

The Planning Board of the Town of Cicero held a meeting on **Monday, August 27, 2012** at **7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Approval of Minutes from the August 13, 2012 Planning Board Meeting (**approved**)
- Updates from the Chairman
- Minor Subdivision Final Plan, Wallington Meadows Section 7B, Park Fees (**approved**)
- Modified Site Plan, Tim Horton's, 6360 East Taft Road (**approved**)

Board Members Present: Bob Smith (Chairman), Joe Ruscitto, Greg Card, Pat Honors, Chuck Abbey and Sharon May

Absent Board Member: Mark Marzullo

Others Present: Neal Germain (Esquire, Germain & Germain), Mark Parrish (P.E., O'Brien & Gere), Steve Procopio (Code Enforcement Officer), Jessica Zambrano (Town Councilor) and Tonia Mosley (Clerk)

Chairman Smith noted the emergency exits and asked that cell phones be silenced. Then he led the Pledge of Allegiance.

APPROVAL OF MINUTES FROM THE AUGUST 13, 2012 MEETING

Mrs. May made a motion to approve the August 13, 2012 meeting minutes. **Mr. Card seconded the motion.** Chairman Smith asked for a vote.

*Ayes: 6 Nays: 0 Abstained: 0 **Approved***

UPDATES FROM THE CHAIRMAN

- The Town Board is continuing to consider a cut and fill permit process.
- There have been some discussions regarding site plan enforcement at the Town Board level.

**MINOR SUBDIVISION FINAL PLAN, PARK FEES
WALLINGTON MEADOWS SECTION 7B, 21 LOTS
EAST AND ADJACENT TO WALLINGTON MEADOWS SECTIONS 5 & 7A
IANUZI & ROMANS
(SEE ATTACHMENT A: OBG LETTER DATED 8/23/12)**

Representative: Tim Courier, Ianuzi & Romans

The Chairman reminded the Board that SEQR, Park Fees and a resolution will need to be done on this project. He noted that the Town Board has accepted utilities, etc.

Mr. Germain added the Town Board is handling things at their level. The applicants are looking for the Planning Board's approval tonight. The Planning Board's Chairman should check with the Town before he signs the maps to make sure that the Town has everything that it needs.

Mr. Courier introduced himself giving an overview of the application. We have Section 7B of Wallington Meadows and have reviewed O'Brien & Gere's letter. There are 21 lots with of total of 8.179 acres. It is a residential R-10 zoning district. As Mr. Germain said we are here for your approval.

Mr. Germain noted that the Town has already approved contract drawings. There is a plan in place for the site's utilities, etc. I don't believe that easements, etc have not been filed yet but they will be.

Mr. Parrish added that the preliminary plan for this was approved almost 20 years ago. The site was developed in sections. We are now into Section 7B. There are still future areas for development south of this site. I believe at this point it is just a matter of approving the final plan, doing the park fees and SEQR as was mentioned previously. And as noted by Mr. Germain, the Chairman should not sign the plan until all easements, securities; park fees, etc have been put in place.

Mr. Card asked how the driveway for 3 lots should be addressed.

Mr. Parrish stated he brought that up in his review letter because he was not aware of why

those conditions were put on the plan. My suggestion was that this, along with the location of stop signs, be reviewed with the applicant to determine how those requirements came about.

Mr. Courier noted the stop sign locations were sent to us by the Highway Superintendent and the Police Chief.

Chairman Smith clarified. Town Boards have been trying to incorporate stop signs into the final subdivision process. Each stop sign costs about \$450. In the past that cost was passed onto tax payers. The thought was we would start putting stop signs on the plan so that they are purchased, installed and placed at the developer's cost.

This really is a Town Board function. We make those recommendations, but the Town Board has to pass the legislation.

Mr. Courier discussed the driveways. The developer along with the Highway Superintendent walked the site. I guess their concern was plowing these streets. When these driveways are located as far away as possible, there is less snow buildup.

Mr. Card asked how the Planning Board can control that.

Mr. Courier noted when proposed houses go in; we refer to these notes for their development.

Mr. Procopio added during building permit review one of the things that code officers refer to is the subdivision plan and its notes. That would be true in this case, especially for these 3 lots and their specific building requirements.

Mr. Abbey asked who was responsible for putting up street name signs.

Mr. Parrish responded that is also shown on the plan as part of the infrastructure for the site.

Mr. Procopio noted the roads are in. The infrastructures are there.

Mrs. May made a motion regarding SEQR. She read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a

significant effect on the Environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Mr. Smith seconded the motion** and asked for a vote.

*Ayes: 6 Nays: 0 Abstained: 0 **Approved***

Chairman Smith explained Park Fees. Park Fees are taken by the Town in lieu of taking land. These fees go into the park fund for park improvements and stuff to accommodate the additional residents. Some towns choose to take land in lieu of fees. This Town has decided we have adequate parks.

He asked Mr. Germain to give a brief description of Park Fees, how they are assessed and how they are handled in other Towns. This could be counted as a training session for the Board.

Mr. Germain explained you could take land but here you do an assessment based upon your per lot requirement per code. It is really at Town Board project. You want to be able to look at a project or development per this Town code option. For example, a developer could say we have a 300 lot subdivision and as part of our project we will give you park land. You have certain options under different Town codes as to whether or not taking the land is a good idea.

Mr. Smith noted it would seem like the Planning Board has a choice but it really does not. It is determined within the code as to whether or not the Town wants to accept fees or take land. Traditionally, the Town has not taken land.

Mr. Germain noted the Board is bound by the code. You don't have the option to be creative and say how about this instead of that. The only thing that gives you that type of option is if you went to clustering. Clustering would give you the option of saying for example, we will give you more lots, let you change your setbacks, adjust your lot size, etc. if you give us more green space. That is the only thing that this Board has the right to do.

More discussion occurred. The Chairman noted each Board member should receive 10 minutes training time towards their continuing education requirement.

Mr. Germain read the following resolution: Move for the adoption of a resolution approving the subdivision application known as Wallington Meadows Section 7B easterly and adjacent to

Wallington Meadows Sections 5 and 7A for 21 lots. Park Fees are hereby set at \$9,975 or \$475 per lot. This is in accordance with the existing Town requirement as to Park Fees. **Mr. Ruscitto made the motion** as stated by Mr. Germain above. **Mrs. May seconded the motion.** Mr. Smith asked for a vote.

*Ayes: 6 Nays: 0 Abstained: 0 **Approved***

**MODIFIED SITE PLAN, TIM HORTONS
6360 EAST TAFT ROAD
PROPOSED BUILDING EXPANSION AND ADDITIONAL PARKING
TDK ENGINEERING ASSOCIATES**

Representative: Daniel Blamowski, P.E., Real Estate Project Planner, Tim Hortons

Mr. Blamowski introduced himself. When the store was originally built it was too small. There have been other sketch plans before the Town that included other parking scenarios. The current building is approximately 1,000 square feet. We are looking to add a building expansion of about 350 square feet. That would include interior seating.

We are trying to meet the demand that we have experienced here. Our operations folks originally thought this would be a great drive up location. We have quickly learned that we need seating too.

As I stated, we are proposing a 350 sq. ft. addition as well as a parking area for employees which would free up the parking area adjacent to the store for customers. We are also proposing a truck parking area. I have seen trucks parking directly in front of the store, directly in front of the parking spaces, and parked at the curb. We wanted to provide a truck parking area to address those safety concerns for pedestrians and other drive up traffic.

Our drive through operation is working well. We want to capitalize on that and provide the interior seating. Architectural plans are being prepared for the addition.

We have submitted a preliminary grading plan to the Town's engineer. It shows the changes within the drainage pattern for the site. The original site plan was designed for about 1.1 acres

of impervious area. The stormwater pond, underground piping and stormwater design features are all put in place and constructed per the larger impervious area requirement. This addition still keeps us below that original so we did not have to change all of the drainage characteristics of the site other than some of the drainage of the new paved areas through an on site swale.

Mr. Smith asked how soon construction would start if this was approved.

Mr. Blamowski noted they were anxious to start. Our building plans are almost 100% completed and ready to submit. If the building plans took a while to review and approve, we would like to start the parking area as soon as possible to take advantage of the weather. The parking lot is really the priority for us.

Mr. Smith then asked if it would be reasonable for the Board to put a time line on an approval, saying the approval would be good for six months. Would that be fair and reasonable? We want to tighten up our deadlines. I would ask Neal to make sure that we keep this to a very tight schedule.

Mr. Blamowski agreed. Clearly, we would like to open the addition before the holiday season.

Mr. Smith asked if this had to go to the County noting that we could treat this as a modification, something that the Town Board is working on. He asked Mr. Germain for his thoughts.

Mr. Germain thought this was a modification and that is was something that could be voted on tonight---if the Board chose to do so.

Mr. Parrish noted that he had visited the site and reviewed the plans. It is a minor change. The stormwater plan is designed to accommodate the increase in the impervious area. If the Board is satisfied with the proposed site circulation, parking and addition there is very little else that is changing on the site.

Mr. Smith noted concerns about Niagara Mohawk regarding power lines, etc.

Mr. Parrish explained they do show a 6 parking space area to be constructed within that

easement. The applicant should explain if they have the approvals needed for that and/or what the status of those approvals are.

Mr. Smith: Do you have that approval?

Mr. Blamowski: We do not. We have not approached the power company, but will do so. We are not proposing any landscaping or structures within the easement.

Mr. Smith: But you are putting parking spaces underneath, within the easement.

Mr. Parrish suggested the Board needs to be somewhat satisfied in the event that the applicant would not be able to construct those parking spaces. The Board would need to decide if there was adequate parking for the addition without those new spaces.

Mr. Germain agreed. The applicants show a site plan that has six parking spaces that appear to be within the easement. They may not actually have the right to construct those spaces. The Board can look at this in a number of ways. You could have the applicant show that they do have the right to put parking spaces within the easement. Or you could decide if there is adequate parking without those additional spaces. The Board should also consider the six month sunset requirement to get a building permit. The time needed to get a response from NIMO could be extensive.

Mr. Blamowski: If they did not allow the parking within the right-of-way like they have allowed the drive lane going through the right-of-way, we simply would not put the parking in. We would not need that portion of the pavement to make the truck parking work. We are comfortable with what is there. We just thought that it would be nice to get employee parking away from the store.

Typically we have 8 +/- employees maximum per shift. Because it is currently a limited operation, it might be 4. We would still have a full menu with the addition. I believe 4-6 people would be the average.

Mr. Smith asked for the number of proposed seats.

Mr. Blamowski thought it might be 15. He noted their designers are working with the State's building codes.

Mr. Procopio explained that the total occupancy would be 15. That number includes employees. Otherwise you would need two bathrooms as opposed to one.

Mr. Smith noted that was a code issue for the building permit. He also noted without the newly proposed employee parking spaces and with the proposed addition that there would only be 5 non-handicapped parking spaces available for customers. It would seem like the site would need more.

More discussion occurred.

Mr. Parrish: They could construct the truck spaces and the by-pass lane without encroaching into the easement. The 6 employee spaces that they propose require permission from National Grid.

I am going to guess that National Grid will allow the employee parking within their easement. But, it is revocable. I think that when Tim Hortons originally looked at the possibility of encroaching into National Grid's easement, they were not comfortable with having that permission revoked at any time. So they moved all of the features out of easements that they could. They must have determined that the site was still viable. They have the same issue here.

More discussion occurred.

Mr. Smith asked that the minutes reflect that the Planning Board discussed this issue before a determination was made.

Mr. Germain clarified that if the Board approves the site plan with six spots and the applicant no longer has six spots, they are in violation of their site plan. That is your remedy.

The Chairman noted for the record that Tim Hortons joined our community a while ago. They have consistently done the right thing in complying with site code and being a good corporate

citizen.

Mr. Blamowski asked if the approval could be contingent upon Tim Hortons getting a letter from the power company.

Mr. Smith: I don't know if you would want that. It could be years before you get through all of the legal requirements.

Mr. Card asked if those 6 parking spaces could be relocated to another portion of the property.

Mr. Blamowski responded no not without trying to infringe upon what we are trying to do with the truck parking.

Mr. Ruscitto asked about snow removal.

Mr. Smith responded they have tons of area for snow storage. It is a huge field with a lot of easements and one small building.

Mr. Blamowski agreed that this site works great for snow removal. We don't have any of those troubles here.

Mr. Procopio noted the outside seating currently on the site.

Chairman Smith noted the application was considered a modified site plan. As such, the application does not need to be sent to the County.

Mrs. May made a motion regarding SEQR. She read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Chairman Smith seconded the motion** and asked for a vote.

*Ayes: 6 Nays: 0 Abstained: 0 **Approved***

Mr. Germain read the following: Move for the adoption of a resolution approving the modified

site plan application of Tim Hortons at 6360 East Taft Road. This approval shall terminate in the event that the applicant fails to obtain a building permit within six months from the day of this approval. **Mrs. May made a motion** as presented by Mr. Germain above. **Mr. Ruscitto seconded the motion** and the Chairman asked for a vote.

*Ayes: 6 Nays: 0 Abstained: 0 **Approved***

Mrs. May made a motion to adjourn. **Chairman Smith seconded the motion.** The motion was **approved unanimously.**

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:50 P.M.

Tonia Mosley, Clerk

ATTACHMENT A: OBG REVIEW LETTER FOR WALLINGTON SECTION 7B

August 23, 2012

Planning Board

Town of Cicero
8236 Brewerton Road
Cicero, New York 13039-1517
Attention: Robert Smith, Chairman

RE: Wallington Meadows Section No. 7B Final Plan

FILE: 0101/25439.433

Dear Board Members:

We have reviewed the Final Plan dated August 7, 2012 prepared by Ianuzi & Romans, LLC for the above referenced project. Wallington Meadows Section No. 7B consists of 21 single-family residential lots along Alizarin Avenue, Cobalt Drive, and Periwinkle Path. The site is zoned Residential R-10. The above materials are in general conformance with Town Code requirements for Final Plans subject to the following comments:

1. The Plan contains notes relative to the location of driveways on Lots 146, 151, and 152 and the location of street and stop signs. It is recommended these be reviewed with the Developer.
2. The Board should identify appropriate park fees for the project.

The Developer has completed improvements to the road and utilities for the subdivision. The Town Engineer should provide a letter to the Town Board recommending required security deposits for utilities and uncompleted work. Upon approval of the Final Plan by the Planning Board, it is recommended the Chairman delay signing the Final Plan until the Town Attorney has verified the Developer has the necessary agreements and securities in place.

If you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.



Mark C. Parrish, P.E.
Managing Engineer