

TOWN OF LSYANDER
ZONING BOARD OF APPEALS
Monday, October 5, 2015 @ 7:30 p.m.

The special meeting of the Town of Lysander Zoning Board of Appeals was held Monday, October 5, 2015 at 7:30 p.m. at the Lysander Town Building, 8220 Loop Road, Baldwinsville, New York.

MEMBERS PRESENT: L. Micha Ordway, Chairman; S. Webster Reid; Richard Jarvis; Frank Costanzo; Frank O'Donnell

OTHERS PRESENT: Al Yager, Town Engineer; Bob Clark, Cabbage Patch Partners; Ron Merle, Hugh Kimball, Planning Board; Bob Geraci, Town Board; Karen Rice, Clerk

The meeting was called to order at 7:30 p.m.

I. PUBLIC HEARING – None Scheduled

II. APPROVAL OF MINUTES

Review and approval of the minutes of the July 16, 2015 special Zoning Board of Appeals meeting.

RESOLUTION #1 -- Motion by Costanzo, Second by O'Donnell

RESOLVED, that that the Zoning Board of Appeals grant the minutes of the July 16, 2015 special Zoning Board of Appeals meeting as submitted.

5 Ayes -- 0 Noes

III. OTHER BUSINESS

- | | |
|--|---|
| 1. Town Board Recommendation
Incentive Zoning | Cabbage Patch Partners
Whispering Oaks, Section 4
8185 Emerick Road |
|--|---|

Micha Ordway, Chairman, reviewed the application of Robert Clark, Cabbage Patch Partners, LLC at the request of the Town Board for a recommendation to allow Incentive Zoning on property located at Whispering Oaks, Section 4, 8185 Emerick Road, Baldwinsville, New York.

Cabbage Patch Partners, LLC, is proposing a residential subdivision on a 26-acre property. The property consists of predominantly wooded and agricultural land and is currently zoned Agricultural-Residential - 40,000 (AR-40), 40,000 square foot building lots are required. Under those regulations 22 lots could be created. However, in keeping with the Whispering Oaks Subdivision, with a connection at Rubicon Road and under the Incentive Zoning regulation, the lots could be laid out to comply with the Residential – 20,000 (R-20) 20,000 square foot building lot, requirements comprising of 37 lots.

Julian Clark, Plumley Engineering, Robert Clark, Owner/Developer and Ron Merle, Prospective Home Builder were on hand for any questions.

Frank Costanzo questioned the proposed benefits/Amenities, as outlined on page two of the project narrative:

Proposed Benefits/Amenities, Paragraph three: As per Section 139-76 of the Incentive Zoning, cash in lieu of any amenity for a specific purpose is allowable. In this case, the Town Board has indicated they would like to use the monies for work associated with the Town Highway Department and/or Highway Department equipment purchases.

Mr. Costanzo continued stating that the Planning Board, as part of their resolution to the Town Board on September 17, 2015, suggested that the money should be used for the extension of sewers to un-sewered areas, not the Highway Department.

RESOLVED, that the Town Planning Board of the Town of Lysander, County of Onondaga, State of New York, does make the following findings of facts:

- 1. After considering the suitability of the site set forth in the Application for the type of sewer, roadway or other amenities proposed, the physical characteristics of the land, and the relation to the proposed development to surrounding and probable existing future development will not be adversely affected because:***
 - i. the benefit proposed in the Application (\$1,600 per lot – the “Benefit”) will provide sufficient funds to extend sewers in existing unsewered area, thus promoting the extension of roadways, sewers and other such amenities at minimal cost to the residents and taxpayers, as set forth in Section 139-72 of the Town Code (including the potential extension of public sewers to Seneca Estates, Crane’s Watch and Riverbend, which are currently on private sewers near the Seneca River);***
 - ii. Such extension of sewers in the Incentive Zoning area could allow for the orderly construction homes in this area, thereby creating a disincentive to build homes in areas designated for farmland or open space in the Town;***
 - iii. Existing West Genesee Sewer District debt service reduction resulting from the developers agreement to pay the debt service for each lot until they’re sold;***
 - iv. As additional development occurs within this Incentive Zoning Overlay area assuming as many as one-hundred, ten (110) homes at \geq \$1600/lot = \$176,000 can accrue to the above sewer extension account.***

Mr. Costanzo concurred with their recommendation, stating that the ZBA should as well.

Mr. Ordway stated that it is his understanding that the purpose and intent of Incentive Zoning is the creation of open space, recreational land, trails, preservation, farm land, scenic watersheds, etc... This proposal doesn’t provide any of that.

Mr. J. Clark stated that the purpose of Incentive Zoning from the Town’s standpoint with regard to open space was to create this zone where a higher density is allowed within this zone; while keeping other areas outside of the incentive zone open. This allows development to take place where the Town wants it to take place (indicating on Zoning Map where those incentive Zoning

areas are). The incentive is open space in other areas of the Town while offering utility extensions and the payment of the \$1600 per lot as agreed upon with the Town.

Al Yager, Town Engineer, stated that if you go back through the Comprehensive Land Use Plan, that is how the Incentive Zoning process is discussed...Incentive Zoning Districts are set up to preserve other open space that exists in other parts of the Town.

Mr. Ordway questioned if the sewer easement is the only easement required for this development.

Mr. Clark stated that there will be drainage easements as well. The sewer easement will be provided at Rubicon Road to tie into the existing sewer in the Whispering Oaks Development. It will be run out to Emerick Road to provide sewers if there is ever the need along Emerick Road.

Mr. Ordway questioned the adequacy of roads, utilities and fire safety. With this many homes, with two cars per household, this could add another 77 cars on a relatively small country road and asked if a traffic study has been done and/or will this road have to be widened?

Mr. J. Clark stated that they have not got to that point yet, that would come into play during preliminary subdivision approval with the Planning Board. We do know that public roads are available to this site and they are of decent enough quality to handle traffic. Further, the roads that we build within the subdivision will be built to Town standards.

Robert Clark, stated that he has owned the property for about 20 years, having purchased it from Bob Bitz who bought it prior to 1989, because when I purchased the land I got a detailed engineering study from the William Rowell Engineering firm. Mr. Bitz purchased the property from Jim Harkins for the development of the second section of Emerick Heights, Emerick Heights, Section II (Irene Drive being the initial Emerick Heights).

Mr. Clark stated that he purchased the property during the time of the trouble with Whispering Oaks. Being familiar with septic systems, I have always had an issue with individual septic systems, especially the community septic system that was there. Putting more pressure on that system bothered me so it was farmed by Paul Hafner who grew cabbage, hence the name, Cabbage Patch Partners. Over time I watched to see what was going on there. They eventually had a situation where you could transfer development rights and go to smaller lots, but there was still a problem with the septic systems. Having waited it out until approximately three years ago when they decided to put sewers in the area. One of the concerns in developing is...we've got a really nice area next door, Whispering Oaks. We've got a sense of what's going to go in there and in keeping with the neighbors in Whispering Oaks. Our concept is nice houses that people would want to buy, but don't want to be on big lots. It's conceptually for people who want bigger homes, 3500 to 4000 square foot homes on smaller lots for maintenance purposes. From a Town standpoint and money standpoint over time, 22 one acre lots would not generate enough money to maintain the roads. This Incentive Zoning program would allow us to go from 22 lots to 37 lots and that to me, made a lot of sense. Ranch style homes on half acre lots still in keeping with the Comprehensive Land Use Plan by preserving farm land farther out where the Hafner's, Emmi's and Reeves do all of their farming and use our land as appropriately as possible with the guidance with the Town to come up with a fee to be spent however it's decided.

Mr. Ordway questioned if both water and sewer would be provided.

Mr. J. Clark concurred.

There being no further questions from the board, Mr. Ordway asked if there was anyone from the audience who would like to speak.

Bob Geraci, Town Board, stated that the CLUP and Incentive Zoning is all about preserving open space and the integrity of Lysander on both the peninsula as well as west of 690/Route 48. Both the owner and the engineer said by allowing us to develop in a more intense fashion on our property you get to save all of that other greenspace, as indicated on the map. We get to save that anyway, it doesn't matter whether we allow development at a more intensive or denser fashion than what would ordinarily be allowed. That greenspace would be saved because it's either A-80 or AR-40. If you are a developer and want to develop in an AR-40 you get to own the roads permanently; the Town will never accept those roads, if you don't like that then you have the opportunity to do cluster development, which is the same amount of homes, in this case 22 and the Town will take over those roads. What we're doing now, if this thing goes through, is we will accept 37 homes and more road footage and we get to own those roads anyway. The math is not working out in terms of why that's a benefit to the Town. Having said all that, 26 acres is not going to make or break the greenspace preservation of this Town, but I am so worried about the precedence we are establishing if we allow this to go through. What's to stop the next developer from saying, 'here's your \$1600 per ½ acre, let me develop and the heck with your green space'. If you read Article XXVII, it's not about other greenspace, it's about the greenspace that's contained within your acreage. Coincidental to this, and it's too bad this application was the first one out of the starting gate, because the Town Board is also reviewing an application on the peninsula (Melvin Farms), 450 – 500 acres with 1/3 of it set aside as greenspace, walking trails, undeveloped pieces of land. If you read Article XXVII, it's all about saving greenspace, open space, farm land, the environmental integrity of the land. We don't have to do anything, we can just say follow the CLUP, which is AR-40 development, you get to build those roads if you build them, on one acre lots or if you don't like that, build 22 homes in a cluster development thereby saving the greenspace within that 26 acres. The Town of Lysander is in a position unlike any other Town in Onondaga County. We've saved our greenspace. All you have to do is drive to Clay, Cicero, Brewerton...and you know that greenspace is gone and it's gone forever. We're sitting on greenspace now that hopefully will be here forever and we don't have to make it easy to ruin or compromise greenspace. I just want you to think about that and I hope others are thinking about that as well. I will make the same speech at the Town Board and we'll see where this thing goes. Again, will 26 acres kill us, nope but I'm worried about that next developer saying 'you did it for him, now do it for me and if you don't do it for me, you're going to be talking to my attorney'.

S. Webster Reid stated that he understands what Counselor Geraci is saying, however even with 22 homes at AR-40 it's not going to be greenspace anymore.

Mr. Geraci stated that there's no developer that's going to build on AR-40 and have to build roads and own those roads in perpetuity if the Town doesn't take over those roads. There's no financial way that that can happen.

Mr. Reid stated that he doesn't necessarily agree and recommends allowing the zoning change to allow for a larger development.

Mr. Ordway stated that one thing that remains unclear to me under Article XXVII, all that is required is a written recommendation indicating its position with respect to the application and

relevant observations, issues and/or questions. I believe we're being asked to approve or disapprove this application.

Mr. Yager stated that you aren't necessarily approving the application, you're approving that it's an appropriate use.

Richard Jarvis stated, for transparency sake, I know Dr. Clark professionally not personally, being the family dentist.

Mr. Jarvis stated that he has heard two different interpretations of the intent of Incentive Zoning, one from the project engineer and one from our Town Engineer. I'd like to make a motion to table this application for clarification.

Motion by Jarvis, Second by

That the Zoning Board of Appeals table their review and recommendation to the Town Board on the Incentive Zoning application of Cabbage Patch Partners, Whispering Oaks, Section 4, Baldwinsville, New York.

There being no second on the motion, the motion failed. Mr. Jarvis stated that he will abstain from the vote.

RESOLUTION #2 -- Motion by Reid, Second by Costanzo

RESOLVED, that at the request of the Town Board, the Zoning Board of Appeals, makes a positive recommendation for Incentive Zoning on the application of Cabbage Patch Partners, Whispering Oaks, Section 4, Baldwinsville, New York.

2 Ayes -- 2 Noes -- 1 Abstain

Reid -- Yes
Jarvis -- Abstain
Costanzo -- Yes
O'Donnell -- No
Ordway -- No

The outcome of the vote is the equivalent to no action taken.

IV. ADJOURN

RESOLUTION #3 -- Motion by Jarvis, Second by Reid

RESOLVED, that the October 5, 2015 special meeting of the Lysander Zoning Board of Appeals adjourn at 8:00 p.m.

5 Ayes -- 0 Noes

Respectfully submitted,

Karen Rice, Clerk

DRAFT