

Chairman Larry Ruth called the regular meeting of the Town of Walworth Planning Board to order at 7:31 P.M. Members present were Gene Bavis, Elaine Leasure, Larry Ruth, Deb Amsler and Karel Ambroz. Also present was Phil Williamson, Code Enforcement Officer, Norm Druschel, Building Inspector and Carl Hewings, Town Engineer.

Elaine Leasure made a motion, seconded by Deb Amsler to dispense of the reading of the formal legal notice. Motion carried.

Elaine Leasure made a motion, seconded by Deb Amsler to approve the minutes of May 20, 2009 as presented.

Roll Vote:	Gene Bavis	Abstained
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye

Motion carried.

1. Application of Conrad Russell for preliminary & final subdivision approval resulting in 2 lots (one with existing residence) and site plan approval for lot with new residence. Property is located at 1879 Sherburne Road - Property is zoned: R- Residential (Public Hearing).

Arthur Babcock, land surveyor, Bloomfield, NY was present along with the applicants, Conrad and Carol Russell, owners of the property located at 1879 Sherburne Road.

Mr. Babcock explained that that the applicant is seeking to subdivide 5.0-acres, resulting in 2 lots. Lot #1 would be 2.2 acres with the existing residence and garage and Lot #2 would be 2.8 acres. The applicant is seeking preliminary and final subdivision approval and site plan approval for Lot #2 where the proposed new residence will be situated.

Mr. Babcock explained that both residences would share a common driveway, the same driveway that Mr. Russell has been utilizing for years.

Mr. Babcock explained that he had responded to the letter from Parrone Engineering, dated May 28, 2009, requesting that 1) Design Engineer submit plans to the Wayne County Water and Sewer Authority for review and comments. 2) Design Engineer submit water service calculation for review, 3) design engineer add that Wayne County Water and Sewer Authority water notes to the plan, 4) design engineer provide a profile that substantiates existing sight distance of a vehicle east bound on Sherburne Road for the 45 mph criteria and 5) design engineer add elevation schedule to the plan for the wastewater treatment system.

Carl Hewings, Town Engineer said that he had received the updated plan and that Mr. Babcock had addressed those concerns. Wayne County Water and Sewer also reviewed the plan. Mr. Hewings stated that when the applicant came before the Board for concept review, there was a sight distance shown adjacent to the driveway that was substandard. There was not enough topography provided on the concept plan to determine how deficient it was. After receiving the requested information, he did a profile and determined that it is indeed less than the recommended sight distance of 360 feet. Carl Hewings calculated the sight distance to be 240-260 ft. The recommendation would be to put a warning sign on Sherburne Road, per D.O.T. standards indicating that the hill obstructs the driveway. Carl Hewings has spoken with Mike Frederes who indicated that similar signs have been placed other places in town in the past.

Gene Bavis stated he was still somewhat unclear about the sight distance issue. He questioned the stopping sight distance of 360 ft. and stated that it was his understanding that the stopping sight distance at 45 mph was 325 ft. Phil Williamson commented that the sight distances in the code book were last updated in July 1997. Discussion ensued about issues regarding sight distance. Gene Bavis asked whether legal advice had been sought? Carl Hewings stated that he talked briefly with the Denise Munson, Town Attorney and Mr. Hewings stated, "The Town Attorney thought that the sign would be an equitable solution." Gene Bavis added, "That would be one of my major concerns; putting the Town in jeopardy by approving something that is not quite up to standard, but if the Town Attorney is comfortable with that and there are ways of mitigating it (sign), then I can live with it." Planning Board members concurred.

He further stated that Mr. Russell has been before the Planning Board several times and one of his major concerns was the 45 mph speed limit on Sherburne Road. Mr. Russell made his presentation to the Town Board requesting that the speed limit be reduced. The Town Board went to the State requesting that the speed limit be reduced from 45 mph to a lesser speed because of driveways such as Mr. Russell and also because of increased traffic near the entrance of Sherburne Park. Mr. Williamson stated, "I don't think that it would be fair to penalize

Mr. Russell because the Town has done all that we can do to request a lower speed limit and so has Mr. Russell. The State has refused to budge on the lower speed limit.”

Chairman Ruth opened the public hearing.

Conrad Russell – 1879 Sherburne Road

The applicant, Conrad Russell stated that at the Town Board’s recommendation, he presented a petition signed by those in the neighborhood requesting that the speed limit be lowered to 30 or 35 mph. He expressed his dissatisfaction with the State’s refusal to lower the speed limit and the feeling that “the safety issue is not a concern anymore.” Mr. Russell stated, “The State doesn’t appear to be looking at the safety aspect, they want to keep 45 mph. If they would lower the speed limit, it would seem to me to take care of at least some of the safety issues, that is still my concern.”

Mr. Russell also provided for the Board an updated guideline from the Internet, “Engineering Policy Guide – 941.19 Sight Distance for Driveways”.

There were no other comments from the public.

Gene Bavis made a motion, seconded by Elaine Leasure to close the public hearing. Motion carried.

Karel Ambroz made a motion, seconded by Deb Amsler to grant preliminary and final subdivision approval.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye

Motion carried.

Gene Bavis made a motion, second by Karel Ambroz to grant site plan approval with the following conditions:

1. A notation be placed on the site plan indicating that the Town Engineer recommended and the Planning Board concurred a driveway warning sign be placed on Sherburne Road, location to be coordinated by the Town of Walworth Highway Superintendent.
2. After reviewing the Site Plan the Town of Walworth Planning Board has determined that a suitable park or parks of adequate size cannot be properly located in any such Site Plan and is otherwise not practical. Therefore a payment to the Town (the amount having been determined by the Town Board and found in Town Code §Section 180 paragraph E (13)) shall be assessed at the time of issuance of a building permit. Said sum shall, be used by the town exclusively, for neighborhood parks, playgrounds or other recreational purposes including the acquisition of property.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye

Motion carried.

Carol Russell spoke from the floor, “This is an existing driveway and why are you putting conditions on it?” Chairman Ruth answered, “There is a safety issue there. If for example, you did not live there and have an existing driveway and you came in and asked to build, we would turn it down, you wouldn’t be able to build what you have now. The next best thing we can do since this is pre-existing driveway and you have been there for years, it seems fair and appropriate to us, to our Attorney and the Town Engineer, that the best way to address the problem rather than penalize you for trying to subdivide your property is to recognize the fact that you are willing to use the same driveway. Knowing the history, we have tried other ways of putting in an entrance but this is the best we have to offer to make it possible to subdivide this property. The Town is saying subdividing the property is okay, but since the State has been unreasonable regarding lowering the speed limit, the least we can do is put up a warning.”

2. Application of Home Leasing, LLC for preliminary & final subdivision & site plan approval for property located at Eagles Roost Lane and Gananda Parkway. Property is zoned: PD-Planned Development. (Public Hearing).

Lincoln Swedrock of BME Associates, Fairport was present representing Home Leasing. He explained that the intention is to subdivide the property with a total acreage of approximately 3 acres with access off of Eagles Roost Lane and build two homes.

Mr. Swedrock stated, "A letter addressing outstanding engineering concerns and revised plans were sent today (June 8th) to Parrone's office and also the Town, along with water supply calculations that were requested." Chairman Ruth commented, "You did this just today...I have to remind you that this is not sufficient time for the Town Engineer to review and to act on it for tonight, but we certainly can dialog."

Chairman Ruth read a letter from the Wayne County, dated June 3, 2009:

"At its regular meeting on May 27, 2009 the Wayne County Planning Board reviewed the above referenced referral and recommended approval of the preliminary/final subdivision land with a reminder that Gananda Parkway is a limited access road with no new road cuts permitted."

Chairman Ruth opened the public hearing.

James Richardson, 589 Crows Nest Lane

Mr. Richardson read a petition (signed by over 100 residents of Eagles Roost Lane, Crows Nest Lane, Beaver Creek and Smugglers Cove). Approximately 25 residents of the subdivision were present at the public hearing.

We, the undersigned, as concerned citizens of the Town of Walworth, protest in the strongest possible terms any development of the current green space at the corners of Eagles Roost Lane and Gananda Parkway as presented to the Board in Home Leasing LLC's request for subdivision and site plan approval. We oppose the development for the following reasons:

- This established green space and its implied preservation had been a strong element in our decision to initially move to the area to raise our families in the Town of Walworth. This decision was made by many of us more than ten years ago. The development of this space cannot harmonize with the existing neighborhood as outlined in the Town of Walworth General Code, Standard of Approval for Site Plan Development Chapter 151-16(B) which stated: The site plan and architectural plan shall be of a character as to harmonize with the neighborhood, and to preserve and enhance the appearance and beauty of the community. The proposed development will adversely affect the beauty of the entire area, compromise established wildlife habitat, and significantly compromise the quality of life of your existing Walworth residents for whom this Code was originally written.
- The families in our established neighborhood rely on the natural buffer that this property represents to protect us from both the physical dangers of, and the noise created on Gananda Parkway, which combines residential and heavy commercial traffic traveling at expressway speeds in close proximity to our homes and families.
- There are already dangers present when making a right turn from Gananda Parkway (a 55 mph expressway) onto Eagle's Roost, a densely populated residential street where many children walk. There are no exits on I490 or I390 that require you to make a right turn with traffic advancing at speed behind you, onto a roadway that may have small children walking or riding bicycles in your path. This turn is seasonally complicated in our neighborhood by icy and snow covered roads, and has resulted in accidents in this intersection. The addition of two driveways in this immediate area presents an additional significant traffic hazard to the existing families. Backing out of these proposed driveways in the morning with existing residents waiting to turn left onto the parkway will be difficult at best. Requiring school buses turning into the development during this busy time to navigate the two additional driveways will subject our children to an unnecessary risk.
- Despite the intention to maintain as many trees as possible, the construction of homes and roads is plainly inconsistent with such plans. The removal of trees must occur in this development and will adversely affect the property values of the existing home, (again, in violation of Walworth General Code 151-16(B)) by making the area feel crowded, visually exposing portions of Gananda Parkway to the existing residents, and eliminating the intrinsic natural beauty the buffer area provides. This will make it more difficult to sell our homes should the development occur.
- This area under consideration currently does not drain well in the spring and during periods of heavy rains, creating swampy areas. An environmental study will likely show the development will compound drainage issues forcing more water into the proposed and existing yards, and creating additional potential for water ingress in basements.

Chairman Ruth commented, "Do you realize that this land was never set aside as a "forever wild" area?" Mr. Richardson answered, "I do understand that, but it was implied otherwise to us as a community. I know that the Board cannot speak to that and this will have to be taken up with Ryan Homes specifically. We were under the impression that this space was an easement for drainage from Gananda Parkway. When I purchased the property I asked specifically whether this piece of property was forever wild. I was told, 'no' it was not; however based on the drainage easement that was there, nobody would be able to build in that area. That was a significant reason why we selected this particular lot and why we chose to move to Walworth." Chairman Ruth asked, "Did you get that in writing?" Mr. Richardson responded, "No, and neither did any of the other residents in the development; all who would express the same sort of thing."

Mr. Richardson commented that play set that is on the property (mentioned in the worksession minutes) belonged to his family. "When we purchased the property we saw a lot that was cleared to a tree line; we graded it, we planted grass and have maintained it for 11 years. There was only one flat area on which to place the play set. I did not knowingly put a swing set 60 feet on someone else's property. I was under the impression that this was Town property and was there as a buffer to Gananda Parkway. It was never my intention to capture anyone's territory."

Chairman Ruth commented, "Concerning the drainage; the Town Engineer and Planning Board cannot approve any plan that would make the drainage worse than it currently is. We have no way to say that conditions will improve, but we can guarantee that the drainage will stay the same. Mr. Richardson stated that it is his opinion that the addition of hard surfaces will complicate the drainage issue and increase runoff."

Chairman Ruth addressed the issue of preservation of natural features and read from Walworth Town Code §Section 151-41: "The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to development and to the community, such as large trees or groves, watercourses, historic spots, vistas and similar irreplaceable assets. No trees with a diameter of 12 inches or more shall be removed unless such tree is within the right-of-way of a street or located within the area a building or structure is to be erected as shown on the final plat or site plan as approved by the Planning Board. In all other cases, however, no tree with a diameter of 12 inches or more shall be removed without specific prior approval by the Planning Board."

Jeff Stell – 3345 Eagles Roost Lane

Jeff Stell explained that his property is directly adjacent to one of the lots and backs up to the corner of the other lot. Mr. Stell expressed concerns about drainage as his lot is the lowest on the point. He described the property as "wet all the time", but particularly during periods of heavy rain. In addition, Mr. Stell has maintained the stretch of property between his home and Gananda Parkway, by mowing it and keeping it looking nice. For some time after he built his home, the side lot was overgrown and filled with construction debris, a "junkyard". "Today it is beautiful because I keep it mowed and now the entire subdivision is much more welcoming than a big weed bed." Further, the neighborhood kids play in the area, as it is a large piece of property that is ideal for a football field.

Mr. Stell acknowledged the fact that the owners of the property would want to sell that property and make some money on it; but expressed concern that if the property is developed there would be a negative impact; especially with the removal of trees that provide a very significant buffer between the existing houses and Gananda Parkway.

Mr. Stell also stated that there are already several bus stops near the corner and adding two additional driveways is a concern for the safety of the children in the neighborhood. "As a father this worries me, and I feel that more activity will make the situation even dangerous. I strongly recommend that this plan not go through." Mr. Stell thanked the Board for taking the time to listen to the concerns of the residents.

Chairman Ruth asked, "Has anyone approached Gananda Partnership about purchasing the property?" Mr. Richardson answered, "It wasn't until late last year that we realized that the property was not owned by the Town. At that time, my wife spoke with Mr. Leenhouts who indicated that it he was uncertain at that time about any plans for the property, but would keep the residents posted if anything should happen." Mr. Richardson further stated, "I can only speak for myself, but if I was presented with the opportunity to purchase the land I may well take advantage of purchasing the land myself, rather than see the land built upon. I don't think anyone was presented with the opportunity, to my knowledge. We became aware of the pending action when we first saw the sign a little over a week ago."

Phil Williamson commented that the intent of Gananda Partnership has always been to develop this parcel. As it is now, taxes are being paid on land that isn't utilized. Mr. Williamson suggested that the seven property owners backing up to the vacant land notify Mr. Leenhouts about possibly purchasing the property and extending their backyards to Gananda Parkway.

Gene Bavis suggested that the property owners might consider the option of forming a Homeowner Association and buying it jointly. Phil Williamson agreed that it could prove be worthwhile to at least have a discussion with Mr. Leenhouts to see if a mutually beneficial agreement could be reached.

Aubrey Richardson, 589 Crows Nest Lane and Mari Grace Zoyack, 577 Crows Nest Lane

Two of the younger residents of the neighborhood addressed the Board by reading a heartfelt letter that they had written. The letter read in part:

Aubrey: "We are worried that you may cut down our forest and build one or two houses. I have two brothers who are staying at home hoping you agree to keep our forest and not build any houses. Also, we have a swing set that we have been building on to and I don't want all our hard work to go down the drain." Mari Grace: "I also have one sister who is at home and our dogs need space to run and play. Think about the animals that are losing their homes; there are owls, bunnies, foxes, birds. It is going to be sad to see all the animals go. It is a beautiful sight for everyone. Do you really want all these cute little animals to lose their homes?" Aubrey: "Please think about us, think about our siblings and think about all the lives you are changing. I know that changing is for the best, but that is not what I feel like, so think about us."

Karel Ambroz made the motion, seconded by Deb Amsler, to table the public hearing until the next regularly scheduled meeting, pending further engineering review.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye

Motion carried.

3. Update on Ray Zientara at 787 Plank Road.

Chairman Ruth read a letter, from Denise Munson, Town Attorney which read: " I have had the opportunity to review the request by Raymond Zientara to operate a private garage on his property located in the Plank Road Hamlet. It is my understanding that Mr. Zientara owns a parcel that does not have a principal dwelling, but that does have a garage or building that has been used as a private garage in the past (although not for several years). The Hamlet Section of Town Law does permit in a Hamlet all uses allowed in any residential districts, subject to various limitations of those districts. Private garages are permitted as a permitted accessory use. However, here the use would not be "accessory" as there is no "principal" use. In short, The Town Code does not permit the requested use for the property in question. The fact that such a use was previously made of the property is no longer an issue – as the property has not been utilized as a private garage in many years. The distinction here seems to be somewhat arbitrary – the whole point of a Hamlet is to allow centers for both living and service-oriented businesses. The Town Board may wish to hear about this issue.

Phil Williamson said he has written a letter to Mr. Zientara in response and attached a copy of the above letter. Mr. Williamson suggested that Mr. Zientara request to be on the agenda of the next Town Board meeting and make a case for changing the Town Code to allow this type of operation to exist without a principal dwelling. Mr. Williamson has also had a conversation with a gentleman from Lollypop Farm. Lollypop Farm accepts donations of cars and they are looking for a place to doll up the vehicles for resale. The gentlemen agreed to come with Mr. Zientara to the Town Board meeting to help him present his case.

4. Other – Catch a Kid Award

Elaine Leasure made a motion, seconded by Deb Amsler to nominate Aubrey Richardson and Mari Grace Zoyack for a Catch A Kid Award for writing a letter and having the courage to stand before the Planning Board and deliver their message.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye

Motion carried.

Chairman Ruth adjourned the meeting at 8:50 P.M.

