

A meeting of the Town of Moreau Planning Board was held on February 26, 2018 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Present:

Ron Zimmerman	Chair
Jerry Bouchard	Planning Board Member
Reed Antis	Planning Board Member
John Arnold	Planning Board Member
Mike Shaver	Planning Board Member

Also present: Jim Martin, Zoning Administrator; Tricia Andrews, Recording Secretary

Planning Board Members Absent: Erik Bergman, Peter Jensen

The Board reviewed the minutes of the January 22, 2018 meeting. On p. 2084. perc test not 'per,' in the 2<sup>nd</sup> pp thought not 'though,' on p. 2085 Mr. Bouchard's name was misspelled, log form was changed to long form, on p. 84 Mr. Arnold had mentioned Palmer Terrace not Palmerton, and on p. 2085 contingent on successful completion stormwater. Motion was made by Mr. Bouchard to accept the minutes, and was seconded by Mr. Shaver. All in favor, motion carried

**#1 Winterberry Subdivision  
Public Hearing  
Final Plat Amendment**

Travis Mitchell of EDP was present to review the proposed revisions to the Winterberry Subdivision. it is on the corner of Bluebird Road and Ft. Edward Rd., a 30 acre site in R-2 Zoning. It could support as many as 77 lots with water connections. It was approved in 2010 for 60 lots with water & sewer, as a cluster development with vegetative buffers. In 2016 the developer asked for re-approval for a similar layout and buffers down to 58 houses, with municipal water and septic systems. Now they want to reduce to 49 lots and reconfigure the entrances on the site. Generally it is the same internal layout, but there is no longer a connection to Ft. Edward Road, and they moved the Bluebird Road connection, and added green and open space buffers with the mobile home park. This is 20% road system reduction. The Highway Department, and Fire Department and Jesse Fish from the Water Department have all submitted letters which were forwarded to the board via email today. Mr. Fish at the wWater Department approved the placement of lines as submitted. They are 8 inch dual connections. Mr. Arnold asked what the point is of dual connections and Mr. Mitchell explained that Jessie was more comfortable with it, and Mr. Shaver elaborated on the benefits for fire services.

This public hearing is for the changes only, he would like the Board to review it and to re-affirm SEQR, and they have already submitted this to the DOH for initial review.

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Stephen Gates, 131 Bluebird Road. The channel from the project out to the road at mid-screen is opposite his property and has asked what it is. Dirtbike riders use it now and it annoys him. It is an existing easement that the Town has that allows water to flow through the project. He moved there in 2015. He asked whether the project will bring in sewer or natural gas. Gas lines run behind his property from Fort Edward Road but can't service 10 houses on the eastern side. The project will not change that as their source is the line on Fort Edward Road.

Brad Nelson, of 205 Fort Edward Road asked how much the houses going to cost, and can people put whatever they want on it? Mr. Mitchell explained that these are relatively small lots, possibly HOA maintained, they haven't got a target price range yet. It is 49 houses. Mr. Nelson asked why they had eliminated the access point to Fort Edward Road, and Mr. Mitchell explained that it crosses a wetland, doesn't come out at a great spot on the road, and that the highway superintendent supported it.

Bob Harrington, of 120 Bluebird Road, asked why is the entrance where it is? They moved it because of the fuel facility and this was the best spot for sight distances. Mr. Harrington expressed concern about the traffic levels and noise and asked again about the price point. The contractor is undetermined. How big are the lots? They are 15,000 sq ft average.

Mr. Zimmerman explained that it was already approved and that this version has lesser impacts than what they already have permission to so. Mr. Nelson asked and the changes concern the location of the driveway, the elimination of the second exit, and the reduced number of homes. Mr. Nelson asked them to move the drive back to where the fuel depot is, and Mr. Mitchell explained that the sight distances were best at the current spot. The home across has a garage in front and a nice hedge. This minimizes impact. Mr. Harrington didn't think that was the best option. Mr. Arnold thought that putting the second entrance back in would probably not help traffic on Bluebird Road in terms of people headed west. Mr. Harrington wanted the entrance further from the inhabited portion of the road, arguing that it is quieter by the church entrance.

Mr. Shaver stated that he would abstain from voting on this issue because Mr. Harrington is his brother-in-law.

Mr. Antis asked for an explanation about the colors in the central area on the map. It is all HOA, but the darker green represents existing vegetation that will stay vs. lighter green showing where some grading will occur. This is the low point and will be stormwater management, so there is no plan to make that a recreational area. So there is no open space? The perimeter areas are maintained. They are not creating walking paths or anything like that. Mr. Antis finds it hard to accept the cluster idea. Mr. Mitchell says it is what allows them to have the perimeter. A non-cluster idea would be up to 70 some lots, houses would face Bluebird Road, etc.

Mr. Bouchard asked and Town Code does not require a recreational area, but the developer will pay a recreation fee to the Town instead. There is 2 ft wing cut on the road for walkers. Mr. Arnold asked about what looked like a small building in the corner of the map, but it was a note regarding a small easement.

Dave Johnson of 251 Fort Edward Road expressed that traffic at the corner is a concern. There have been serious accidents at that corner, even in the last few weeks. Can there be money set aside for when a

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traffic light is needed at that corner. He thinks it is good that they took out the exit on Fort Edward Road. This is 100 more cars. That intersection is going to be beat on even more. During the peak hours it is constant at that corner.

Mr. Mitchell explained that traffic is subjective. What is busy to us may not seem busy to someone else. This subdivision has been on the books and considered on every traffic study since 2010, even at 61 homes.

Mr. Zimmerman explained that they do consider levels of service at key intersections in all directions for recent developments. While the levels of service rose, they did not rise to the point that mitigation (a light roundabout or other change) was recommended.

Mr. Antis also pointed out that these are both County roads, so if mitigation became necessary, the Town wouldn't be involved.

Mr. Arnold said that it was looked at as recently as 2015. He asked how long a line of cars these residents had sat in. Mr. Johnson goes to work at 4am so that doesn't happen often, but he says he has seen 8-10 cars. That is a better indicator according to John, than the number of accidents. Mr. Johnson said that it has changed from a rural to a suburban atmosphere, and the Board agreed.

Mr. Bouchard said that the traffic was taken into consideration, but without a trigger from the study, they can't make the County do anything. Mr. Johnson remembered that he was at the public hearing when the development was first approved, and traffic was not a concern to him at that time but the apartments having gone in there has changed things.

Mr. Arnold reminded him that there is lots of room for improvements in that intersection as there isn't already a light or a turn lane there. He encouraged Mr. Johnson to call the County if he had concerns. They can also come to the Town Board and ask them to get a hold of the County. But to be careful what they ask for, they might end up with a roundabout.

Mr. Martin found the traffic study and read some of the details and that it would be acceptable levels.

Mr. Arnold stated that he thinks visibility will be much better at the new entrance location.

Mr. Harrington still wanted them to move it down three or four houses, as it is right next to his house.

Mr. Nelson thought that there was plenty of room for the driveway and sight distances on the Fort Edward road side.

Mr. Gates noted that the driveway isn't 90 degrees to Bluebird Road. He stated that there are living quarters above the garage. Mr. Arnold said that it is 90 degrees on the map, even though it doesn't look like it.

Mr. Martin asked if there would be phasing, but they will dedicate the entire road at once.

He asked when does the HOA kick in? Mr. Mitchell doesn't know. This has been problematic in a couple of places in the Town. Get the paperwork and the deed restrictions in because it will eliminate frustration. There will be a pre-construction meeting with the engineer present.

Mr. Antis asked if they can put restrictions on that and Mr. Martin explained that the two-step process for finishing the roads has been a problem with the binder not being enough when a lot of time goes by and

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expenses rise. Usually the HOA doesn't pay their taxes until enough lots have been sold. This has been a problem with other subdivisions in the Town.

Mr. Shaver asked Mr. Martin to clarify if there is something that the Board needs to do to make sure the road goes in OK, and Mr. Martin said that they just need to be more careful with the provisions on when that road will be completed and for rising costs. Mr. Arnold asked whether a time limit was appropriate. This is a discussion that should include the highway department. Mr. Mitchell thought that the Town Board ought to address it.

Mr. Nelson asked whether the Board has any say in the price points and was told that they do not, they are only looking at whether it meets the Town Code and public safety concerns.

Mr. Arnold pointed out that the Code does affect that by impacting the size of lots, the size home that can be put in the lot, and access to water & sewer, etc. These are single family unsubsidized houses.

Mr. Johnson asked whether there is any time frame and Mr. Mitchell said they will move as quickly as they can get this approved. Mr. Martin explained that the mylars will be made and approved, the map would be going to the County and they could be putting this road in this summer.

Mr. Bouchard testified that he really likes living on a similar loop.

Stormwater is the responsibility of the HOA, so that will have to form before the road is dedicated.

Mr. Gates asked whether the trees don't go away and Mr. Mitchell said that is the intention, but it could be changed in the future.

If the Board wants to require the buffer to stay, they have to put it on the plat.

Mr. Nelson asked about the process and Mr. Arnold explained that they will consider the concerns presented. They consider safety and major inconveniences.

Mr. Zimmerman closed public hearing at 7:54pm.

Differences since the July 2016 are that there are fewer homes and the green space is bigger. Mr. Antis thought that DOH might not have been involved before, but they were because it was more than 50 homes.

Mr. Arnold motioned to reaffirm SEQR from 2016 and from 2010 and the motion was seconded by Mr. Bouchard.

Roll call vote proceeded as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Shaver, Abstain; Mr. Zimmerman, Yes. Motion carries 4-0-1.

Mr. Bouchard asked what information would be needed on the mylars to tie up all the loose ends, as far as the HOA being in place before the dedication of the road. Mr. Martin would like to see notes on the plat and in the approving resolution.

Mr. Arnold wanted clarification on the concerns. Mr. Martin said that the developer is a member of the HOA, which means that he carries the weight of the maintenance and road expenses until the lots sell.

Mr. Martin wants it to be very clear in the future what the expectations are. Mr. Arnold asked if it's not written into HOA guidelines and Mr. Martin said it is a very thin record.

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Homeowners get a declaration at their closing about the HOA. Mr. Martin wants a clear record in the Town of expectations and responsibilities.

Mr. Mitchell said that it is to the HOA's benefit to keep the buffer, but he would like it not to be on the plan because calling it no-cut means that they can't put in walking paths or anything. A strict no-cut doesn't let them do anything with it. He would like it to stay vegetative buffer and not to have a no-cut label on it. They would have to come back to the Board to take out the vegetative buffer, even though no one thinks they would want to, they should have the freedom to do so as a group.

HOA can get together and decide they want to do something, they go to the Zoning Administrator and he decides whether the change is substantial enough to go to the full Board for approval.

Mylars should read vegetative buffer. But just along Bluebird Road, or everywhere?

Mr. Bouchard motioned to approve the changes to the Winterberry Woods subdivision with the following conditions: 1. that the HOA be in place before road dedication, 2. that the road dedicated all at once, 3. that stormwater is noted as an HOA responsibility on plat, 4. That areas identified as open space are under the ownership and maintenance of the HOA, 5. That this is contingent upon DOH Approval. Mr. Antis seconded.

Roll call vote proceeded as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Shaver, Abstain; Mr. Zimmerman, Yes. Motion carries 4-0-1.

Mylars must be received within 60 days. Motion made by Mr. Arnold and seconded by Mr. Antis that the Chairman and one other member sign the mylars when they become available. Motion passes unanimously with Mr. Shaver abstaining.

## **#2 Habitat for Humanity Amendment of Final Site Plan**

Adam Feltman, Exec Dir and Charlie Bird, Restore manager.

The requirements from December were for an operations plan, Jan 30<sup>th</sup> removal of storage from neighboring building, submission of new plan by Feb., and written updates which were received during January.

There has been an Operations Plan and a Lighting plan submitted which is under discussion at Habitat's own Board meeting tonight.

Mr. Feltman stated that it seemed the Planning Board's main concern was aesthetics, so they have removed all the areas of concern, having left the approved outdoor display area. They are working with the Washington County EOC for use of warehouse space, which is on Main Street in Hudson Falls.

Mr. Arnold asked why they want to avoid all the storage facilities that are so close by and Mr. Feltman stated that they are cost-prohibitive at 3 times what they are paying to use the empty Suzuki dealership.

Mr. Arnold pointed out that Suzuki is illegal.

The price at EOC is expected to be in line with their needs.

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Mr. Shaver was concerned about the outside facilities. They do not look good.

Mr. Antis told them he feels misled about what was presented originally about this.

Mr. Arnold pointed out that they had limited them to the three containers for a short duration, and they cannot keep those. He asked how they were being used.

One container presently has items for future use for a home build, donated from a commercial partner.

The second container is for stuff that is sold and not picked up yet. The third container is for items waiting to go into the store.

They have reduced their pickup of donations to once per week rather than three times a week because of the concerns. Tonight they need to know what short-term means. June was discussed but not agreed upon. The only formal date set was getting out of the Suzuki dealership in January.

They would like a definitive time.

Mr. Arnold had pictured the storage containers as seasonal stuff. He is not bothered by the containers as long as they are there temporarily. He is more concerned about the illegal warehouse.

PODs have been moved. Are people still dropping stuff off at night?

Mr. Bird said it has really not been an issue. A security system and signage stating dumping is illegal are in place. He feels that adding a fence just pushes the illegal donations closer to the roadside and would end up looking worse.

They connected with Hill Electric and a grant to get lighting. They thought Hill would give them a good plan, but the Board didn't like it. Mr. Bird explained that his concern was that dimly lit would encourage dumping. He expressed concern for customer safety in the parking lot since they are open later than the neighboring businesses.

They also provided a routing plan with turning radiuses for deliveries, and identifying areas for drop-offs etc. The Board were concerned there was too much lighting. The only pole that has a light on it is the existing pole, and they just put an LED in it. The illumination factor is the same as the previous lighting. The underside of the façade are new lights, and on the north side there are three panels facing the parking lot.

Mr. Bouchard thinks that the lights are fine the way they are. Mr. Zimmerman said that they would need to see Kyle Morin at Hill to provide the specs for Chris Longo to put on the plan, to see if light spills off the property because there is a Code standard for that.

Mr. Martin said that cutsheets that they brought are a half step but the engineer has to now put that on the site plan and see if it is right. It can be deflected and lower wattages, etc. They can also be pivoted down more. Mr. Zimmerman said that they can't be subjective. The lighting discourages dumping. But they need to do the objective measurement. Mr. Martin said that their engineer will be doing a revised site plan when all this is finished.

Mr. Arnold said to eliminate the loop that goes to the illegal warehouse. That is for the other property to address so just leave it out.

So the Board needs to see a finished Lighting plan, what will be done with the storage containers and when they need to be gone. Mr. Bouchard proposed getting rid of the containers by June 30<sup>th</sup>; with

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regards to getting out of Suzuki, Mr. Bird wants to keep it operating so he can make the money needed to pay for improvements to the site so that they can operate without it.

They are using 2,000 or 2,500 sq ft there, and they can add that much to the property they have to make up for it. Mr. Arnold is not okay with them staying there past the end of March. The current owner could also come in or authorize them to come in and ask for that to be made retail space, apply for a Change in Use. They should consider options, and because they do have options, there is not hardship and that's why he wants a close deadline. Mr. Bouchard agrees, it is not allowed, the end of March is not unreasonable, but the Town should be pursuing the property owner over that violation. Mr. Arnold commented that there are a number of major infractions going on in the Town that aren't being addressed, and it doesn't make sense to pursue this one since these guys didn't know they were in violation and it's a nice business. Mr. Antis agrees and is disappointed and is more disappointed that their property is too small and they have to play catch up for years to get it manageable. He is okay with March 30th, as is Mr. Shaver.

Mr. Bird wanted to know if they had money to build, would they let them stay at Suzuki? It is just so perfect to have it there.

Mr. Martin suggested that a Site Plan come in to the Board that shows that expansion. A legitimate application for a change that will be a permanent solution to storage, by way of an expansion, would let the Board know that they are taking the problem seriously.

Mr. Bouchard prefers to have them stay in Town. Talking about allowing them to continue a non-conforming use based on steady progress would require them to decide whether they had the capital rather quickly.

Mr. Zimmerman asked whether they need a Special Use Permit or what?

Mr. Martin said that in considering enforcement actions, the Town issues a ticket, they have to go to court, they tell the judge they are actively trying to come into compliance.

A new building for storage space would require a setback variance (warehouses must be 300 ft from Route 9), and if it were going to be for retail use it would instead trigger a need for more parking.

A new sketch plan on the 19<sup>th</sup> at the regular meeting would show the Board that progress is being made.

March 31<sup>st</sup> was suggested as a deadline to be out of Autoworld, unless a Sketch Plan has been submitted to one Board or an Appeal to the other. They would go to Zoning for parking or setback changes, for example. Realistically, how soon could they complete a 3,000 sq ft building? Mr. Bird said that the challenge is capitalization and the organization challenges. He asked for end of April, but they already asked for December and haven't seen movement.

Mr. Bouchard proposed that this Board extend the deadline as long as they are seeing progress. If they miss a month they should report as to what they are waiting for/doing. Mr. Arnold said that they need real reasons not 'we're waiting for money'. So March 19<sup>th</sup> someone should be here to tell the Board you are on the Zoning agenda. If they are not, they should assume they better move out by March 31<sup>st</sup>. They should submit that to the ZBA by the 14<sup>th</sup> of March.

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The Board affirmed that they are glad that the store has been successful and is an asset to the community.

Mr. Martin summarized that this Board needs Lighting plan revisions, a truck movement pattern without Autoworld included, storage containers removed by June 30 or sooner and not replaced, and that storage at Suzuki goes away March 31<sup>st</sup> unless an application is before the ZBA for a setback variance or for more parking for an addition. Any design presented to Zoning or future Planning Board meetings must say how much sq. ft. is storage, retail and office uses in order to accurately determine parking required.

Primary use is retail.

Mr. Antis stated that the Board has the right to invite counsel and ought to ask them to be present at all meetings.

Motion was made to table the hearing for Amendments to Final Site Plan for Habitat for Humanity as per discussion contained in the minutes, by Mr. Bouchard, and seconded by Mr. Shaver. Motion carries unanimously, no roll call.

Mr. Martin suggested a resolution requesting the lawyer and the reasons. Mr. Bouchard said it would save time if something questionable did come up, to have a lawyer present rather than ask for an opinion between meetings. Mr. Antis was certain that it did not cost extra to have the lawyer present.

Mr. Antis motioned to direct the chair to request a Town attorney at all meetings, and that Board members would send him suggestions for reasons for the request. Mr. Bouchard seconded. Motion carried, All in favor, no roll call with Mr. Shaver abstaining.

Motion to adjourn was made at 9:35 pm by Mr. Arnold and seconded by Mr. Bouchard. All in favor, motion carried with no roll call.

Respectfully Submitted,

Tricia S. Andrews