

Village of Webster
Zoning Board of Appeals Meeting Minutes
Meeting Minutes of May 18, 2017

Community Meeting Hall
29 South Avenue
Webster, NY 14580

Present: Mark Nicholson, Bob Fantauzzo, Mike O'Connor, Karl Laurer, Bill Baker, Atty. David Mayer, Building Insp./Code Enforcement Officer Will Barham, Deputy Clerk Jo O'Neill

Meeting came to order at 7:30pm.

Mark Nicholson asked for a motion on the minutes from March 16, 2017.

Motion: Karl Laurer made a motion to approve the minutes of March 16, 2017 as written. Seconded by Bob Fantauzzo. All were in favor. Minutes were approved.

1) Application:

Mary Jean Yengo, owner of 63 Park Avenue, Tax ID#080.14-1-60. Applicant is requesting a variance to construct an addition to the house which would result in a 31% lot coverage, where a 25% coverage is allowed pursuant to Village Code 175-13B. Property zoned: R1-9.6.

Presentation: Mr. Barry Barone, representing Mary Jean and Jack Yengo, said that he had put an addition of a family room on this house 4 years ago. The owners would like a first floor master bedroom (14ft x16ft) and laundry room to be able to "age in place." They would be building a 22ft x 22ft addition. The Village Code allows for 25% lot coverage. The addition would make it 31% lot coverage, consequently they would need a variance for the 6% additional lot coverage. The lot is only 50ft wide, where most lots are wider than that. They sent out 95 notices to the neighbors within 500ft, and received no objections. The neighbors they spoke to are in favor of the addition. The addition will be on the back of the house, and won't be visible from the street.

Mike O'Connor inquired as to whether the addition would match the current siding and roof.

B. Barone indicated that it will. The roof on the back will be a reverse gable.

Karl Laurer asked about the foundation.

B. Barone replied that the addition will have a 5 block crawl space underneath, and its own heating and air system.

Open to Public Comments:

No comments made.

Public Comments Closed:

M. Nicholson restated the need for a variance for the lot coverage, and they would also need a motion on SEQR.

Motion: Bill Baker made a motion to declare the Zoning Board of Appeals the lead agency for a Type II action pursuant to SEQR. Seconded by Mike O'Connor. All were in favor. Motion passed.

Motion: Bill Baker made a motion to grant a variance to allow 31% lot coverage for the proposed addition at 63 Park Avenue. Seconded by Karl Laurer. All were in favor. Motion passed.

2) Application:

Mark and Kayla Picardo, of 237 Judson Street, Tax ID#080.14-3-49. Applicants are requesting a variance to construct a 120sf accessory structure, where a 100sf is allowed pursuant to Village Code 175-59A. Property zoned: R1-13.6.

Presentation: Mark and Kayla Picardo are both teachers and moved into the house in January of this year. They are in need of storage space for their lawn mower and garden tools, and would like to install a 120sqft shed. The Village code allows for a 100sqft accessory structure, so they would need a variance for the extra 20sqft. They have gone door to door and gotten signatures from their neighbors, and had no objections to installing a shed of this size. There is a 14ft x 14ft slab already there that the shed will be placed on.

Bill Baker inquired if there was a previous variance granted for a shed on this property.

Will Barham indicated that there was not.

Open to Public Comments:

Charles Styles, 229 Judson Street, is a neighbor of the Picardo's. He stated that they are refurbishing an "eye sore" into a great house, and will increase the value of the houses around it. Some houses in the neighborhood have two sheds. This one will be located in the back of the lot, and he is all for it!

Mayor Cahill, 220 Judson Street, echoes Mr. Styles comments. The house was in shambles, and the Picardo's have gutted the inside and completely renovated it. They have been working diligently on the yard. It is a positive change for the neighborhood.

Public Comments Closed:

Mark Nicholson asked for motions for SEQR and the size variance for this application.

Motion: Bill Baker made a motion to declare the Zoning Board of Appeals the lead agency for a Type II action pursuant to SEQR. Seconded by Mike O'Connor. All were in favor. Motion passed.

Motion: Mike O'Connor made a motion to grant a 20sqft variance for the accessory building at 237 Judson Street. Seconded by Bob Fantauzzo. All were in favor. Motion passed.

3) Application:

Mark Van Epps, developer of Brittany Woods Townhomes, Tax ID#080.11-1-12 and 080.15-1-49.1, located at the southeast corner of Ridge and Phillips Roads. Application for a preliminary site plan review to develop 13.4 acres for a 14 building townhome development. Applicant also seeks relief from current zoning regarding number of buildings per acre. They are requesting 14 townhouse buildings on 13.4 acres, where one building per acre is allowed pursuant to Village Code 175-17A(3). Property Zoned: Residential RM.

Presentation: Scott Sydelnik, Attorney for Mark Van Epps, and Jack Buholtz, Engineer with TY Lin, presented. Mr. Sydelnik noted that they have been at several Village meetings and held an Open House to inform the community of their plans for Brittany Woods Townhomes. The property has been rezoned to RM-Residential, which allows for one building per acre. They would like to build 14 buildings on 13.4 acres. Originally, they had proposed building 13 buildings, which they would not have needed a variance for, but the Planning Board had asked them to divide the long row of units along Phillips Rd into two buildings. Consequently, they will need a variance to build 14 buildings, or 1 building per 0.96 acres. The Webster Economic Development Alliance (WEDA) has researched and shown the economic value of the development to the Village. It will generate jobs and increase the tax dollars due to the Village. They have also sent out notices to all residents within 500ft of the property.

Jack Buholtz added that they could build 13 buildings on 13.4 acres with 8 units per building, for a total of 104 units, without needing a variance. They are only proposing a total of 68 units, which is approximately two thirds of the total units they could build. They could also have 25% building coverage of the property, and are only covering 17%; again approximately two thirds of what they could cover, indicating that they are not crowding the property beyond the capacity of the site. Additionally, he noted that the Village Board has already voted on SEQR for the development.

Open to Public Comments:

John Viggiani, 203 Rayfield Circle, asked for clarification about the two buildings in the southeast corner with four units in each building. He also asked about the square footage of each unit.

J. Buholtz replied that the two story buildings are approximately 1400sf, and the ranch style are approximately 1100sf. All of them will have a full basement and a two car garage.

S. Sydelnik noted that the monthly rent for the townhomes will be between \$1350 and \$1500. Mr. Van Epps will build and maintain the development.

J. Buholtz mentioned that there are some two bedroom and some three bedroom units. He then displayed drawings of what the townhomes would look like. There will be two story units

along Phillips Rd.

K. Laurer inquired whether there would be any subsidized/section eight tenants.

S. Sydelnik replied that they don't expect there will be.

Kimberly Schwenzer, 1449 Ridge Road, expressed that there is a huge issue with the water and drainage from this property. The creek behind the Ridge Road homes, and just north of the proposed development, has crested and flooded into their yards. The development takes 13 acres of permeable surface and makes it impermeable, which could cause the creek to flood more. Why can't we just keep it to the one building per acre, with less impermeable area? This also takes out 13 acres of nature and trees. Maybe we don't need the two buildings in the southeast corner. Why not just keep it as green space, and not imping on the wetlands? Why not make it a park area? She then pointed out where the creek is on the site map.

Mayor Cahill commented that Harmony Park, which is owned by the Village, is right next to the development. There's a large grassy area there where the children can play.

K. Schwenzer asked how many three bedroom units there will be that are likely to have children in them.

J. Buholtz indicated that there will be 25-30 three bedroom units. He then also said that they will be infiltrating all of the runoff ground water from the development site. It will go into a pretreatment basin and infiltration basin, not just into a pond that feeds into a stream or creek. The soil there is "medium sand." They had professionals do infiltration tests per the DEC regulations in a number of spots, and some were found to drain 100" per hour. The minimum allowed is 0.5" per hour. It has been designed to withstand a "100 year event."

W. Barham added that according to the calculations and data received, everything has been designed to meet all of the current codes.

J. Buholtz pointed out the 75ft area along Phillips Rd. running up to Ridge Rd. will not be developed. It will be maintained as lawn. The wetlands area will also not be developed, and will remain as is. They have made a responsible effort to manage all of the site related issues.

Mayor Cahill mentioned that the wetland issue was discussed at the Planning Board meeting, and it was noted that the DEC did not have any problem with the development there. Mr. Buholtz had met with him, Will and Jake regarding the infiltration of the property, and they are confident that the system is designed to control the water issue. The developer held an open house to allow the community to ask questions about the project. The Village Board also reviewed the project details very closely before making the decision to rezone the property to RM, Residential.

Richard Walter, 20 Elm Street, commented that according to the Webster Economic Development Alliance this development is going to “save Main Street.” These people are going to walk six blocks down Main Street to shop at those stores, instead of getting in their cars and shopping elsewhere? He also heard that they have donated \$175,000 to the Village in order to get the zoning they wanted. Why not consider donating some play equipment to Harmony Park for the kids who will live in this development? Some “good will” like that would go a long way to solve the issue of where the kids can play. You are taking away some land that was designated on the “Village Master Plan” as open space.

S. Sydelnik replied that the property is owned by Wegmans, not the Village, and the question about play equipment would be a question for the developer.

J. Buholtz did email the Planning Board Chairman for input on how they would like to see the recreational open space there. He replied that he was very busy at the time, but he would get back to him. They will be at the June 1, 2017 Planning Board meeting if he doesn't hear from him before.

Paul Bruns, 1455 Ridge Road, asked if there has been a change in size of the ponds.

J. Buholtz explained that they have been reconfigured and may be slightly larger. The pond to the left is a “pretreatment” or sedimentation pond, with tremendous infiltration. There is an 8” overflow pipe above the 100 year flood level, that would drain into the 48” storm sewer, which eventually does run into the creek.

W. Barham reiterated that the overflow pipe is above the 100 year flood plain, and would only be used in the case of a “catastrophic event”. There is always an overflow for these ponds. It is standard practice.

P. Bruns expressed that Jack and Will have done a good job describing the system and how it is supposed to function. Jack himself has gone down to the end of the creek and looked at the drainage pipe that goes under Ridge Road. The pipe there is smaller than the pipe at Phillips Road where the creek begins. As it is now, the creek overflows. Something needs to be done to ensure that the Ridge Road residents won't be adversely affected by the development. The numbers all look good on paper, but once the engineer is done, the Village gets stuck with inspecting and making sure the ponds are working properly. If the ponds don't function properly, the residents along Ridge Road will be affected. Also, along the east side of the property, nothing has been said about creating a buffer for the neighbors to the east.

J. Buholtz indicated that the trees there that are beyond the proposed pavement will stay there. They will not plant any new trees along the storm sewer, but the other ones along the wetlands will stay.

P. Bruns summarized that he is looking for some “guarantee” from the Village that the Ridge Road residents along there will not be affected. The creek may be in the town, but it takes water from the Village. He would also like to see a buffer of some sort put in between the development and the existing residents.

M. Nicholson thanked Mr. Bruns for his comments and then asked Will Barham and Atty. David Mayer to clarify the issue at hand, potential corrective actions, and are they within our purview.

D. Mayer replied that these are more site plan issues, than zoning issues. The site plan will be before the Planning Board in a couple weeks, which will be a better place to address some of these issues.

W. Barham added that in reviewing the plans, the storm water facility (also referred to as retention ponds or infiltration basins) they are proposing is in the documents and have been approved by the DEC. In fact, the infiltration rate recorded is higher than the DEC requires. While we don’t have a “crystal ball”, the design as presented meets and/or exceeds the requirements. As a municipality, we require that any storm water facility installed has a storm water maintenance agreement with the Village, that says once a year they must have the system inspected by an engineer to make sure it is functioning properly. If it is not, they must restore it to the original design standards. If the owner does not restore the system, the Village can hire someone to repair it and bill the owner. This would however, be specific to the project and not include property outside of the development, such as the creek or drainage pipe that goes under the road. The creek has had chronic problems when the drainage pipe is blocked. The town is also looking at the plans, but Ridge Road is a NYS road. If the issue is with the pipe running under Ridge Road we will contact the state and ask them to look into it and take care of that area.

R. Walter questioned about the perk test. How far down is the bedrock? The water would drain down, but start to go sideways once it hits bedrock.

J. Buholtz explained that they went down 12 feet with their testing and did not hit any bedrock. The same amount of rain is going to fall whether the property is developed or not. This will not change the situation, or fix any existing water issues.

K. Schwenzer noted that while members of the boards may all be in favor of the project, none of them live where they will be directly affected by the development; aesthetically, noise wise, with disruption from lengthy construction, or possible flooding. How can you say an infiltration basin is going to take care of the water that was absorbed by all of the trees and vegetation that’s currently there?

M. Nicholson clarified that there are 13.4 acres with only 25% coverage. So we have about 3-4 acres of impermeable surface. The rest is permeable. This may not however, take into account the roads, parking and sidewalks.

J. Buholtz added that the actual buildings only cover 17% of the development, so with the added pavement the total coverage would be approximately 27%. If they were to take out a building and went with standard drainage, the water issue would be worse.

K. Schwenger asked that the developer be willing to make some sort of concession. Take out one building or something to show that they are considering the neighboring residents.

S. Sydelnik reiterated that while their concerns are being heard, they are not relevant to the issue before the Zoning Board tonight.

M. Nicholson expressed that everyone will have every opportunity to speak their concerns, even if their comment may not be relevant to the current issue.

Laurel Bruns, 1455 Ridge Road, wants to urge the board to not grant the variance. There are too many buildings for 13.4 acres, especially a site that has been a natural habitat for over 40 years.

Mayor Cahill restated that if they had stuck with their original plan, they would not be here now. They could have moved forward with 13 buildings without needing a variance.

S. Sydelnik added that they are not building the maximum number of units they could have (104 units). They are not trying to “cram” extra units in there. The developer wants to work in partnership with the Village, maintain the development, and stay.

M. Nicholson explained that they could build 13 buildings with 8 units in each building (104 units), and have 25% building coverage without needing any variance or public hearing, and still be in compliance. That scenario would be worse than what they are proposing.

Public Comments Closed:

M. O'Connor asked if they have spoken with anyone from the town regarding the creek that goes to the culvert? If it is 50 – 60 years old, is the pipe still sized correctly? Should the creek be reshaped to hold all the water that runs through it?

W. Barham replied that the way the infiltration basins are designed, they are not designed to have the water exit directly into the creek. They have an overflow that is above the 100 year flood plain.

M. Nicholson commented that Will would be in his official capacity to send a note to the Planning Board Chairman saying that the issues brought up tonight were not in the ZBA's purview, but they are in the Planning Board's, and I think they should consider them.

J. Buholtz mentioned that he had placed a call previously to NYS regarding the culvert, but had not received a call back. He will pursue that again and see if they will upsize it, as it does carry a lot of water. When the culvert isn't blocked, it has a good slope and the water flows well.

P. Bruns stated that the creek was straightened and deepened in the 1970's. When Heartland Estates was built, on the southwest corner of Phillips and Ridge Roads, the creek that used to flow through there was all culverted, and now flows into the creek on the east side of Phillips Road. The water has been eroding the banks of the creek behind their houses.

W. Barham added that they also put in a retention pond for Heartland Estates, which adds to the water quality and quantity. It slows the flow of the water into the culvert and across into the creek on the other side. Will has a lot of questions for the town, and thanked Mr. Bruns for the information.

M. Nicholson asked if there were any more questions from anyone, and then summarized that they will need a motion regarding SEQR, and a motion on the variance to allow 14 buildings on 13.4 acres. Even though the Village Board ruled on SEQR when they rezoned the property from P.U.D. to RM, the ZBA should rule on it again for the variance.

Motion: Bill Baker made a motion to declare the Zoning Board of Appeals as the lead agency for an unlisted SEQR, with no significant adverse environmental impact. Seconded by Mike O'Connor. All were in favor. Motion passed.

Motion: Bill Baker made a motion to grant a variance to Brittany Woods Townhomes for developing 14 buildings on 13.4 acres. There was no second to the motion. The motion did not carry, and no other motion was offered.

M. Nicholson indicated that they will call for another meeting the following week on 5/25/17 @6pm, to further the discussion on this application. The public portion of the meeting has been completed, so there will not be another public hearing.

Mayor Cahill asked if Brittany Woods could change their plans back to 13 buildings and not need a variance.

D. Mayor replied that they could.

K. Laurer asked if they could vote on 13 buildings now; to which Mark replied they could not.

M. Nicholson added that they have 62 days to come to a decision on the application. If they do not act on the application within that time, the application is deemed approved. He then asked for a motion to adjourn the meeting.

Motion to Adjourn: Bill Baker made a motion to adjourn the meeting.
Seconded by Bob Fantauzzo. All were in favor. Meeting adjourned at 9:05pm.

The next Zoning Board of Appeals Meeting is scheduled for 6:00pm on May 25, 2017.
Respectfully submitted,
Jo O'Neill, Deputy Clerk