

EAST AURORA PLANNING COMMISSION  
REGULAR MEETING

February 9, 2010

6:30 PM

Present:

Carol Smith  
Laura Mehl  
Lowell Dewey  
Randy West  
Don Wynes  
Alternate Bud Babcock

ABSENT:

Dan Castle, Chairman  
Stacy Oar

Also Present:

Code Enforcement Officer, William Kramer  
Deputy Clerk, Sue Wolff

Others Present:

Michael Jordan - Developer/applicant for the Minor Sub-Division @ 74 Maple Street  
Frank Wilton – 123 North Grove Street, East Aurora  
Robert Warhus – 28 Hamlin Avenue, East Aurora

Trustees: Libby Weberg, Allan Kasprzak

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**Review of Minor Sub-Division @ 74 Maple Road**

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Since Chairman Dan Castle was absent tonight and the Co-Chair Lowell Dewey was the engineer for Michael Jordan, developer for the Minor Sub-Division @ 74 Maple Road, Lowell excused himself from making any decisions on the development, but was at the meeting to answer questions from the Planning Commission members in regards to the sub-division.

Randy West called the meeting to order at 6:31 PM. It was noted that there was a quorum.

Bud Babcock made a motion to approve the four meeting minutes as written from 1/5/10 seconded, by Lowell Dewey with a unanimous vote to follow.

Lowell Dewey, engineer for the petitioner Michael Jordan, explained what Michael was proposing for 74 Maple Road.

Carol Smith questioned CEO Bill Kramer why the Village Board had referred this to the Planning Commission, since normally the Planning Commission does not review minor sub-divisions.

Bill Kramer told the commission members that when the discussion developed with the Village Board at their last meeting, they had concerns of the development being in the floodway and floodway fringe areas and what

extra precautions might be necessary for the development. There were concerns from several neighbors who attended that meeting with regards to drainage on adjoining properties, if parcels under development were allowed to bring in fill as proposed. Where would the water run off go and would that runoff create issues with the surrounding neighbors. The Village Board decided at the February 2, 2010 meeting to refer the development plan to the Planning Commission for their input.

At this time, Lowell Dewey explained that he is the engineer for the project and has worked with Michael Jordan on other projects throughout the years. What Michael is proposing to do on the property at 74 Maple Road is to sub-divide the large parcel into two building lots, with two homes. These two homes will be built on Maple Road between Tannery Brook and the funeral home, fronting Maple Road. This property is located in the floodway fringe area according to the Flood Insurance Study that was completed in 2002. Lowell explained the differences in floodway and floodway fringe.

Randy West asked CEO Bill Kramer again what the rationale was for referring this to the Planning Commission.

Bill Kramer explained that at the last meeting on February 2, 2010 with the Village Board, Mr. Jordan had submitted drawings that showed drainage with a 6" line that would tie into a 6" storm sewer. The Village Board didn't realize that Lowell was the engineer that had initially drawn the site designs, and knowing that the Planning Commission included several engineers, they thought it would be a good idea for the Planning Commission to review & get their input.

Randy questioned what the Planning Commission was to review. Was it Site Plan for a Minor Sub-Division or a permit for Floodplain Development? Everyone was in agreement that both of these were the areas that the Planning Commission should review, through Bill Kramer noted that the Planning Commission has no jurisdiction over Floodplain Development permits. It was agreed that the Planning Commission would provide comments on both aspects of the proposed development, but would not make any specific recommendations for approval or disapproval.

#### Floodplain Development

Michael Jordan gave a description of the property which is 446' in depth by 170' in width. This property will be divided into two building lots, each to measure 223' in depth by 85' in width. One of the homes will be for the Jordan family and the other will be sold. Michael read to the Planning Commission members, several excerpts from the Flood Insurance Study on the meanings of Floodway and Floodway Fringe areas. Michael explained that the land would be sub-divided, compact fill would be brought in, the information would then be submitted to FEMA & they would correct the map accordingly.

Randy West said "essentially you will be creating an island in the floodwaters". Mr. Jordan replied that it would be more of a peninsula.

Laura Mehl questioned how much fill would be needed. Michael Jordan replied that about 3' of fill would be brought in. Michael went on to explain that the basement windows would be above ground by 2.76' and when complete the basement floor would be higher than the bottom of the creek. There would still be a need for a sump pump for any water that might seep into the basement however Michael feels water would be minimal. Michael said that there is potentially little development of land in the floodway fringe in East Aurora, and this project would bring over \$600,000 in assessed value to the Village.

Carol Smith asked if Michael Jordan would be required to have flood insurance. Michael replied that because he would be adding fill, he would not be required to take insurance.

Laura Mehl questioned if there would be a problem upstream. Michael replied that according to the Flood Insurance Study, full development of the flood fringe would result in a 0.6 foot surcharge above existing flood levels, though this project, because it would develop only a portion of the flood fringe, could result in a surcharge of less than that height.

Mr. Jordan noted that FEMA regulations allow development of the flood fringe, and define that area as allowing up to 1 foot of surcharge. Bill Kramer noted that the 1-foot height is the “minimum” requirement by FEMA, meaning that a community can adopt a more restrictive limit.

Bill Kramer read the following section from the Village Code – Section 142-13 F – “a technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.” Bill also went on to explain that he had contacted the NY State Dept. of Environmental Conservation for technical support. Rebecca J. Anderson replied in a letter to Bill dated 12/20/10, by writing that a licensed professional engineer should be hired by the developer to show whether the proposed development to be located in an area of special flood hazard (i.e., within the floodplain) may result in physical damage to any other property. The letter states that East Aurora is a “No Adverse Impact” municipality, meaning that any deviation in flooding caused by this proposal, and which is not contained within these two lots, should not be allowed.

#### Public Comment

At this time, Randy felt it was only fair to hear from any other parties that might be in attendance whose properties might be affected from this development.

Mr. Frank Wilton - 123 North Grove whose property borders the creek from N. Grove to Maple submitted a letter to the Village Board & the Planning Commission dated February 28, 2010 with his concerns. Mr. Wilton doesn't want to discourage any development and would welcome Michael Jordan to the neighborhood, but he wants to be certain that there will not be any adverse problems created by the bringing in of fill. Mr. Wilton even volunteered to retain at his expense an engineering firm with the appropriate knowledge and experience with such plans to review the final plan submitted by Mr. Jordan prior to its approval.

Mr. Wilton explained that his house was built in the middle of the floodplain, on top of the ground, with no extra fill brought in, and without a basement. He is concerned that when melting of snow occurs or during the rainy season, the existing marshy or soggy areas, next to the new development will become even wetter from the run off draining onto the lower properties. Where will this additional runoff go he questioned? Mr. Wilton also mentioned that on his property he installed a 6” pipe underground with stone base to drain into the creek along with yard drains, which help to keep his property drier. Mr. Wilton also mentioned that Mr. Horn – 394 Fillmore Ave. is also concerned about possible runoff that would drain into his in-ground pool.

#### Site Drainage

(Earlier in the meeting, Mr. Jordan had noted that the existing storm sewer along Maple Road was too high to for his development to tie into. There was no discussion of the capacity of the storm sewer. Mr. Jordan proposed that he install a catch basin and his storm sewer within the Maple Road Right Of Way. He would core

a hole in the wall of the existing box culvert through which Tannery Brook flows and extend his storm sewer through that in order to discharge to the brook.)

Randy West asked if the existing gutter along Maple Street had adequate capacity to convey the increased volume of runoff from the development. Randy asked if he was sure that the proposed 6-inch line had adequate capacity. Lowell stated that the line would be sized adequately.

Carol Smith said that the marshy areas about which Mr. Wilton had been concerned should have additional drainage which would eliminate the extra wetness. Randy west pointed out that the applicant's development provided an opportunity to address some of those issues by converting the perimeter drainage pipes into slotted pipes within a gravel trench (i.e., a "french drain"). Those could help to lower the groundwater table along the neighbor's property line. Lowell Dewey said that such a change to the design would not be a problem.

Randy West asked why the fill along the edge of the proposed development was brought so close to the property line. He asked if it wouldn't be better to leave maybe a 20-foot width of the applicant's lot unfilled so to ensure that surface water drainage from the neighbors' lots would be allowed to flow as it has and would not be backed up. He suggested that the proposed yard drains could be moved onto the applicant's property to help ensure that. Mr. Jordan replied that if the goal was to provide sub drainage of the neighbor's lot (i.e., to drain the groundwater rather than the surface water), it would be better to have the pipe and yard drains along the property line.

At this time Randy West opened the meeting up to discussion among the Planning Commission Members.

Carol Smith asked what the houses were going to look like. Michael said that both houses would be two story homes and would each be 2600 square feet.

Randy West felt that what the homes looked like was really not the issue in front of the Planning Commission, the major issue was drainage.

Randy West questioned Bill Kramer if he felt it was necessary to do more studies. Bill replied that we do not know the impact on the neighbors up the creek. It is up to the developer to show the impact his proposal will have on properties along the flood plain. Rebecca Anderson will provide technical assistance to the Village if necessary.

Lowell Dewey, engineer for the applicant, feels the Village should hire someone to do the study, possibly TVGA.

Bud Babcock felt that if Mr. Wilton would like to hire an engineer to do a study, then he should be given that opportunity. Bud also mentioned that since Mr. Wilton built a house without a basement and without bringing in any fill that maybe that should be one of the findings for Michael Jordan. The PC members asked Michael if that would be a possibility for development. Mr. Jordan replied that he really didn't want to build a house without a basement, because he felt the salability wouldn't be as great and he himself didn't want a house without a basement.

Findings for Site-Plan review at 74 Maple Road:

- 1.) Applicant to address/improve the soft/soggy areas with yard drains & French drains.

2.) Make sure 6" drains are adequate and possibly increase to 8" if necessary.

Findings for Floodplain Study:

- 1.) Requirement for Village Code sections 142.13F be met.
- 2.) More information on drainage plan, with consideration of hiring an engineer if Village Board considers drainage an issue.
- 3.) Consider construction without fill added.

Randy West made a motion to accept and approve the findings of the site plan review and for the floodplain study, seconded by Carol Smith with a unanimous approval.

Note: Member Lowell Dewey excused himself from voting as he was the engineer for the project.

Carol Smith made a motion to close the meeting at 8:25 PM seconded, by Donald Wynes with a unanimous vote.

Respectfully submitted,

Susanne M. Wolff  
Planning Commission Secretary