

Final Minutes
PLANNING BOARD MEETING
FORT ANN, NEW YORK
February 24, 2014

1.0 Call to order, (7:00 PM)

Pledge of Allegiance led by Acting Chairman Bill Hohmann

2.0 Roll Call

a) Roll call, Board members present:

- Donald Bedeaux, Chairman
- William Hohmann, Vice Chairman
- Chad Wilson
- Brian Mattison
- Curt Rehm
- Lewis Barrett
- Vacant seat

Staff:

- Secretary: Leslie Barker
- Temporary Secretary:

b) Others:

- Matt Fuller, Esq., Meyer & Fuller PLLC
- Jeff Meyer, Esq., Meyer & Fuller PLLC
- Maryellen Stockwell, Meyer & Fuller PLLC

3.0 Open Regular Meeting

3.1 Organizational Meeting.

Acting Chairman Hohmann advised the board that because committees were already supposed to be set up and a new board member resigned, they should wait another month.

Motion made to table the organizational meeting

Tabled	<u>Tabled one month</u>				
Motion	<u>Brian Mattison</u>		Second	<u>Chad Wilson</u>	
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays		<input type="checkbox"/> Abstentions	
	<input type="checkbox"/> Bedeaux, Absent	<input type="checkbox"/> Hohmann		<input type="checkbox"/> Wilson	
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm			
	<input type="checkbox"/>	<input type="checkbox"/>			

Organizational Meeting tabled.

3.2 Review, correct and or approve Minutes of the Last Planning Board Meeting 1/27/2014.

The minutes review was skipped and reviewed later in the meeting; refer to **section 8.0**.

4.0 Public Comment

Public Comment is subject to the Privilege of the Floor Parameters. The acting chairman asked the audience if there was any comment on the agenda. There were no comments. Public comment closed.

5.0 Reports from Committees:

5.1 No reports from committees; there are no Planning Board committees at this time.

6.0 Old Business

6.1 Old Business; there was no old business to discuss.

7.0 New Business

7.1 **George Thomas, Subdivision Application**, County Route 17A, lot 96.-15.2. Mr. Thomas introduced himself as representing Joan McCloskey, County Route 17A, lot 96.-2-8 and that this project is a simple subdivision.

Mr. Hohmann asked the applicant to verify the lot in question and the applicant verified the area he would like to buy. Mr. Hohmann indicated he was not comfortable with this being a subdivision, that Mr. Thomas owns the property around the area being discussed and suggested that Mr. Thomas consider it a Lot Line Adjustment instead and attach the area to one of his parcels. The Planning Board discussed which property lines would be involved and what line would be taken away. The acting Chair voiced his concern that subdivision would create a land locked

7.0 New Business continued

7.1 George Thomas, Subdivision Application, continued

piece of land. Mr. Thomas responded by saying he wanted to put the parcel into an existing lot but was advised he had to do a subdivision application. Mr. Hohmann again explained he would not feel comfortable giving the applicant a subdivision with no access and asked how the rest of the Planning Board felt. Planning Board legal counsel affirmed doing it [Boundary Line Adjustment] would be merging the two lots and that no new lot would be created.

Secretary offered a copy of the Boundary Line Adjustment form to the Planning Board and applicant if matters could be resolved at this meeting. Mr. Hohmann responded that a new map needed to be drawn up and that it could be reviewed as a Boundary Line Adjustment at next month's meeting. Mr. Hohmann asked Mr. Thomas if that would be agreeable. Ms. Stockwell offered that the Planning Board could decide if they are determining that this project is a Boundary Line Adjustment, is exempt from site plan/SEQR review and pass a resolution deeming it is exempt from the review. She advised the applicant he needed to add language to his map indicating it is merging with the adjoining property of the grantor and that no new lots are being created as a result. Additionally, a deed will have to be prepared with the same language in the deed (rephrased: it would need to be printed on the map and in the deed). She advised the Planning Board that if they want to go the Boundary Line Adjustment route, they need to pass a resolution stating it is exempt from site plan review with the conditions that the map be changed and deed created.

The Planning Board asked the applicant if he would be happy going that route and he responded yes, if that is the easier route that would be fine. Ms. Stockwell pointed out it is not necessarily the easier route, but the correct route because if a new lot was created, it would be landlocked and would be a separate and distinct parcel without road frontage.

Motion made to review the project as a Boundary Line Adjustment with the following conditions: that the correct terminology is added to a new deed and the map.

Tabled _____
 Motion Chad Wilson Second _____

Mr. Thomas asked if someone would write down exactly what language is needed and what they want. Ms. Stockwell responded sure, we can do that for you. Secretary asked if the applicant needed a copy of the Boundary Line Adjustment form and gave the applicant the form. Ms. Stockwell asked for the motion language to be modified.

Motion made to accept the Thomas Boundary Line Adjustment application, which was found to be exempt from Site Plan Review. The following conditions apply: 1) re-submit the map with the correct language 2) the correct language added to a new deed.

Discussion continued. Ms. Stockwell advised the applicant that the board does not need to see the deed, but the language has to be included in it. The applicant got several copies of his map and his map mylar back, both which must be updated. The secretary and Planning Board requested to see the new mylar and 2 new copies of the map: one for the file and one the Planning Board can review next month.

The discussion closed on this application.

Tabled _____
 Motion Chad Wilson Second Curt Rehm
 Vote: All Ayes _____ All Nays _____ Abstentions:
 Bedeaux, Absent _____ Hohmann _____ Wilson _____
 Mattison _____ Rehm _____ _____

Ms. Stockwell told Mr. Thomas that John Grady would know what to include when Mr. Thomas tells John about the application change. Secretary asked about the \$25 packet fee and \$50 review fee Mr. Thomas already paid and whether the \$50 review fee should be refunded to Mr. Thomas. Bill Hohmann agreed that the \$50 subdivision review should be refunded. The secretary will ask Helen Denno to refund the \$50 to Mr. Thomas. Mr. Thomas verified he will need to present the correct map next month to the Planning Board. The secretary noted his project would be put on the March 2014 agenda. It was noted that the next meeting is March 24, 2014, not March 31 as the secretary has written down, due to there being 5 Mondays in March 2014.

7.0 New Business continued

7.2 **Elan Cherney on behalf of Frank Cottone, Boundary Line Adjustment.** Mr. Cherney introduced the project as being essentially the same application project as the Rebecca Parrott Boundary Line Adjustment. Mr. Cottone's name had replaced Rebecca Parrott's name on the application. The Boundary Line Adjustment Form for the project stated Owner 1 as Frank S. Cottone, 702 County Route 16, Fort Ann, NY and Owner 2 being Timothy Gusek, 732 County Route 16, Fort Ann, NY for property located at 702 County Route 16, Fort Ann, NY. Elan stated the Parrott Boundary Line Adjustment was approved [October 2013] and shortly after Ms. Parrott contacted him to advise him she could not do the Boundary Line Adjustment because she receives partial disability and therefore cannot sell a parcel to Mr. Gusek. Mr. Cherney stated the property originally came from Mr. Cottone and Ms. Parrott to Ms. Parrott. It was deeded back to Mr. Cottone, Ms. Parrott's husband and the Boundary Line Adjustment Form being discussed is the same as before, except it has Mr. Cottone's name instead of Ms. Parrott's.

The Planning Board discussed and asked if the project had been filed with the County. Mr. Cherney responded no. The deed was done, but before it was filed, Ms. Parrott requested a stop. The deed was in Ms. Parrott's name, was changed back to Mr. Cottone and is now on file.

Ms. Stockwell interjected she checked and the new Deed was filed 2/4/2014. Mr. Cherney stated the applicant is just adding onto Mr. Gusek's property, proceeded to point out where the property adjustment is on a map and that they wanted to return for the Planning Board's re-approval. Ms. Stockwell synopsised there is a pending application that has already been approved and that they are amending the application to change the applicant's name. Mr. Cherney responded "exactly". Ms. Stockwell asked if the Planning Board remembered this application and they responded yes. She asked if the Parrott application was approved and if it is in the minutes and they replied yes.

The Planning Board requested a motion, asked their legal counsel how best to format the motion and was advised to make a motion to accept the application with the amended name of Frank Cottone instead of Rebecca Parrott, to accept the applicant and affirm the board's previous findings of the Boundary Line Adjustment as acceptable to the Planning Board.

Motion made to accept the application with the amended name of Frank Cottone instead of Rebecca Parrott, to accept the applicant and affirm the board's previous findings of the Boundary Line Adjustment as acceptable to the Planning Board.

Tabled

Motion Brian Mattison Second Bill Hohmann
 Acting Chair asked for discussion. There was no discussion.

Vote: All Ayes All Nays Abstentions:
 Bedeaux, Absent Hohmann Wilson
 Mattison Rehm

Secretary asked the Planning Board if additional paperwork should be filled with the application for the records. Mr. Cherney stated he would send Maryellen the proposed deed showing the transfer of property to Mr. Gusek before Mr. Gusek takes ownership of it. Secretary asked for an updated map for the folder to prevent confusion down the line. Ms. Stockwell asked the applicant's counsel if both names were on the map, Mr. Cherney responded neither are on the map, and that it was an earlier map. Ms. Stockwell asked if this would be a mirror copy of what is in Rebecca Parrott's file. Mr. Cherney stated he would send the deed where "they got the property" and "it is Ms. Parrott's deed and moving her property line north". He made a correction saying, "he is moving his property north". Ms. Stockwell asked for clarification on the map to confirm the location, that the land is going to Mr. Gusek and that Mr. Cottone will be giving Mr. Gusek a "little strip". The applicant and his attorney confirmed. Secretary asked if a map should be filed and Mr. Cherney stated no, it is not a subdivision and that Mr. Gusek understands this is not a separate piece he can build on.

8.0 Review, correct and or approve Minutes of the Last Planning Board Meeting 1/27/2014

8.1 Bill Hohmann asked the Planning Board if they have any modifications or corrections to the January 27, 2014 Minutes. Chad Wilson pointed out in section 5.2, page 3 a checkmark was missing from his abstention. Secretary acknowledged there should be a checkmark and will add that on the final Minutes document.

Planning Board members questioned if New Cingular paid the \$20,000 bond for the [Pilot Knob] cell tower application. Secretary responded she had not heard anything. Ms. Stockwell offered to check with Jeff

8.0 Review, correct and or approve Minutes of the Last Planning Board Meeting 1/27/2014 continued

8.1 [Meyer] who was supposed to follow up on it.

Bill Hohmann asked if the Minutes should be approved. He called for any other corrections or additions and there were none.

Motion made to approval the Planning Board January 2014 minutes as corrected.

Tabled					
Motion	<u>Brian Mattison</u>	Second	<u>Chad Wilson</u>		
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions:		
	<input type="checkbox"/> Bedeaux, Absent	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Wilson		
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Review of minutes was closed. Mr. Hohmann asked if there was any other new business.

9.0 Information

9.1 Acting Chairman asked for any new information. There was none.

9.2 Q&A period for the Board, legal counsel and secretary. Maryellen brought up the possible illegal subdivision alert between Sarah Walker and Pamela Roubichad sent to the secretary by Laura Chadwick, Washington County. Jeff Meyer had reached out to the involved attorney, Bill Nikas. Maryellen explained that this was the result of litigation over a shared boundary line, which involved an 80' x 189' and a 10' x 189' piece of property. She did not know the nature of the litigation. When Jeff contacted Mr. Nikas, Mr. Nikas responded that he would do what needed to be done, since it was not brought before the Planning Board; that he simply filed the deed with the County. She told the Planning Board they have three options: 1) do nothing 2) make them come before the Planning Board with a Boundary Line Adjustment application 3) pass a resolution affirming the boundary lines and deeming it exempt after the fact (to create a record of the board making a decision on the application). She offered the board the options of requesting more information or tabling it and discussing it at the next meeting. The Planning Board discussed various scenarios, why this was classified as an illegal action with their legal counsel and what the various consequences would be for their reaction. Maryellen brought up there will be no record of this if nothing is done. She offered to go back to Mr. Nikas and ask him to provide more details of the Boundary Line Adjustment for a record.

The Board's consensus was everyone should follow the same rules so that all applicants are treated equitably and equally and to keep this as a discussion at this time. They felt it was important to discuss the issue at this meeting and have it recorded as such. They asked their legal counsel to get more information on the circumstances and facts from Mr. Nikas and questioned why the paperwork was not filed with the Planning Board to begin with. They felt it prudent to have the project specifics on file and recorded, which would mean having the applicant file for the Boundary Line Adjustment application and present to the Planning Board. While the project outcome would be the same, it would go through the proper process and have a record to reflect that. Maryellen said she would reach out to Mr. Nikas to let him know the Fort Ann Planning Board feels the involved parties need to formally apply for a Boundary Line Adjustment and that the Fort Ann Planning Board standard protocol is followed. Secretary warned about keeping good records for reference down the road, noting the difficulty tracking the Pilot Knob Cell Tower history.

Maryellen next mentioned the Planning Board lacked one member with the resignation of Denny Fletcher. She asked the board if they knew of any interested persons from the last time the Town last advertised for board members. If so, they needed to let the Town Clerk know or the Town Clerk would republish and repost 'seeking of new members'. Bill Hohmann suggested the Town Clerk publish the ad, since there were no known interested candidates from the Planning Board members.

Secretary noted she requested Helen Denno refund the Shed Stop their \$1000.00 engineering fee paid, because Town engineer Tom Jarrett did not review this application. Regarding the County Waste project, the secretary mentioned Mr. Jarrett asked if the Planning Board wanted a last set of drawings [before any refund could be determined] and she pointed out that a last set was not a condition in the County Waste Resolution. The Board asked if a finalized [County Waste] plan had been received and the secretary responded no. The Planning Board felt the project should be finished up for the formal record. They asked if DEC made their final approval for the application and the secretary replied she had not heard. The Board felt they should receive one final set of drawings after all permitting

9.0 Information continued

9.2 Q & A continued

was concluded with a copy of the DEC permit for the permanent record or an “as built” final set of plans. There was a discussion about who should contact and follow up with the applicant and the Planning Board felt their legal counsel should be the contact party to make sure this was done. Ms. Stockwell asked for confirmation of the applicant attorney’s name, Mr. Jon Lapper. She said she will let Jeff [Meyer] know what the board concerns are and have him reach out to request a copy of the “as built” set of plans including the DEC approval and any fine tuned changes that were made.

Secretary asked if the Planning Board would like to see their new laptop. Their answer was no. Several questions were asked about the new equipment and if there was enough PB supplies to work now. Secretary updated the board on a few items still waiting to come in. She felt the laptop should be a good investment at the price they paid and advised that Don [Bedeaux] and Darlene [Dumas] have all the passwords/usernames etc in addition to the secretary if someone needs to access the machine when she is not available. There were some start up software glitches that have been recorded with Dell and the secretary is working with Dell to solve those issues. The laptop has 2 users set up: the primary administrative account is the Planning Board, a secondary account is set up for a Town Employees who need to use the software but will not have access the Planning Board files, only the software on the laptop.

Planning Board member asked their legal counsel what happens after an applicant does their Subdivision paperwork and the mylar has been signed, what are the proper procedures that follow? Answer: it is a fact-by-fact basis, not sure what the question is. Planning Board members: to be very specific, people come in and do subdivisions [giving land to immediate family] and then [the land] it shows up in a real estate magazine. Is it [the application] supposed to go to [Washington County] Real property from here? Counsel answer: right, it goes to the County. Planning Board: is there a time limit within which it has to be filed? Legal counsel answer: yes, but I don’t know specifically; it has to go the County after [it is approved]. She was not sure of the expiration time and offered to find out. The secretary brought up the County Waste County referral and County Planning Board not getting back the required signed referral form until notice was given by the County. Legal counsel confirmed that a subdivision project has to have the mylar on file with Washington County prior to a sale and she would find the time limitation period for filing.

If not filed with the county, what is the recourse, the Planning Board asked. Ms. Stockwell was not sure, that she had not come across that situation but understood the scenario and said she would find the answer. Planning Board suggested the applicant would have to return to renew the application or re-apply for the project with the Fort Ann Planning Board. There was a board-wide brief discussion. Legal counsel reminded the board that someone buying a subdivision parcel has the responsibility to make sure all the correct paperwork has been filed with the county on time, that there is a municipal approval and that they do things like title searches etc. when purchasing property. Secretary asked who at the county enforces this. Legal counsel said she would find out and get back to us. Planning board members brought up cemetery lots have deeds but very few deeds are filed as an example. If one does not have the deed, one has no proof of ownership if the deed was not filed. Jeff Meyer checked in by text message to advise that the Washington County time limit for filing a signed mylar on an approved town project is 62 days. The Planning board responded that after 62 days, the applicant must return to the Planning Board for re-approval. The County will reject the approved project, because the time limit has passed.

The Acting Chair asked the board if there was anything else. There was no additional discussion.

Motion made to adjourn.

14.0 Public Discussion

Public Discussion is subject to the Privilege of the Floor Parameters. There was no public discussion at this point.

15.0 Executive Session

Executive Session was not required.

16.0 Adjourn.

Motion made to adjourn the meeting.

Tabled _____					
Motion	Brian Mattison _____	Second	Chad Wilson _____		
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	Abstentions:		
	<input type="checkbox"/> Bedeaux, Absent	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Wilson	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The meeting was adjourned at 7:59 PM.

Leslie Barker, February 27, 2014