

## **Olean Planning Board Meeting Minutes**

**Monday, July 23, 2018**  
**Council Chambers**  
**Olean Municipal Building**

**Attendance:**

**Chairman:** Tom Barnes  
**Members:** Chris Chapman  
Mary Fay  
Gabrielle Kyser  
Craig Polson  
Jerry Steiner  
Mark Sabella

**Applicants:** Eric Biscaro, Forest Hills  
Raquel Martin, Forest Hills

**Staff:** Keri Kerper, CD Program Coordinator  
Kathleen Monroe, Sr. Account Clerk Typist

**Other(s):** Robert Simon, Attorney

### **1. Roll Call**

Recognizing a quorum, Chairman Tom Barnes called the meeting to order at 7:03 p.m. and requested the roll call show all members present.

Mr. Barnes welcomed Gabrielle Kyser to the Board, noting he and Board members are looking forward to working with her and wish her luck.

### **2. Reading and approval of the April 9, 2018 public hearing & meeting minutes**

A motion was made by Mary Fay, seconded by Jerry Steiner to approve the April 9, 2018

public hearing minutes for Adnan Rafi (SP#02-18) with the following revision: paragraph 3, sentence 1, add “(SP#02-18)”. Voice vote, ayes all. Motion carried.

A motion was made by Craig Polson, seconded by Jerry Steiner to approve the April 9, 2018 public hearing minutes for Carubba Collision (SP#03-18). Voice vote, ayes all. Motion carried.

A motion was made by Mary Fay, seconded by Mark Sabella to approve the April 9, 2018 meeting minutes. Voice vote, ayes all. Motion carried.

### **3. Old Business**

There was no old business at this time.

### **4. New Business**

There was no new business at this time.

### **5. Miscellaneous**

#### **i. Forest Hills Subdivision SEQR Referral**

Mr. Barnes recused himself from the SEQR discussion, noting a conflict of interest as he owns property in the subdivision, and advised Mr. Polson would take the role as Acting Chairman on this item.

Ms. Kerper explained that in May of 2018, the Common Council, acting as Lead Agency, referred the SEQR to the Planning Board to provide comments regarding Parts I and II of the Environmental Assessment Form (EAF) for the project. She further explained during its completion of Part II of the EAF, the Council took into consideration the comments received from Interested and Involved agencies. Ms. Kerper advised that the Common Council after reviewing and completing Parts I and II declared a Positive Declaration on the project. She noted the applicant was advised that an Environmental Impact Statement (EIS) must be prepared to further assess the project for impacts and possible mitigation and to explore possible alternatives to avoid and reduce the identified impacts.

Ms. Kerper referred to the EAF response, which was prepared by John Neeson of Neeson Clark Associates, Inc. in lieu of the required EIS and received by the Common Council on June 14, 2018. She explained the Common Council at its July 17, 2018 meeting referred the above-identified response to the Planning Board for its review and comment.

Ms. Kerper read the Part III Evaluation of the Magnitude and Importance of Project Impacts question 1.) Impacts on Land: Evaluation of sub-questions “e” and “f” resulted in “moderate to large impact may occur”. The project will involve construction that will take place in four stages over a period of eight years. In addition, the project may result in increased erosion, no Storm Water Pollution Prevention Plan (SWPPP) has been

prepared, and storm water discharges are likely to flow to adjacent properties. Therefore, a moderate to large impact may occur: e.) The proposed action may involve construction that continues for more than one year or in multiple phases: f.) The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).

Mr. Polson referred to the applicant's response which stated: This is an existing approved subdivision. The existing residents bought knowing that there would be future development of the area. The subdivision proposal for 14 additional lots within the approved sub-division will entail a total of 81,000 sq. ft. of new construction (approximately 35% less construction activity than was previously approved and anticipated). With the generation of a Storm Water Pollution Prevention Plan (SWPPP) and proper use of silt fences, this resubdivision will generate no additional erosion than what has already been approved and found in the original Negative Declaration pertaining to the site. The footprint of this proposed re-subdivision will not change any of the existing subdivisions boundaries.

Mr. Polson questioned the discrepancy in the number of homes to be built and Mr. Biscaro advised the report is incorrect noting the plan is and always has been to build 53 homes consisting of 51 patio homes and two 2,800 sq. ft. homes. Mr. Polson agreed a previous proposal submitted to the Zoning Board contained two larger homes to be built side-by-side; however, the Zoning Board denied the request.

Ms. Kerper advised Part I of the EAF was completed by the applicant stating 55 homes would be built in the subdivision and that is what the Planning Board has based its answers on.

In response to Mr. Polson's comment, Mr. Biscaro advised they plan to build in four phases, completing 7 or 8 homes a year within an 8 year timeframe. He further explained, as an example, the construction crews would pour 14 slab foundations and then return to start framing the homes.

Mr. Polson explained a SWPPP must be conducted to address storm water issues. He noted the previous SEQR referenced was submitted 30 years ago with a different site plan and the project needs to meet current New York State Department of Environmental Conservation (NYSDEC) standards and requirements which require a SWPPP be conducted.

Ms. Martin advised the applicants were under the impression a SWPPP would be a condition of the approval as they did not want to incur the expense if the project was to be denied. She further explained that is how the applicant has done business on previous sites in other communities.

In response to Ms. Martin's statement, Ms. Kerper advised the Department of Public Works reviews the SWPPP before the EAF is signed off on prior to site plan approval by

the Planning Board; however, this application was submitted to the Common Council, and she can't speak on their behalf.

Ms. Kerper read the Part III Evaluation of the Magnitude and Importance of Project Impacts question 3.) Impacts on Surface Water: Evaluation of sub-questions "e" and "h" resulted in "moderate to large impact may occur". The development borders nationally recognized freshwater emergent wetlands and freshwater forested/shrub wetlands along its west side (National Wetlands Inventory Attribute PF01E and FEM1/SS1E). Although the previously approved and newly proposed subdivision is not located within the physical boundaries of the nationally recognized wetlands, the development of the proposed western lots would be considered encroachment on the wetland buffer and could have a measurable impact on both the forested/shrub wetland and the freshwater emergent wetland throughout the various phases of construction as well as the final inhabited subdivision. The proposed action would affect the wetland in the following ways: increased sediment load during construction from storm water runoff; increased runoff coefficients are to be expected from the development of impervious surfaces and the decrease in vegetative land coverage throughout lot development, and increased pollution from storm water runoff would also be expected from leaky cars, improper storage and protection of household chemicals, herbicides, pesticides and lawn fertilizers. Therefore, a moderate to large significant impact on the environment may occur: e.) The proposed action may create turbidity in a water body, either from upland erosion, runoff or by disturbing bottom sediments: h.) The proposed action may cause soil erosion or otherwise create a source of storm water discharge that may lead to siltation or other degradation of receiving water bodies.

Mr. Polson referred to the applicant's response which stated: The proposed resubdivision will not advance the boundaries of the existing approved sub-division that was found to have a Negative Declaration prior to the initial development of the area. Proper grading and storm water retention will not increase run-off coefficients and will mitigate any potential increase in pollution than what has already been approved for this existing sub-division. Proper construction practices will alleviate any of these issues.

Mr. Polson indicated the SWPPP would also cover these issues and advised the Cattaraugus County Health Department and the NYSDEC provided guidance on this issue; therefore, the Common Council should request comments on the response for these sections.

Ms. Kerper read the Part III Evaluation of the Magnitude and Importance of Project Impacts question 7.) Impacts on Plants & Animals: Evaluation of sub-questions "c" and "d" resulted in "moderate to large impact may occur". According to the New York State Department of Environmental Conservation Resource Mapper, approximately 90% of Forest Hills Subdivision lies within a zone of rare plants or animals. Therefore, a moderate to large significant impact on the environment may occur: c.) The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal Government, that use the site, or are found on, over, or near the site. d.) The proposed action may result

in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or Federal Government.

Mr. Polson referred to the applicant's response which stated: There are no species of special concern on this property as shown on the DEC website. Additionally, this property has already been disturbed with an access road, underground utilities and municipal water/sewer. The footprint/boundaries of this proposed re-subdivision will not be expanded from the existing approved subdivision. There are no species of special concern on this property that will be impacted by the proposed re-subdivision. The existing Negative Declaration has already been issued for this existing sub-division (boundaries/footprint).

In response to Mr. Polson's comment that parts of the EAF may have changed in the last 30 years, Mr. Biscaro advised he received correspondence from the NYSDEC stating there are no endangered plants or animals within the project site and the closest area of concern is .4 miles away.

Mr. Polson suggested the applicant provide said NYSDEC documentation. He noted the response received does not provide documentation or backup pertaining to identifying endangered animals or plants and methods of mitigation.

Ms. Kerper read the Part III Evaluation of the Magnitude and Importance question 13.) Impact on Transportation: Concern regarding increased traffic in the current neighborhood has been raised. Based on the EAF workbook, the impacts on transportation caused by the addition of 55 homes could potentially create a moderate to large impact: 13.f.) Other Impacts Traffic Volume will increase.

Mr. Polson referred to the applicant's response which stated: Based on a traffic study previously provided, the anticipated traffic will be approximately 20% less than what the existing approved sub-division was initially anticipating.

Mr. Polson noted the applicant references a traffic study; however, the traffic study was not included in the response or calculations supporting the statements.

Mr. Biscaro advised a Traffic Study was performed and submitted with the initial plan. In response to Mr. Biscaro's statement, Ms. Kerper explained only the Full Environmental Assessment Form and the applicant's response were referred to the Planning Board, which didn't include a traffic study.

In response to Biscaro's question concerning the communication and sharing of information among multiple boards, Mr. Polson advised the study should have been attached to the EAF response to support and/or help mitigate the traffic issues.

Mr. Polson explained the existing subdivision was approved with three locations for ingress and egress (Inwood Drive at two locations, being top and bottom to Genesee Street; Forest Hills Avenue onto Grandview Avenue); however, the new proposal

includes only one location for ingress and egress at the existing Inwood Drive and Genesee Street location and this was not addressed in the response.

Mr. Biscaro advised they would open Genesee Street if the City feels it needs to be done or Forest Hills Avenue, if there are no issues with land ownership.

Mr. Polson suggested a new traffic study be performed as part of the EIS in order to address the concerns stated by the Common Council.

Ms. Kerper read the Part III Evaluation of the Magnitude and Importance of Project Impacts question 18.) Consistency with Community Plans: Evaluation of sub-questions “b” and “e” resulted in “moderate to large impact may occur”. The proposed action may create a demand for additional community services; however, the demand on public services can be handled by existing resources and the proposed project will not exceed existing capacity and, therefore, is not expected to have a significant impact. However, the proposed structures are inconsistent with the predominant architectural scale and character of the neighborhood. Aesthetic and community character impacts are likely to occur, and would be moderate to large: b.) The proposed action may create a demand for additional community services (e.g.-schools, police and fire): e.) The proposed action is inconsistent with the predominant architectural scale and character.

Mr. Polson referred to the EAF response which stated: This project will be adding no additional demand for schools. The building of these patio homes are for seniors that are already living in the area. The City of Olean Assessor has given his opinion on the increased City tax revenue that will be generated by the \$6,000,000 investment to develop these homes. The increase in tax revenue to the City of Olean will be \$75,000 per year. This statement is solely an opinion. There are currently houses in the neighborhood that are very close to the “scale” of the proposed homes.

Mr. Polson explained an increase or decrease in property tax is irrelevant to the SEQR process and is not a parameter to be considered regarding the environmental impacts of this project.

Mr. Polson indicated he feels the proposed project is not consistent with the surrounding land patterns and no backup documentation was provided in the applicant’s response pertaining to the scale of the proposed houses in comparison with the existing homes. He noted the applicant’s proposed homes will be placed on concrete slabs in contrast to the existing surrounding homes, which have basements or are of a raised ranch design. Mr. Polson explained another difference is the homes located in the subdivision are currently predominantly owner occupied, and the applicant’s request calls for rental homes and these issues have not been addressed in the response.

Mr. Polson referred to the County’s property record website and advised according to those records, out of the 20 houses in the Forest Hills Subdivision the average square footage is 2,400, not including the garage. He noted 4 of the 20 are less than 2,000 sq. ft. with the smallest being 1,512 sq. ft. Mr. Polson advised the applicant’s response states

the homes currently constructed average 2,400 sq. ft.; however, when you add the garage space the average is nearly 3,000 sq. ft. He noted the proposed homes including the garage average 1,480 sq. ft.

Mr. Biscaro agreed the proposed homes may not be comparable in size; however, he indicated there are currently homes of the proposed square footage in the subdivision, and he feels it is a wonderful neighborhood that is very convenient for deserving seniors near the hospital.

Mr. Biscaro questioned whether any of the board members have traveled outside of Olean and “into the real world”. He then offered to take anyone interested on a tour of their Batavia project for an actual real world view of construction and members would not have to guess at the end product.

Mr. Biscaro expressed concern that the project, which he believes belongs in this particular area, is being seen as a negative and he indicated it will not harm the community but strengthen it and area residents may coexist in a beautiful neighborhood.

Ms. Fay noted it is prudent to advise the Council of the objective facts the Board has prepared.

Mr. Sabella expressed concern that the response is more of a rebuttal than an EIS for mitigation purposes and if this is to be the final version, the Planning Board should recommend that the Common Council deny the project.

Board members agreed the response prepared by Neeson Clark Associates, Inc. on the applicant’s behalf does not address all of the items for which the Council noted a moderate to large impact may occur and it is not sufficient as an EIS or a replacement for an EIS.

A motion was made by Jerry Steiner, seconded by Chris Chapman to authorize Ms. Kerper to prepare a Report on behalf of the Planning Board and forward it to the Common Council pertaining to its review of the applicant’s response to the Positive Declaration declared on the project. Voice vote, ayes: Mary Fay, Chris Chapman, Craig Polson, Gabrielle Kyser, Jerry Steiner, and Mark Sabella. Abstaining: Tom Barnes. Motion carried.

Attorney Simon stood up to address the Planning Board, and Ms. Kerper advised the meeting is not a public hearing and comments from the general public can’t be heard at this time. Mr. Simon then asked if a written statement may be submitted to the Board regarding the project and Mr. Polson advised that is acceptable.

Mr. Polson turned the Planning Board meeting back over to Chairman Barnes.

**ii. GML Section 239-1.-m,-n Referral exemptions – Cattaraugus County Planning Board**

Ms. Kerper advised she is continuing to work with Code Enforcement on the language for the above-referenced item.

**6. Next Meeting Date**

The next Planning Board meeting has been scheduled for Monday, August 13, 2018 at 7:00 p.m., if there is business.

**7. Adjournment**

A motion to adjourn was made by Chris Chapman, seconded by Mary Fay. Voice vote, ayes all. Motion carried. The meeting ended at approximately 7:40 p.m.