

PLANNING BOARD

Town of Lewiston 1375 Ridge Road Lewiston New York  
Thursday – April 19, 2018  
PB 2018-4

Present: Burg, Casale, Conrad, Craft, Lilly, Taczak, Parisi

Presiding: Bill Conrad, Chairman

Roll Call

Conrad: Welcome to the April Planning Board meeting. LMK Realty Associates has asked to be taken off the agenda.

**A motion to approve the minutes of March 2018 was made by Taczak, seconded by Burg and carried.**

The first item on the agenda was a subdivision request from Robert Posa for 4-lots on the west side of Ransomville Road, SBL# 76.00-1-12.11.

Robert Posa: I am going to get 4 lots ready for building. I will try to do one house a year if that's alright. I didn't ask that question before. Is that okay? I don't have to build 4 this year do I?

Conrad: No. Our action tonight is for the subdivision.

Masters: You have to pay taxes on them for the next 4 years.

Conrad: Any questions from the Board for the applicant?

**A motion to classify the subdivision as a minor and treat it as a minor was made by Taczak, seconded by Lilly and carried.**

**A to recommend approval of the subdivision as presented was made by Burg, seconded by Taczak and carried.**

Conrad: On the sunset clause we discussed, where did that originate for the subdivisions?

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Masters: I think that just came up in conversation because historically they are just lying there floundering for 10-30 years. The Town Board has never done anything with them. They are just sitting there. We have one on Saunders Settlement Road by Garrow with 10 lots probably 25 years old and nobody has ever done anything with it. It's an approved subdivision for 25 years. It's never been filed. It's one parcel of land and nothing was ever done.

Conrad: What would be best for us to do make a recommendation that this be added to the law? Is that what you were thinking?

Masters: If that is something everybody is looking for I would definitely be in favor of that. I think it's something we should add and send it to the Town Board with the law as a recommendation.

Conrad: What does the Board think?

Taczak: I think it's a great idea.

Burg: I think it definitely needs to be addressed. I'm worried about the time frame. I talked to a couple of developers and their thinking anything less than 5 years would be unreasonable.

Masters: To start?

Burg: Yes.

Lilly: I would say so also. How long does it take for a developer to get through all the planning stages? It seems.....

Masters: The time clock wouldn't start until after everything was approved.

Lilly: I understand but what I'm getting at is if the planning stage takes 2 years, we certainly have to give them more than 2 years or 3 years because of the actual work would only make sense that it would take longer than the planning part. So if the planning to go through all the different various boards takes 2 years, I think to put a shovel in the ground and actually construct something should be given a lot more time than the planning stages. I think 5 and that's just to start right, to show some sort of effort.

Burg: I'm all for it I just don't want it to be too restrictive.

Conrad: Different projects, it's not like a one size fits all law either. What we could do is if we make it less than 5 years and have something in here, I think in this law we have from Ithaca that an extension can be requested by the developer should they have a larger project and they foresee it is going to take more time because of the scale of it.

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Masters: If you have a 9 phase subdivision, the problem isn't from phase 1-9; the problem is from the final plat approval to starting which in my mind if they are serious about putting a subdivision in there really shouldn't be much of a lag time there. I don't know why someone would need 5 years. If you are serious about putting a subdivision like Rubino, they came in here last year and did all the planning and if they come in for May and go to the Town Board in June and they got their approval in June, my assumption is they are going to start by fall.

Conrad: Typically we get push back from the developers because they want to get the shovel in the ground because the construction season is short. I was always pushing the Boards to get approvals as a developer.

Masters: Wolfgang's came in. He got the approval and he was cutting the trees down even before he was allowed to cut the trees down.

Conrad: Are we talking about 2 different things then? Do we need to address finishing or do we need to address getting started or do we need to address both?

Masters: I think once it starts it's not that big of an issue because the PIP has a time limit. I see the bigger issue is if it gets approved and they don't file or if it gets approved and they file but never start, that's what I feel is the bigger issue.

Lilly: How many of those situations are out there?

Masters: At least 8-10 or more.

Burg: Is it reasonable in the planning stages to get a time frame and establish a time frame based on the individual developments?

Lilly: Make them commit to a timeline?

Casale: I think you are setting yourself up though, it could get political.....why isn't it 12 months from when it's approved? If you don't do anything then you have to come back and get approvals. In the Village.....if you don't file for a permit within 12 months then you have to come back and get reapproved.

Conrad: In 5 years the codes change. They change every 3 years.

Casale: If you don't file for that permit within 12 months then you basically have to start over again.

Parisi: I think you have to look at what triggers your time period too. If you look at Ithaca there are 2 different, there is a 1 year and a 3 year, whatever is earlier and it's based on final site plan

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approval by the Planning Board or that's the 3 year or 1 year from the time the building permit is issued. When you are talking about time frames, what you're setting that time frame against, what triggers that time frame could be important in terms of how much of a process is left or how much you still have to go through.

Taczak: That sounds very reasonable, 3 years from Planning Board approval or 1 year from the building permit.

Masters: There is no way you can dictate the market. Let's say I come in and want to build a 20 lot subdivision and the market tanks and I build 1 house but all the infrastructure and the road is all done and the street lights are in and everything is all done, it really isn't any skin off the Town's nose. I really don't see that as an issue. Big Vista sat there for 10 years, he is paying taxes, the street lights are on, and there are no safety issues. It's really no issue for the town of Lewiston. It's his crisis because the market tanked. What the issue in my world is from the time the final plat gets approved by the Town Board, if the guy doesn't start in 1 year, 5 years, 20 years. That's to me the bigger issue.

Conrad: What is the pleasure of the Board on how we approach this? I kind of agree with you Bill with the 1 and 3 years. Just the code issues alone are why I don't want to go 5. The Dept. of State sent this to me.

Taczak: We have it as a matter of record that it's here right. Why don't we as our attorney said, 3 years from Planning Board approval or 1 year from the building permit.

Parisi: You would be moving to recommend that the subdivision law as proposed to be amended to include those provisions?

Masters: I don't understand the building permit one though?

Parisi: It's from the Ithaca law. If you read it, subsection C: unless work has materially commenced in accordance with the final site plan within one year from the issuance of the building permit authorizing such work, or within 36 months of the date the Planning Board gave final site plan approval, whichever is earlier.

Conrad: That makes sense because your permits expire too.

Masters: It should say PIP Permit not building permit. You're not saying the houses have to be built; you're saying the infrastructure has to be put in. There is no way you can enforce what house is going to be built.

Taczak: I'll amend it to a PIP instead of a building permit.

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Masters: When the guy comes to the Town Planning Board whether it is Rubino or Jerry Wolfgang or whoever it is, they are supposed to prove to the Town that they have the financial where with all to complete this project. If they prove to the Town of Lewiston that they have the \$4,000,000. sitting in the bank, why would it be 5 years?

Taczak: At least this way we have, here it is we welcome your business but.....this is....

Conrad: If they need an extension make sure we have that in there so that.....it's going to take me 6 years.....

Taczak: The building permit will expire after 1 year, they have to come back.

Masters: The PIP will expire.

Burg: What about the talk of a secession plan?

Masters: What would happen is their fees for a PIP permit are all based on their projections. The PIP engineering inspection fees are based on them saying I'm going to have a crew out there at 200 days, 8 hours a day.....Bob would give his fee based on that. If that construction schedule gets strung out 5 years, Bob's fee is going to be 5 times larger than it would be if it was in 1 year. They are not going to want to do that or do it in phases.

Taczak: I still think we have to have something in there.

Conrad: As a start can we agree that this Section C, maybe Ryan you can massage it? What does the rest of the Board think?

Masters: Bill when you talked to those guys were they talking about starting or completing?

Burg: Starting.

Masters: Did they tell you why they would need 5 years?

Burg: That was Mark Cerrone and Larry Quigliano. That is also from a developer's point of view.

Parisi: From a Town's point of view I guess a lot can change in 5 years too, the character of the area.....

Burg: Our responsibility is to the Town not to the developer but like I said I would hate to be overly restrictive.

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Conrad: That's why I think we include a provision that if they believe it's going to take them longer then they can ask for an extension.

Burg: I agree. I think Section C sums it up.

Parisi: Ithaca says you can ask for it as long as you can show undue hardship on the applicant may extend the time limits.

Burg: Other than financing what would come up that would.....so does the approval stay with the plan or the developer? If something happens to the developer what happens to the approved plan?

Masters: I would think it would stay with the plan. For example, Wally Moll transferred to Don Smith and didn't skip a beat when Wally Moll passed away.

Burg: Wall Moll had the financing. In part of the approval process he showed that he had the financing in place. Once it transitions to another developer how do we know that that developer has.....

Masters: The road infrastructure was in at that point in time.

Burg: I'm considering what happens before anything starts, before anything commences?

Parisi: There is a subdivision on Beebe and Lockport that advertised as an approved subdivision and the developer who got it approved is simply trying to sell it. I think some people will try to do that, get it on paper, go through the process and then try to sell the whole thing, sell that concept to someone else.

Masters: If it's filed there would be no issue with it. If it's filed with the County we wouldn't care who the developer was.

Burg: What about in that secession period that they exceed the time limits and then the plan gets pulled?

Parisi: I guess that would be an undue hardship that came up that you would ask for an extension.

Conrad: With this law on the books it would protect the Town if that did happen and there were some big lag between your first owner and your second that the approval of the plan would go away so the new person would have to come in and get it reapproved which shouldn't be a lengthy process for them to get reapproved.

**I'll continue my motion.....**

Parisi: Again the Planning Board here is a recommending Board.

Taczak: That's all we're doing is recommending. If the Town Board doesn't like it they don't have to.

VanUden: 1 year on the PIP and 3 years after the Planning Board approves it.

Conrad: We adopt the Town of Ithaca, Section 270-194 Expiration of site plan approval C.

Parisi: Your motion is you want to recommend the subdivision law as drafted with that change?

Burg: It would be based on the Town Board's approval. The clock would start ticking so to speak upon the Town Board's approval not our recommendation to the Town Board.

**A motion to recommend the subdivision law as drafted with the Town of Ithaca, Section 270-194 Expiration of site plan approval C, was made by Taczak, seconded by Craft and carried.**

Conrad: Just for clarity our motion is to take this law and put it on our books correct?

Parisi: Your motion is to approve the law, again the Town Board is the one that.....

Conrad: Yes, recommend the Town Board be put in.

Masters: It's not a building permit, it's a PIP.

Parisi: Obviously you take references out that might be in there.

Conrad: Is there anything else for the Board tonight?

The next meeting will be May 17, 2018, at 6:30 p.m.

**A motion to adjourn was made by Taczak, seconded by Craft and carried.**

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Respectfully submitted,

A handwritten signature in blue ink that reads "Sandra L. VanUden". The signature is written in a cursive style with a horizontal line underneath.

Sandra L. VanUden  
Planning Board Secretary

A handwritten signature in blue ink that reads "W. Conrad". The signature is written in a cursive style with a horizontal line underneath.

William Conrad  
Planning Board Chairman