

MINUTES OF A MEETING AS HELD BY THE
TOWN OF AURORA PLANNING & CONSERVATION BOARD

NOVEMBER 6, 2013

Members Present: Donald Owens, Chairman
William Adams
William Voss
Charles Snyder
Laurie Kutina
Al Fontanese

Alternate Member: Norman Merriman

Absent/Excused: Timothy Bailey. David Majka

Also Present: William Kramer, Code Enforcement/Building Inspector
Ned Snyder, Deputy Town Attorney
Greg Keyser, CRA Engineering

Chairman Don Owens presided over the meeting which began at 7:00 p.m. at the Aurora Town Hall, 300 Glead Avenue, East Aurora, New York. William Adams led the recitation of the Pledge of Allegiance to the Flag. Chairman Owens and the entire Planning and Conservation Board send their condolences to member Tim Bailey on the loss of his wife. Chairman Owens designated alternate member Norman Merriman as a voting member for tonight's meeting.

William Adams made a motion to accept the minutes of the October 2, 2013 Planning and Conservation Board meeting; seconded by William Voss.

Upon a vote being taken:

ayes - seven noes - none

Motion carried.

Old Business: none

New Business:

The Town of Aurora Board, at their regular meeting on October 28, 2013 voted to refer to the Planning Board for review and recommendation, a request from Capozzi Homes, as agent for Braun Enterprises of WNY, Inc., for a dwelling group at 16 Woodcrest Drive, PO Orchard Park, Town of Aurora, NY.

Jay Capozzi of Capozzi Homes, as agent for Braun Enterprises of WNY, Inc, was present.

Mr. Capozzi handed out a site plan showing drainage for the property. Wetlands have been delineated by Army Corps of Engineers. Due to the location of a hill on the property as well as the wetlands, they will create a swale along the back of the property line, around both houses. The water from the back of the house will drain toward the swale and then to the east towards the wetlands. Everything at the front of the house will drain toward the road. Everything at the back of the house will drain toward the swale and ultimately the wetlands.

Chuck Snyder asked if the foundation will be kept out of the ground, two to three feet more than the norm.

Mr. Capozzi stated that yes probably three feet. There will be a 9' foundation wall.

Chuck Snyder asked if the septic system will be a sand filter.

Mr. Capozzi stated that they are still working with the County on the septic design and that there will likely be two separate systems – one for each house. And that, yes, they will likely have to be sand filters. The soil test has not been completed yet.

Mr. Capozzi showed house plans for both the main house and the guest house.

Don Owens asked about the size of the house.

Mr. Capozzi stated that the main house is 5900 sq. ft. right now but they may add storage area over one of the garages. Heated living space should remain around 5900 sq. ft. This is a 5 bedroom house with 1 bedroom on the first floor and 4 on the second.

Mr. Capozzi stated that they are trying to make the guest house look like a mini version of the main house. The house includes a living room, dining room, kitchen, eat-in area, one bedroom, walk-in closet, bathroom, powder room, and laundry closet. The guest house is 1410 sq. ft. at this time and is one level with a basement.

Bill Voss asked if because of the two houses, is it an ODA.

Don Owens stated that it is not.

Bill Voss asked if there is enough room for emergency vehicle access and turnaround.

Mr. Capozzi indicated that there is a fire hydrant located at the end of the driveway.

Al Fontanese asked if this is an in-law residence and that there was no way to connect the two residences to make it easier for the owner.

Mr. Capozzi indicated that the in-laws will be residing in the smaller home and that the owners want to have the homes separate for independence and privacy.

Bill Adams asked if the neighbors have been notified of the process.

Mr. Capozzi thought that it was published in the paper.
Liz Cassidy indicated the same but would confirm with the Town Clerk.

Chuck Snyder asked if the high point of the swale would be in the center.

Mr. Capozzi stated that due to the hill, the high point of the swale would likely be behind the driveway.

Chuck Snyder asked how water on the west side of the property will be handled.

Mr. Capozzi indicated that a swale will run downhill to the road to keep the water on the property.

Bill Voss questioned taking the water to the road and asked if that was allowable.

Bill Kramer indicated that this is a town road, not a county road and it's the county that doesn't allow this.

Don Owens stated that the water will hit a drainage way before it hits the road. The water flows in a southwesterly direction. This drainage way starts just west of the new driveway.

Chuck Snyder suggested a change in the swale to move all the water at the back of the property toward the wetlands.

Mr. Capozzi stated that he can make that change.

Norm Merriman stated that there is no formal ditch in the front.

Mr. Capozzi indicated that the road is higher than the property and there is drainage that goes all the way around and other driveways have culverts. Once past the cul-de-sac, the water travels downhill.

Don Owens clarified that is for the north of the property. The area to the west of the new driveway water flows southwest, toward Ellicott Road.

Chuck Snyder asked if the change to the swale, moving the water to the wetlands is acceptable.

Don Owens stated that the wetland is a big storage area. And that it would be better to move that water to the northeast to the wetland. The wetland is a big basin and can handle the water.

Al Fontanese asked if there is any deed restriction on the property as to the number of residences allowed.

Mr. Capozzi stated that he has permission from the Attorney for the Braun family to make this petition, as there is no restriction.

Bill Voss asked if there is a specific requirement for emergency turnaround for a standard lot with two houses.

Mr. Capozzi stated that the house is currently 190 feet off the road, and that there is a fire hydrant at the corner of the driveway.

Bill Kramer stated that likely within the state fire code requirements.

Laurie Kutina asked if a new build like this will need to be sprinkled.

Bill Kramer stated no, it is not a state requirement.

Bill Adams asked if the driveway could be wider, the plan is only showing 14 feet.

Mr. Capozzi indicated that is what the homeowner wants.

Bill Adams suggested that the East Aurora Fire Department look at the plans for input.

Laurie Kutina stated that for an ODA, yes, but they are not dividing the property. This is two houses on one lot.

Don Owens clarified, two houses on one lot, with one landowner for the parcel.

Bill Adams stated that this is spot zoning and asked about what happens to the smaller house once the in-laws have gone.

Mr. Capozzi indicated that the owners would not sell the smaller home. He further suggested putting it in writing that it couldn't be divided.

Chuck Snyder asked about the distance between houses.

Mr. Capozzi stated that they would like to keep them around 60-70 feet apart.

Laurie Kutina indicated that the footprints of other houses in the development are much bigger than this.

Mr. Capozzi agreed and stated that he does not believe it is out of character with other homes.

Bill Adams stated that when this subdivision was developed, there was never any intention for more than one house on a lot.

Don Owens stated that when this subdivision was developed, it was proposed to be zoned R1. However, the property is zoned Agriculture. Agriculture zoning will allow multiple dwellings.

Bill Adams stated that the lot can't be split because a minimum of 5 acres are needed per lot.

Laurie Kutina agreed and further stated that the intention all along is that this will not become two separate residences.

Don Owens asked for opinions of the Planning Board.

Bill Adams suggested tabling it for a month to have the Fire Company review the plans.

Bill Voss asked if there is anything in the code that says we can do this. We could make a suggestion that they ask the Fire Department to take a look for the property owner's benefit.

Al Fontanese stated he was chairman of the Planning Board when Braun proposed the subdivision. The lots were over 5 acres each which meant that the Town would not need any more review except for an overview of the driveway and at that time there were no restrictions put on the property. Braun's intention when this was proposed was big enough lots that they would not have to worry about the future aspects of it.

Al Fontanese and Bill Adams expressed concern about future ownership and use of the property.

Bill Voss asked about the property on East Main Street that became a concern.

Al Fontanese stated that Town had difficulty with the Barcelona House when the owner wanted to do something with the guest house on the property. The Town had to create some dwelling zone at that time.

Bill Voss stated that the issue is that if someone inherits the property and wants to do something different with the property, they may be unable to do so.

Laurie Kutina stated that in this case the owner would need to come back for a subdivision.

Mr. Capozzi stated he is ready to start construction as soon as possible.

William Voss moved to recommend to the Town Board that they approve the dwelling group at 16 Woodcrest Drive, PO Orchard Park, Town of Aurora NY, with the condition that the swale is adjusted and re-graded on the southwest portion so that the water drains to the wetlands to the northeast. Seconded by Charles Snyder.

Upon a vote being taken: ayes – six noes – one (Adams) Motion carried.

Don Owens discussed a training session on November 14th at Parkdale Elementary School.

Bill Adams wanted to clarify the public perception of Olean Road being zoned Business. Only a portion is zoned Business, much of the road is zoned Agriculture or Residential. Also of concern is the amount of equipment and items being delivered to the 992 Olean Rd. Furthermore, the stipulations made on the recommendation to rezone 992 Olean do not carry any

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weight. It is either a yes or no recommendation, according to Supervisor Jolene Jeffe after the last Town Board meeting.

Don Owens asked about the status of the violation at 992 Olean Rd.

Bill Kramer stated that it is still in the courts and that he is unsure when it will next be heard. Also, the Town Board has not voted on the rezoning of the property. The public hearing was held at the last Town Board meeting.

Don Owens asked if the additional material coming onsite is a further violation.

Bill Kramer stated that it is a continuing violation.

Bill Voss asked about issuing a Cease and Desist order.

Bill Kramer stated that he could do that, but had not because he thought the matter would be resolved quickly.

Ned Snyder stated that where there is a continuing violation, in order to make it make it tough, you need to draw up the papers each time. Then it adds up to real money.

Bill Voss stated he should not be allowed to run a business in the front, since it not zoned for a business.

Ned Snyder reiterated that this is a Town Board issue now. The Planning Board recommended rezoning, and it is up to the Town Board to take the recommendation or not.

William Voss moved to adjourn at 8:20pm; seconded by Al Fontanese. Carried

The next scheduled meeting of the Aurora Planning & Conservation Board is Wednesday January 8, 2014.

Elizabeth Cassidy
Secretary