided for each of the proposed building lots in Mr. Whipple's subdivision. He indicated that Town Code Enforcement Officer Mike Stewart has consulted with Town Attorney Carmel Greco regarding this issue. He asked Mike to brief the Planning Board on some of the information that has been gathered.

Mr. Stewart indicated that the Town does annual sampling of wells around the perimeter of the former landfill property. He indicated that test wells closest to Mr. Whipple's property have slightly elevated levels of substances that would not meet NYSDEC drinking water standards. He indicated that the Town Attorney's recommendation is that the approved subdivision plat contains a provision indicating that no building permits will be issued for any of the building lots until a well has been drilled on that lot and tested under NYSDEC guidelines. Mr. Stewart indicated that the DEC official he spoke with indicated that it cost approximately \$125 to \$150 to test the well water once a well has been drilled.

Mr. Phillips asked if Planning Board members felt that four (4) individual test wells should be dug within the subdivision?

Planning Board Member Aaron Howland pointed out that his family owned property along Bemis Road approximately 3½ miles from the former City of Gloversville landfill. He pointed out that it is difficult to ascertain how groundwater will flow. He indicated that the well on his

family's property was eventually found to be polluted by leachate from the former City of Gloversville landfill.

Mr. Simmons pointed out that, every spring, when the lake water rises, there are impacts to the local water table.

Mr. Stewart indicated that Question 11 on the Part 2 Short Environmental Assessment Form requires the Planning Board to consider the impacts to human health that would result from a proposed action. Mr. Stewart suggested that the applicant be required to drill a well on the property closer to the former landfill site in order to determine what contaminants may exist in the water table and to find out if the water source needs to be treated or not.

Mr. Phillips explained that the Planning Board needs to find out if the former landfill site is going to have a negative effect on the drinking water for the individual lots in the subdivision so that the Town does not become liable for future contamination problems.

Mr. Stewart pointed out that test wells are typically very shallow and that he felt a full well should be drilled on the site so that the actual aquifer to be used as a drinking water source is tested.

Mr. Simmons asked if the well would be cased.

Mr. Howland talked briefly about his family's Bemis Road property. He also discussed possible contamination issues involving the proposed well drilling.

Mr. Stewart noted that sampling has already been done for residential property further away from the landfill property and no contaminants were found.

Mr. Simmons pointed out that even though no contaminants were found in those wells, given the unpredictability of groundwater flow, there could easily be elevated levels of contaminants found on the applicant's property.

Mr. Moore noted that he sent a letter to Town Code Enforcement Officer Mike Stewart expressing his sentiment that Mr. Whipple's property cannot be subdivided for residential purposes. He pointed out that the Town's recently adopted Comprehensive Plan shows the property in a business only area. He pointed out that, even though the Town's current Zoning Regulations allow residential uses on the property, the zoning laws are not in compliance with the newly-adopted Comprehensive Plan.

Mr. Whipple indicated that he has no intention of building on the property and won't tell a purchaser what they need to build.

Mr. Simmons indicated to Mr. Whipple that he needed to have full disclosure with any purchasers of these properties and clearly make them aware that the well water will need to be tested before it is used as a potable water source.

Mr. Stewart noted that Mr. Whipple must comply with the current Zoning Regulations for the Town and not necessarily the Comprehensive Plan.

Mr. Howland stated that he felt the Planning Board needed to carefully consider what it is requesting from Mr. Whipple. He indicated that there are many more properties around the former landfill site that could also be negatively impacted by groundwater contaminants from the landfill site and whatever Mr. Whipple is asked to provide in terms of testing for his property will need to be requested from other property owners in the future.

Mr. Phillips pointed out that the Planning Board has knowledge of toxins in the test wells around the perimeter of the site and needs to perform due diligence with its review of this application to make sure that a potable water source can be provided on each of the new building lots.

There was a general consensus among Board members that the applicant should be required to drill one (1) permanent well on Lot #4 and have the well tested under NYS Drinking Water Standards.

Mr. Geraghty indicated that he would work with Town Code Enforcement Officer Mike Stewart to confirm what type of testing NYSDEC requires or suggests.

7. All existing restrictions on the use of land including easements, covenants and zoning lines.

STATUS: ?

DISCUSSION: Mr. Whipple indicated that there were no easements or covenants.

8. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings and distances made by a certified or licensed engineer or land surveyor.

STATUS: Provided.

9. All onsite sanitation and water supply facilities shall be designed to meet the minimum specifications of the Department of Health and a note to this effect shall be stated on the plat and signed by a licensed engineer.

STATUS: Not provided.

DISCUSSION: Mr. Geraghty indicated that he would provide the needed language to Mr. Whipple.

10. The proposed subdivision name and the name of the Town and County in which it is located.

STATUS: Provided.

11. The date, north arrow, map scale, name and address of record owner and subdivider.

STATUS: Provided.

12. A Short Environmental Assessment Form with Part 1 completed by the applicant.

STATUS: Provided.

DISCUSSION: Mr. Howland indicated that he would like the Planning Board to require steel casing on the well to be drilled on Lot #4. He pointed out that some well drilling companies now use plastic casing which is susceptible to cracking.

C. State Environmental Quality Review:

Section 617.1 of 6 NYCRR states that, the basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision making processes of State, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant effect on the environment, and if it is determined that the actions may have a significant effect, prepare or request an environmental impact statement. Under these terms, the review of a subdivision application is subject to SEQR. Therefore, the following issues must be addressed:

1. Does the Planning Board feel that the Short Environmental Assessment Form, provided by the applicant, has been completed adequately?

DISCUSSION: Mr. Moore pointed out that Question 5B on the Short Environmental Assessment Form should be marked “no” since the applicant’s proposal to create four (4) residential building lots is not in compliance with the Town’s Comprehensive Plan.

Mr. Simmons added that one (1) of the adjacent properties is zoned for industrial purposes and should be noted on Question #4 on the Short Environmental Assessment Form.

2. Does the Planning Board feel that any additional information should be provided as part of the SEQR process?

DISCUSSION: The Planning Board previously asked that a permanent well be drilled on Lot #4 in the proposed subdivision and that the water be tested under NYSDEC Guidelines to make sure that it meets drinking water standards.

3. Section 617.6 (b) of 6 NYCRR states that, when a single agency is involved, the agency will be the lead agency when it proposes to undertake, fund or approve a Type 1 or Unlisted Action that does not involve another agency. If the agency has received an application for funding or approval of the action, it must determine the significance of the action, within twenty (20) calendar days of its receipt of the application, an Environmental Assessment Form or any additional information reasonably necessary to make that determination, whichever is later. Therefore, does the Planning Board wish to issue a Determination of Significance under SEQR at this time?

MOTION: To table the issuance of a determination of significance for this proposed action pending receipt of the water quality tests for the well to be drilled on Lot #4.

MADE BY: Jerry Moore
SECONDED: Rick Simmons
VOTE: 5 in favor, 0 opposed

D. Planning Board Action:

In accordance with Article V of the Town of Mayfield Subdivision Regulations, the Planning Board, within sixty-two (62) days from the time it determines a preliminary plat for a proposed subdivision to be complete, shall hold a public hearing on the subdivision application. Consequently, does the Planning Board wish to schedule a public hearing at this time on the subdivision application for Henry Whipple?

MOTION: To table any action on Henry Whipple's subdivision application for a piece of property along Sand Hill Road and NYS Route 30 until water quality testing has been completed on Lot #4 in the proposed subdivision.

MADE BY: Jerry Moore
SECONDED: John Kessler
VOTE: 5 in favor, 0 opposed

V. **OTHER BUSINESS:**

A. Chairman's Update:

Mr. Phillips asked if Planning Board members would like to consider moving the monthly meeting time to 6:00 p.m.?

After a brief discussion, there was a general consensus that the request should be forwarded to the Town Board for its consideration.

MOTION: Requesting that the Town Board allow the Planning Board to change the time of its monthly meeting to 6:00 p.m. on the third Wednesday of each month.

MADE BY: Aaron Howland
SECONDED: John Kessler
VOTE: 5 in favor, 0 opposed

B. Code Enforcement Update:

Mr. Stewart indicated that Herba's Motor Sports was recently purchased and the new owner is constructing a canopy over the front of the building to keep outdoor display items covered. Mr. Stewart indicated that it does not appear that the Town's Site Plan Requirements necessitate a review of this type of project. He pointed out that he just wanted the Planning Board to know that the project was underway. He indicated that if the construction involved the

change of an approved site plan application, then he would have forwarded the application to the Planning Board. However, he pointed out that this business preexisted any zoning regulations in the Town.

VI. CLOSE OF THE MEETING:

MOTION: To close the meeting at 7:50 p.m.

MADE BY: Rick Simmons

SECONDED: Aaron Howland

VOTE: 5 in favor, 0 opposed