

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

February 3, 2010

Members Present: Donald Owens, William Adams, Timothy Bailey, Jim Griffis, Al Fontanese,  
Members Excused: Steve Mayer, Dick Glover

Others Present: Ned Snyder, Deputy Town Atty  
Greg Keyser & Bryan Smith, CRA Engineering  
Jolene Jeffe, Supervisor  
Sue Friess, Town councilwoman  
Jim Collins, Town councilman  
Jim Bach, Town councilman  
Patrick Blizniak, Superintendent of Buildings  
William Kramer, Asst Bldg Inspector  
Al Salter, ZBA member

Chairman Don Owens presided over the meeting which began at 7:00 p.m. at the Town Hall Chapel, 5 S Grove St, East Aurora, New York. Bill Adams opened the meeting with the recitation of the Pledge of Allegiance to the Flag.

**Bill Adams made a motion to accept the minutes of January 2010. The motion was seconded by Al Fontanese. Motion carried.**

Dick Glover is to serve the unexpired term of Millard Irving until 12/31/13. Al Fontanese was appointed to serve on the PCB with his term expiring 12/31/16.

Don Owens stated that NYS has a strong 'home' rule which directs land use to each municipality (unity government). It gives the rights to the land owner, based on town code in hopes to develop the Master Plan to change the zoning code. The Master Plan revision takes time and effort. A current adopted master plan is needed to change zoning codes. If the PCB is to undertake revising the MP, this board will need the backing and support for the Town Board. Also, SEQR review and public hearings are needed before approval by the TB. Public participation would be beneficial. The Town of Aurora is not exposed to major development because sewers curtail development. Most of the TOA is agriculturally zoned which allows for residential structures. In saying this Don welcomed the TB members present for some open dialogue and to offer some direction to the PCB which he is looking forward to further communications.

**OLD BUSINESS:**

**Open Development Area approval for 686 Quaker Rd (Greg Schneider)** – this is a 6.3 acre parcel which has been presented to the PCB at their Jan 6, 2010 meeting. The PCB had made a

recommendation with conditions to the TB. The TB has referred it back to the PCB because the applicant has satisfied the recommended conditions. This will be the second review. The changes have been reviewed by Bryan Smith, CRA, Town Engineer. Lot #4 has been increased for more useable area as it relates to the septic system. The width of the west access, which accesses lot #4, has been increased from 57.5' to 65.5'. This will yield the eastern setback for the existing barn to be 11.5' instead of original 3.5' (non-conforming). Also, the driveway will extend only 50' beyond north line of barn until a drainage plan is submitted for development on lot #4. There are currently no dwellings on the back lots, lot #3 and #4. There is an existing swale on the eastern side of the original parcel which will be maintained by the applicant. A new driveway was proposed on the eastern side of the original parcel which will be used to access lot #3. Therefore, no maintenance agreement is needed because lot #3 and #4 will have their own access with a hammer head turn around. Bill Adams asked if there is a setback requirement for driveways to the lot line. There is none. The applicant indicated that there will be a 20' landscape buffer on the west side up to 80' back from the road. Also, there has been some clearing out of the barn and clearing of the existing scrubby berm. He stated that the eastern drive will be 10' from property line and lot #1 has been reduced. He foresees the lots to have shared areas which are not fenced for separation. A 'creek path' may be established to coincide with the full acre of undevelopable and in the back northwestern portion. He also indicated that there is a mini waterfall at the back of the property. The Erie County survey shows the soils are high in gravel, which are ideal for septic. The existing septic for the current farmhouse will need to be updated. There are not wetlands on the 6.3 acre parcel. Don Owens expressed concern about the drainage from the east side to lot #3 but the drainage plan will be reviewed and addressed by the Town Engineer when permits are obtained for construction.

**Bill Adams made a motion to recommend to the Town Board the ODA application for 686 Quaker Rd as presented, seconded by Tim Bailey.**

**Aye – All      Nay – none      Motion carried**

**Horse per land size (proposed RR Matrix) –**

The proposed RR district matrix would be incorporated in the Master Plan. The Master Plan discussions will be in the near future. The matrix is simply just a draft at this point which has been created based on experience and information from other towns. It would be used as a mechanism for further details and discussions. These changes, RR matrix, can not take effect until the MP is adopted. Jolene Jeffe asks if this could be address thru a supplemental change by changing the specific code and if there is a magic number that regulates the number of horses to land size, perhaps thru the EC co-op? Ned Snyder said that zoning is in place so as not to be specific for individual things. Jim Collins asked if the MP could be done in a year. To which Jolene answered that money is an issue but there is money in the budget for this. Don Owens believes that it would take 1 ½ years to complete the draft. The RR matrix addresses not only horses but live stock as well covering large and small animals. There is an interest by other parties concern with limitations and they would like to be present at the next PCB meeting.

**NEW BUSINESS:**

**Windmills** - there is a moratorium vote being taken at the February 9, 2010 TB meeting. An application had been received by the ZBA for a residential windmill which has prompted this moratorium. The TOA currently has no code regarding these structures. Jim Griffis presented the PCB with a copy the Town of Concord's wind energy conversion systems (WECS). Their code has residential (private) and commercial (developer) defined separately. This would make it easier for review. A committee could be formed consisting of PCB and the TB PCB liaisons. Town of Machias and Town of Ashford codes could be helpful tools as well. Town of Aurora is not in a wind farm area. The Town Board will draft their request containing what they are looking to accomplish as well as a time line so that the PCB can move forward with their review. The moratorium is for 6 months so all parties agree this should be accomplished well before the deadline.

**Open Development Area code** - There are issues arising from the newly adopted ODA code as they pertain to grand-fathering or not. Also, where does the ZBA's role come into play?

Things that were discussed:

- private driveways that serve more than one home with deficiencies such as width
- what are the requirements for the new dwelling?
- driveway to be upgraded or not allowed?
- access for emergency vehicles
- currently there are quite a few flag lot parcels with old requirement of 15'
- properties need maintenance agreement
- all parcels using access should have shared common cost
- ask applicant to upgrade or purchase adjacent land to conform?
- each lot would be unique which means deal with issues project to project
- access would need to be improved but not necessarily conforming such as certain spots to make wider, increase culvert pipe size
- new applicant would need to comply where their property line starts
- does the current ODA application at 1519 Quaker receive a variance for the access although it is on another person's property?
- the 4<sup>th</sup> property would have to meet requirements including driveway agreement. Also this non-conforming access could be dealt with by requiring sprinkler system. The widening of access could be hardship especially if the front property owners don't want to give up any land. Applicant is looking to buy the largest, back parcel as well.
- Would the ZBA deal with this type of hardship?
- The main premise for the ODA code is safety and fire access
- sprinkler systems may be NYS maintained by 2012
- with section 98-10 of the ODA code, does TB have leeway to set precedence?
- water lines could be a concern with a change at the street for service
- use improvements as guidance
- should the current 15' easement parcels go to the ZBA or would they automatically be grandfathered?
- This would be a Town Board decision to sent to ZBA not PCB because each property is unique

- the TOA slopes would play a role in the access
- Ned Snyder stated that by definition of the ODA code, the access would need a variance if under 50'
- the access may be acceptable for one dwelling but when more houses are built that may not be the case
- ZBA variance would be to build on the non-confirming accessed lot, not necessarily relief for the required access
- each application will be dealt with on a case by case basis
- PCB is an advisory board and the ZBA is a consult for backup or avoid legal ramifications to the TB

**Subdivision designation:**

The current TOA creates some discrepancy with the definition of subdivision as well as major and minor subdivisions. After a brief discussion, it was determined that Town counsel (Town Atty and Deputy Atty) should discuss this matter to bring back before the Town Board and PCB.

**Correspondence:**

-Letter received from Jewett Holmwood resident regarding JH/Quaker Rd proposed development. The contents to be discussed at the next PCB meeting when the JH/Quaker Rd proposed development is on the agenda.

**General:**

Don Owens & Ned Snyder will be absent for the March meeting.

Jolene Jeffe received several resumes for PCB alternates to which were turned over the Don Owens for review.

**JH/Quaker Rd**

Bryan Smith wanted to update the group regarding a DEC communication received. The letter addresses wetlands and sewers among other things. The letter states that 'no sewer ext applicant would be authorized'. Bryan Smith went on to say that a privately owned system is not appropriate as the DEC has the same concern. He added that the Town and Village turned over the sewers to the County to provide common management of these entities. Also that grind pumps require more attention down the road. EC is willing to work with developer on extending their current sewer facility. Peter Sorgi, attorney for developer, wants to meet with DEC and Bryan Smith.

A motion was made by Jim Griffis and seconded by Tim Bailey to adjourn at 8:40PM.

**THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY, March 3, 2010 AT 7:00 P.M. AT THE TOWN HALL, 300 GLEED AVENUE, EAST AURORA, NEW YORK**