

**TOWN OF FARMINGTON PLANNING BOARD**

**November 4, 2009**

**APPROVED MINUTES**

*The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington's Planning Board Meeting. .*

**MEMBERS:**

Meg Godly  
Ron Herendeen  
Robert Kleman  
Scott Makin, Vice Chairman  
Excused: David Degear

Also present: Town of Farmington Director of Development and Planning Ron Brand; Michael Collins, 579 County Rd. 8.

Excused: Town of Farmington Code Enforcement Officer, Floyd Kofahl; Town of Farmington Engineer, Lance Brabant, MRB Group, P.C.

**OPEN MEETING:**

The meeting was called to order at 7:00 p.m. After everyone recited the Pledge of Allegiance, Vice Chairman Makin made the introductions of Planning Board members and staff. He explained the emergency evacuation procedures and said that copies of the evening's agenda are available on a table by the door. Mr. Makin also asked that all present set their cell phones on vibrate.

**APPROVAL OF THE MINUTES OF THE OCTOBER 21, 2009 MEETING:**

Ms. Godly moved to approve the Minutes of the October 21<sup>st</sup> meeting, commending the Clerk on doing a good job recording a complex meeting. Mr. Herendeen seconded the motion. In a voice vote, the four Board members presented voted aye.

**LEGAL NOTICES:** *None*

**PUBLIC HEARINGS:**

**PB 0904-09 PRELIMINARY TWO LOT SUBDIVISION APPLICATION  
NAME: MICHAEL COLLINS, 579 COUNTY RD 8, FARMINGTON, NY  
14425**

**LOCATION: 340 SHELDON RD**

**ZONING DISTRICT: A-80**

**REQUEST: To re-subdivide Lot #8 of Whitetail Subdivision into two parcels, creating Lot 8A consisting of 10.051 acres with an existing dwelling, and Lot 8B consisting of 5.203 acres to remain vacant. (Continued)**

Michael Collins appeared for his application. He reported that, as the Board requested, he met with the Code Enforcement Officer (CEO), Floyd Kofahl, and the Director of Development, Ron Brand

since the last meeting. In response to a question about access to the site at a previous Board meeting, the applicant explained that there is 800 feet of road frontage. He pointed to the area on the map where he is presently entering the property.

Mr. Collins went on to say that he is considering the future of the property. He could sell it back to the present owners, the Stones, he said, although he later explained that he is actually not purchasing it from them. Instead, they are transferring ownership to him. He decided that he prefers to donate it to the group moving the historic Friends Church onto the next lot. This would give him a tax advantage. The applicant added that he has spoken with representatives of this group who expressed interest in the donation. He would, however, continue to use it and to allow his friends to hunt there as he does now.

The applicant concluded by assuring the Board that he has no plans to build on the property.

When Mr. Collins finished speaking, the Vice Chairman asked for staff comments.

Mr. Brand reminded the Board members that they closed the public hearing at the last Board meeting so they have until January 2, 2010 (62 days) to act on this application. He then read from the Town Codes to clarify the differences between a lot and a parcel:

*LOT—A parcel of land considered as a unit, devoted to a certain use and occupied or capable of being occupied by a building or group of buildings that are united by common interest or use and the customary accessories and open spaces belonging to the same. (Section 165-17)*

Since a lot is a parcel which can be used, i.e., can have buildings on it, this piece of land is not a lot since it cannot be developed. Instead, it is a parcel with a deed and a tax account number. If the Board chooses, they will be re-subdividing Lot 8 of the Whitetail Subdivision to create a new parcel of land.

The Director of Development went on to say that he has spoken with the Town Attorney, Jeff Graff, and to Bob Ewing from the DEC (Department of Environmental Conservation) office in Albany for advice on protecting the SEQR findings in creating this subdivision. Mr. Brand said that he discussed this subdivision with the applicant today and Mr. Collins understands that it is not a buildable lot. At the Board's request, he has prepared draft criteria to fulfill SEQR requirements.

Next, Mr. Makin asked for Board comments.

Ms. Godly asked how to ensure that there is no development on the parcel. Mr. Brand said that no manmade alteration is allowed. Even a driveway is an alteration and would need site plan approval. Mr. Collins would have to appear again before the Planning Board.

Ms. Godly also asked what advice was provided by the Town Attorney. The Director of Development responded that his email crashed on Monday and will not be fixed until tomorrow. In previous emails, Mr. Graff referred to "lot layout" but this does not fulfill the definition of a lot. The Planning Board is free to act but they should make sure the applicant understands what is being done and that the decision is narrowly defined. Mr. Brand repeated his previous warning to the Board not to go against the original SEQR findings for the Whitetail Subdivision.

In her final question, Ms. Godly inquired about the need for a DEC permit for the driveway. Mr. Brand explained that it would depend upon where it is being placed. There is about 30 feet of land available which is not buffer land or wetlands.

Mr. Herendeen said he has no problem in subdividing this parcel for recreational purposes.

Mr. Kleman agreed, pointing out that no building can be done on the site without the applicant returning to the Planning Board for site plan approval.

Mr. Makin agreed with Mr. Herendeen and Mr. Kleman. However, he advised the applicant not to make any changes to the site without consulting the DEC. They can levy stiff penalties and fines for violating their regulations.

Mr. Collins asked where he can park. Should he ask the CEO? Mr. Brand said that this is a matter for the Highway Superintendent, Ed McLaughlin, since a road cut is involved. Mr. Collins should provide a map for him with the wetland boundaries indicated. The applicant said that he has met with the DEC representative who is working with the present landowner on restoring a former farm pond and will consult with him.

At the Board's request, the Clerk read aloud the SEQR resolution which Mr. Brand prepared:

***Whereas, the Town of Farmington Planning Board (hereinafter referred to as Planning Board) has determined the proposed Re-subdivision of Lot #8 of the Whitetail Subdivision into one Lot and one Parcel of land (hereinafter referred to as Action) to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and***

***Whereas, the Planning Board has conducted a public hearing on said action and has given consideration to the comments provided at said public hearing; and***

***Whereas, the Planning Board understands that the applicant has identified his intention to only re-subdivide the land in a manner to allow use of the property in its natural state without any development as defined under the provisions of the Town Code; and***

***Whereas, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7 (c) (1) of the SEQR Regulations and the information contained in Parts I and II of the Short Environmental Assessment Form.***

***Now, therefore, be it resolved that the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):***

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems provided that the site remains in its' natural state without any site development;***
- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed Action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site provided that the site remains in its' natural state without any site development;***
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed action;***
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations provided that the site remains in its' natural state without any site development;***

- (v) *there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed Action impair the existing community or neighborhood character provided that the site remains in its' natural state without any site development;*
- (vi) *there will not be a major change in the use of either the quantity or type of energy resulting from the proposed action provided that the site remains in its' natural state without any site development;*
- (vii) *there will not be any hazard created to human health provided that the site remains in its' natural state without any site development;*
- (viii) *there will not be a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses provided that the site remains in its' natural state without any site development;*
- (ix) *there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place absent the action provided that the site remains in its' natural state without any site development;*
- (x) *there will not be created a material demand for other actions that would result in one of the above consequences provided that the site remains in its' natural state without any site development;*
- (xi) *there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact provided that the site remains in its' natural state without any site development; and*
- (xii) *there are not two or more related actions which would have a significant impact on the environment provided that the site remains in its' natural state without any site development.*

*Be it further resolved that based on the information and analysis above and the supporting documentation referenced above, the proposed Action WILL NOT result in any significant adverse environmental impacts provided that the site remains in its' natural state without any site development.*

*Be it finally resolved that the Planning Board does hereby make a Determination of Non-Significance on said Action based upon the condition that the site remains in its' natural state without any site development and directs the Planning Board Chairman to sign and date the Environmental Assessment Form and the Negative Declaration form and to file copies thereof as provided for under the SEQR Regulations.*

Mr. Herendeen made a motion to approve the Unlisted Action SEQR with a Determination of Non-Significance. Mr. Kleman seconded his motion. The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Robert Kleman—aye

Scott Makin—aye

David Degear—excused

The SEQR was unanimously approved.

Clerk O'Malley then read aloud a draft Preliminary Plat resolution with the following conditions:

1. *The title of the drawing is to read "Preliminary Re-Subdivision Plat Lots #8 A and #8 B Whitetail Acres Subdivision."*

2. *There is to be a note added to the Preliminary Plat identifying that this map is required to be signed by the Planning Board Chairperson and filed with the Town Development Office as a pre-requisite to the Planning Board scheduling a public meeting on the Final Subdivision Plat.*
3. *The note on the Preliminary Plat that reads ... "Prior to issuance of a Building Permit, Final Planning Board Approval is Required." is to be replaced with a note that reads as follows: "The Re-Subdivision of Lot #8 of the Whitetail Acres Subdivision is strictly for the purposes of creating a new Parcel of Land which will not be allowed to make any application for a Building Permit without further compliance with the State Environmental Quality Review (SEQR) Regulations, the flagging of the State Freshwater Wetland Boundary and 100 foot buffer area, and the determination that permits for development within the buffer area have been obtained from the Regional Office of the New York State Department of Environmental Conservation. Then, an application for site plan approval to the Planning Board will be required prior to the issuance of any Building Permit."*
4. *There is to be a note added to the Preliminary Plat that reads as follows: "The site lies within an Zone A Area of Flood Hazard, identified on the Flood Insurance Rate Map (FIRM), Community Panel Number 361299, Map Panel 10 B of 20, Effective Date: September 30, 1983.*
5. *The boundary of the adjacent strip of land, located to the northwest of the subject site owned by the Farmington's Friends Church (Tax Map 9.00-1-7.100), is missing from the Preliminary Plat Map and must be added.*
6. *The Preliminary Plat Approval is valid for a period of 180 days from today. Once all conditions of Preliminary Plat Approval have been met and shown on the Preliminary Plat the Planning Board Chairperson will sign the Preliminary Plat Map and place it on file in the Town Development Office.*
7. *The Planning Board will not accept an application for Final Subdivision Plat Map until first a Preliminary Plat Map with all conditions of approval shown thereon, including an updated revision box, has been submitted and signed.*
8. *The Planning Board determines that parkland is not a condition of preliminary plat approval for this application.*
9. *The Planning Board determines that a Park and Recreation Fee in an amount established by the Town Board resolution is to be paid at the time, if ever, of the issuance of a Building Permit.*

Mr. Kleman made a motion to approve the Preliminary Plat with the conditions. Mr. Herendeen seconded. The Clerk recorded the following roll call vote:

Meg Godly—aye

Ron Herendeen—aye

Robert Kleman—aye

Scott Makin—aye

David Degear—excused

The motion was carried by a vote of four ayes.

Next, the Director of Development went over the process of updating the Preliminary Plat with the applicant. Ms. Godly also asked if Mr. Collins understands the restrictions on this property. Mr. Collins assured the Board members that he has read the DEC website and is well aware of what is allowed. Ms. Godly urged him to become as informed as possible.

#### **OPEN DISCUSSION:**

#### **DIRECTOR OF DEVELOPMENT REPORT:**

Mr. Brand presented the Board members with a letter from applicant Chris Dunfey withdrawing his application for a Special Use Permit for a home occupation. The Board members expressed

concern that the applicant may not have realized that the proposed changes to the Town Code to allow minor home occupations have not yet been made. If Mr. Dunfey has a home occupation at present, he does need to get a permit. They asked Mr. Brand to draft a letter to Mr. Dunfey explaining this and provide it to Chairman Degear for review.

The Director of Development also reported on a staff meeting with Mr. Graff regarding easement issues raised at the last Board meeting. He said that some questions have been resolved, staff responsibilities have been clarified and the Town Attorney will put some information on easements in the design criteria. Another issue discussed at that meeting was whether the Planning Board can require surety for landscaping and similar concerns. According to Section 277 of NYS Town Law, they can request a Letter of Credit or Performance Bond.

Mr. Brand discussed a grant application to the Genesee Transportation Council to continue the linear trail from County Road 41 to the Ontario Pathways Trail in the City of Canandaigua. Funding is needed for trail design, cost estimation, constraint issues and easements. Once completed, 100 miles of hiking/biking trails will be available for the public to use. The Town of Farmington, the Town of Canandaigua and the City of Canandaigua are the applicants.

The final item discussed was a report on the recent presentation to the Broadway Theater League for a new facility at the Finger Lakes Gaming and Racing site. 1.7 million visitors came there last year. 1200 surveys reported that 85% of the respondents would stay for a theater performance. Most respondents were over age 45, the target audience for theater-goers.

*The Board members agreed to take a short break at this point in the meeting, 8:06 p.m., and the tape recorder was turned off. Vice Chairman Makin reconvened the meeting at 8:08 p.m. and the tape recorder was turned back on.*

#### **PUBLIC COMMENTS:**

There were no public comments.

#### **ADJOURNMENT:**

The next meeting of the Planning Board is scheduled for Wednesday, November 18, 2009. However, Mr. Brand reported, no applications have been received as of today so this meeting may be cancelled. Mr. Makin expressed concern that this may reflect a weakness in the current economic climate.

Mr. Kleman made a motion to adjourn with Mr. Herendeen seconding it. In a voice vote, all four Board members voted aye to adjourn at 8:12 p.m.

These minutes were taken and respectfully submitted by

Leslie C. O'Malley, Ph.D.  
Clerk of the Board