

EAST AURORA PLANNING COMMISSION
REGULAR MEETING

November 5, 2008

7:00 PM

Present: Dan Castle, Chairman
Stacy Oar
Laura Mehl
Lowell Dewey
Donald Wynes
Randy West
Carol Smith

Also Present

Mayor Clark Crook, Trustee Libby Weberg and Trustee Allan Kasprzak
Code Enforcement Officer Bill Kramer
Deputy Clerk Sue Wolff

Others Present:

Attorney Peter J. Sorgi with Hopkins, Garas & Sorgi, PLLC, 5500 Main St., Williamsville, NY
Sam Miller, Treasurer for the Ice Association
Michael Tehan, Vice President of the Ice Association
Approximately 15 members of the public

Development Plan for Ice Rink Zamboni Structure – 41 Riley Street

Chairman, Dan Castle called the meeting to order at 7:03 PM

Lowell Dewey moved the minutes of October 1, 2008 meeting be approved on the Development Plan for CVS, seconded by Laura Mehl, which was then followed by a unanimous vote to approve.

Stacey Oar moved the minutes of October 1, 2008 meeting be approved as written for the Zoning Reclassification and Development Plan for 155 Oakwood & 56 Hamburg St., seconded by Don Wynes and approved unanimously.

There was a motion made by Randy West to approve the minutes for October 1, 2008 as written for the Ice Rink @ 41 Riley Street, seconded by Laura Mehl and passed unanimously.

Dan Castle asked Peter Sorgi to give a summary of what was being proposed.

Attorney, Peter Sorgi gave a brief review of what the Planning Commission was to review tonight. He went on to explain that the temporary ice rink was up, millings were brought in and put down which the ice rink was looking to utilize for extra parking and a temporary structure to house the zamboni, were the items up for review by the Planning Commission tonight. Included in the packets tonight is a development/site plan as well as a full Environmental Assessment Form required by SEQR.

Chairman, Dan Castle discussed the fact that the issues were getting very confusing. He explained there is still an ongoing development plan for the permanent ice rink structure, a temporary (rink) with arguably permanent/semi-temporary structures positioned around the rink along with paving's/millings put down for

additional parking. Dan asked what the total area that has been covered? Peter asked whether Dan was referring to the area covered by millings.

Sam Miller explained that the area of new millings was approximately 3/10's of an acre.

Dan Castle called upon Lowell & Randy and asked them what the amount of space was that could be disturbed before they need storm-water pollution retention. Lowell went on to explain that any disturbance over an acre requires storm-water pollution retention, but anytime you put a pervious surface on an existing surface then the Village/municipality should be looking at storm-water control in the form of detention, so that nothing is flooded downstream regardless of the one acre. Lowell went on to explain, that he had done some measuring of the site, and it depends on what you consider disturbed. Adding the rink, was a disturbed area, the landscaping was a disturbance, if there is new parking outside of the existing blacktop driveway then that would be considered disturbed.

Lowell would like ice association engineers to tell them exactly how much land has been disturbed. Lowell said with the older existing blacktop area he thinks it might be just under an acre, but would like clarification from their engineer.

Peter Sorgi & Michael Tehan explained to the members that the DEC was called in and it was determined to be under an acre.

Lowell said that if you add the pervious area that used to be soil or grass, which is where the temporary rink is now situated, then that must also be added into your acreage. Lowell continued by asking Sam Miller what is expected to happen if and when the ice melts or during heavy rainfall. Where will the excess water run to? This is something that must be addressed.

Sam mentioned the other week when there was about 1/2" of rain, because the rink was so level it stayed there and didn't run off. Lowell questioned in the spring when you take the boards down, is the surface hard, and where will the drained water go? Sam said that there is a sand base and the water will drain away slowly through the sand. Lowell reminded them that showing grades on the development plan is required by our zoning code, and should have been submitted before review by the Planning Commission.

Lowell questioned what the temporary structure for the zamboni was made of? Sam replied that it was fabric. Lowell stated that is was a tent like structure with a metal frame. Sam said yes, all they need is something to keep the zamboni from freezing and will only be up for about four months.

A discussion started among the Planning Commission members as to why a temporary rink was allowed without a development plan and yet now it is necessary for a development plan review for a temporary structure for the zamboni to be housed.

Code Enforcement Officer, Bill Kramer clarified by explaining that according to the code any structure without a roof is considered a temporary structure, which is why the rink was permitted. Since there is a roof on the structure for the housing of the zamboni and additional parking is being requested, that needs to be addressed with a development plan.

Lowell questioned the hours of operation, to which Sam replied:

Weekdays 3:00 PM - 10:00 PM

Weekends 11:00 AM – 8:00 PM

Lowell asked where they would be selling tickets for skating. Sam replied that a small donated RV was brought in and put on site to accommodate sales. There was discussion concerning the number of RV's allowed on a site without a Village Permit.

Lowell questioned about speakers for music. Sam said the speakers were for open skate only and that open skate would only be 10% of rink usage. Lowell asked if since putting the hay bales around the chillers, has that reduced the noise levels and complaints, to which Sam said yes it had.

Chairman, Dan Castle made a statement that he feels the project has been given to the Planning Commission in pieces or segmented. The idea of segmentation is based on 1.) the original Development Plan for a permanent dual ice rinks is still being reviewed (even though no changes have been made to that submittal for nearly a year). 2.) a temporary ice rink (and associated structures, utilities, pavement, generator, signage, public address system, and landscaping) was allowed to be put up without a development plan or Village Permits/Approvals. 3.) a permanent water line connection was made without development plan review/approval. 4.) and now the Planning Commission has been requested to review a separate development plan only for additional parking and a temporary zamboni structure. He feels all of this is segmenting the SEQR review and it piece meal the coverage of the site.

There is concern that the applicant will come before the Planning Commission again requesting approval for additional uses such as a warming/changing shelter, possibly a concession stand, seating for spectators, etc. If these actions may occur, these are all elements that should be considered holistically by the Village, and not as individual projects. Dan Castle requested the Village Attorney, Robert Pierce to give his opinion if this is a segmented development plan under SEQR.

Carol noted that after looking at the Environmental Assessment Form she noticed one question was as follows: Will the proposed action result in the generation of traffic significantly above present levels, to which is was answered NO. Dan agreed and feels that it is another grey area that the Planning Commission must look at and figure out. Because this specific EAF is in regards to the development plan for the temporary structure for the zamboni, then it would probably not generate additional traffic in and of itself. Stacy mentioned that the EAF form in another spot says trips generated per hour, would be 40?

Randy West stated that the temporary rink is up, chillers going, lights and noise, and what is before us is to review a fabric shed and parking?

Lowell said that there is clearly two different development plans for review.

Stacy asked if there was a parking requirement. Bill Kramer replied no because there isn't a building.

Carol discussed the parking spaces as noted on the development plan.

Proposed - 36 parking spaces for the New overflow parking.

Proposed - 7 parking spaces that will be jointly used by Riley St. Station and Ice Rink.

Existing - 25 Parking Spaces along the back of property.

Total 68 Spaces.

Dan Castle also asked about the status of state funding via Dale Volker. Sam Miller indicated that this funding has not yet been provided. However Sam Miller and Michael Tehan did indicate that there was funding provided by the Dormitory Authority of New York. Dan Castle asked why the Dormitory Authority was not listed on the current or previous EAFs as an Involved Agency because they clearly have a role in funding the project. Peter Sorgi indicated that they have been consulting with lawyers from the Dormitory Authority about the project, but the issue of their being an Involved Agency was not discussed. Dan Castle indicated that he felt

it was a procedural flaw in the SEQR process in that an Involved Agency was not consulted in the process of designating a Lead Agency and the Determination of Significance (i.e. the Positive or Negative Declaration).

The EAF for this submittal lists the Dept. of Economic Development as an involved agency, but it was unclear whether this agency was informed/involved during the Lead Agency designation or Determination of Significance for the originally proposed Development Plan.

Several other issues were raised by members of the public, including noise, vibration, runoff, lights, and property boundaries. Dan Castle noted that these issues should also be made directly to the Village Board for their consideration.

After much discussion among the Planning Commission members, the following items were recommended for clarification on their Development Plan and Environmental Assessment Form.

1. Clearer & complete Site Plan with dimensions to structures as required by the Village Code.
2. Engineers report showing topography, drainage, and where the storm-water is flowing, and an engineer's determination that it will not impact the Village or Tannery Brook.
3. Show Striping for parking.
4. Grading Plan showing drainage.
5. Show Landscaping, and number of plantings.
6. List of what structures will be removed in four (4) months, upon discontinuance of temporary ice rink.
7. Show parking in relationship to railroad right-of way and property lines.
8. Confirmation of how many recreational vehicles will be used or stored on site and for how long.
9. Clarify discrepancies on the Environmental Assessment Form such as (Acreage, Garbage Traffic Involved Agencies, etc.)
10. Confirmation that the Applicant did receive approval from Erie County prior to construction of the water line through/across the Sewer Line Right of Way that traverses the property. It also was noted that as shown on the site plan submitted, that the temporary ice rink has been constructed partially within the Sewer Line Right of Way.
11. A letter of opinion from Village Attorney, Robert Pierce whether the consideration of this Proposed Ice Rink Development Plan is being segmented under SEQR by being proposed (and submitted for Village review and approval) incrementally by component rather than via one complete Development Plan Application.
12. A letter of opinion from the Village Attorney whether the role of the NYS Dormitory Authority in funding a portion of this project and consulting with the Ice Association regarding project approval makes them an Involved Agency under SEQR. If so, an opinion regarding whether the SEQR process has been flawed by omission of the Dormitory Authority, as an Involved Agency, from the Determination of Lead Agency status and the Determination of Significance as made by the Village Board.

Laura Mehl made a motion to table consideration of this incomplete Development Plan until December 3, 2008 or until the above information is made available to the Village Planning Commission, seconded by Stacy Oar and passed unanimously.

This portion of the meeting closed at 8:25 PM.

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Present: Dan Castle, Chairman
Stacy Oar
Laura Mehl
Lowell Dewey
Donald Wynes
Randy West
Carol Smith

Absent:

Also Present

Mayor, Clark Crook Trustee, Libby Weberg
Code Enforcement Officer, Bill Kramer
Deputy Clerk, Sue Wolff

Others Present:

Peter Sorgi, Atty. Hopkins Garas & Sorgi, 5500 Main Street, Suite 311, Williamsville, NY 14221
Bill Paladino, Senior Vice President for Ellicott Development
Approximately 15 members of the public

**Preliminary Review of Development Plan for E.A. Goodyear
(Corner of Boies Alley & Grey Street)**

This portion of the meeting opened at 8:30 PM.

Peter Sorgi discussed the proposed plans for E.A. Goodyear a 6,895 sq. ft. building on the corner of Boies Alley & Grey Street. He went on to explain that the property is currently a vacant lot (zoned CM) and that they realize they need variances for side & front setbacks as well as a parking variance. Peter said that the Village Code requires 21 parking spaces and he believes they are short by about 3 spaces, making it necessary for a variance.

Stacy Oar questioned how many employees are currently employed. Bill Paladino answered by saying that there were 6 employees currently.

Dan Castle questioned if the curb cuts shown on the development plan were existing or if they were new. Bill Paladino replied that they were new. Carol asked how many there were currently, Bill replied that there were two existing curb cuts but the ones shown on the site plan were new.

Dan Castle mentioned to Peter & Bill that a full Development Site Plan was needed showing elevations/grading, drainage, landscaped areas with plantings shown & curb cuts.

Peter replied that they were waiting for input from the Planning Commission before going to the expense of a complete development site plan.

Lowell remarked that the proposed building was very plain, to which Dan agreed and said that additional architectural features were needed. Maybe changing the roof design or facade to make it more appealing, to which Peter & Bill agreed they would work on that.

Laura Mehl asked if the proposed building was going to be positioned next to the M & T Bank drive that enters & exits onto Grey Street. Peter answered by saying that the proposed EA Goodyear would be within the right-of-way, and not right next to the bank entrance, the setback was proper.

Dan Castle discussed the fact that the 30' curb cut on Grey Street was too close to the signal on Boies Alley, he was worried that it could cause some problems when drivers go to exit onto Grey Street. Dan wondered if the curb cut on Boies Alley that measures 25' on the site plan, could be flip-flopped with the Grey Street curb cut that measures 30' allowing 5' additional space before the light for cars maneuvering along Grey Street. Lowell felt it would be a good idea to show the curb cuts to the plaza on Grey St. and also on Boies Alley in relationship to the curb cuts for the Goodyear store on there complete development plan when they resubmit to the Planning Commission. Lowell felt that both proposed curb cuts could measure 25', allowing more space for vehicles to turn on Grey St. and would also allow more area for landscaping.

Lowell said he was pleased with the 15' landscape area along Boies Alley. He thinks it will be a nice wide area for landscaping. Dan mentioned that he is in hopes it will look as nice as the plaza landscaping across the street. Lowell questioned about the signage for the Goodyear shop, wondered if they were planning on a free standing sign to which Bill Paladino replied that signage had not been discussed.

Lowell also questioned about the possibility of noise from the air tools used for various repairs. Will the doors be closed to keep the noise down for the neighbors? Bill Paladino replied that during the cooler weather the doors would most likely be down, but during warmer weather the doors were typically up. Dan wondered if they turned the building on the property, so the back of the building would border Boies Alley, if that would help to redirect the noise away from the residents. Peter said they had looked at doing that, but found it would cause a problem with parking. Lowell mentioned that possibly a fence or else a very close tree planting might help muffle the sounds. Lowell feels sure the question of noise will come up at the public hearing, when the Village Board reviews the development, so they should look into this and be prepared.

Laura Mehl questioned if EA Goodyear closes at 6:00 PM, to which Bill Paladino replied that he wasn't sure of the current hours of operation.

Dan asked if there would be sidewalks on both Grey Street & Boies Alley, to which it was noted there are existing sidewalks on both streets and those will remain once project is completed.

The following was a list of items that the Planning Commission members felt they would like to see addressed on a new site plan.

1. Complete development plan/site plan showing elevation, grading & drainage.
2. Development plan showing landscaping w/plantings.
3. Creativity with the building design or façade making it more unique.
4. Changing the width of the curb cuts on Grey Street & Boies Alley to 25' as well as showing existing curb cuts on Grey St. & Boies Alley in relationship to the new development.

This portion of the meeting closed at 8:55 PM.

Upon the completion of the review of E.A. Goodyear, Mayor, Clark Crook discussed with the Planning Commission how he would like to see some design guidelines set up for the Village of East Aurora similar to the guidelines set by Hamburg, which would streamline the development process and make reviews easier in the future. Mayor Crook mentioned that he would also like to set up a committee to help with this process. Dan Castle asked the Planning Commission members if anyone would like to serve on this committee to which Randy West, Carol Smith and Lowell Dewey showed interest. The Mayor thanked them and said that he would be contacting them in the future.

Carol Smith made a motion to close the meeting at 9:00 PM, seconded by Laura Mehl and passed unanimously.

Respectfully submitted

Susanne M. Wolff
Deputy Clerk