

Chairman Larry Ruth called the regular meeting of the Town of Walworth Planning Board to order at 7:30 P.M. Members present were Gene Bavis, Elaine Leasure, Larry Ruth, Deb Amsler and Karel Ambroz. Also present was Norm Druschel, Building Inspector and Phil Williamson, Code Enforcement Officer. Carl Hewings, Town Engineer was absent.

Elaine Leasure made a motion, seconded by Gene Bavis 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 the June 23, 2010 worksession as written.

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

Motion carried.

**1. Application of Justin Marino for preliminary and final subdivision of 23 acres located at 365 Jacobs Road, east of County Line Road. Property is zoned: RR-1 - Rural Residential - 1acre.**

The applicant, Justin Marino was present and stated that he had appeared before the Board at the May 19, 2010 worksession to explain the concept. Mr. Marino explained the presently he and his father, Dennis Landry both have homes on the same lot. The intent is to subdivide the existing 23-acres parcel so that each home would be on it's own parcel with separate tax map numbers.

The Board was in receipt of a map entitled, "Final Plat of the Marino Subdivision", prepared by DDS Engineers, 240 Commerce Drive, Rochester, NY 14623, originally dated 5/18/2010, revised 6/21/2010. The subdivision map showed Lot 1 (3.240 acres) and Lot 2 (19.823 acres).

Chairman Ruth read a statement from Carl Hewings that stated that he had reviewed the revised subdivision map and was satisfied that all the comments in his 6/18/2010 letter to the DDS Engineers had been satisfied.

Chairman Ruth opened the public hearing.

There were no comments from the public.

Gene Bavis made a motion, seconded by Deb Amsler to close the public hearing.

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

Motion carried.

Gene Bavis made the following motion, seconded by Karel Ambroz:

I move to grant preliminary and final subdivision approval for property located at 365 Jacobs Road.

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

Motion carried.

**2. Application of Gina Marcello for a Special Use Permit to operate a sit-down/takeout restaurant to be called "The Walworth Café" located at 2263 Walworth-Marion Road. Property is zoned: B-1.**

Chairman Ruth read a letter from the Wayne County Planning Department, dated July 6, 2010 that read:

"At its regular meeting on June 20, 2010, the Wayne County Planning Board reviewed the above referenced referral and recommended approval of the special use permit with the following conditions:

- 1) there should be adequate parking for customers and employees,
- 2) there must be NYS Department of Health approval and
- 3) NYS Uniform Fire Prevention and Building Codes must be met."

Norm Druschel stated that since the worksession he had met with Joe Englert who had provided another sketch of the parking lot. Phil Williamson and Norm Druschel also met and determined that 40 parking spaces are required based on the square footage of the entire plaza. Since the last meeting Mr. Englert has been working on the lower parking lot behind the Plaza and seven additional spaces have been marked using concrete markers. A sign is in place indicating that there is additional parking in the lower lot.

Elaine Leasure asked if the kitchen/cabinetry establishment next to the café will be opening soon and the impact that would have on parking? Joe Englert stated that when it opens parking would have little impact as the business will be run by appointment only.

Norm Druschel also commented that Joe Englert is in the process of building a new set of stairs with railings at the eastside of the Plaza at the rear entrance of Mark's Pizzeria. This will allow the employees of Mark's Pizza to safely access the lower parking lot where they will park freeing up spaces in the upper lot for customers.

Gene Bavis questioned if there was a stairway on the west end of the building. Joe responded that there is a gravel path only and he does not intend to build stairs. Chairman Ruth questioned if the path would be able to be used in the winter and Joe stated that it would not and the employees of the café would have to park in the upper lot during the winter months.

Chairman Ruth stated that because of the fact that we are expecting employees and customers to use a lower parking lot, it is important that as a Planning Board we consider the safety issue. There was a concern about the potential for liability for the Town if anyone were to be hurt. Deb Amsler agreed.

Phil Williamson reminded the Board that the main issue before them was to determine if there is adequate parking spaces based on the square footage required in state code and the square footage of the entire plaza, not just the buildings currently occupied.

Joe Englert stated, "I would like to take the lower parking lot completely out of the picture. I believe that I have 41 parking spaces in the top lot and have always had that many...I already have enough spaces without considering the additional parking in lower lot."

Discussion ensued as to whether or not the 4 spaces for the postal trucks would count as legitimate parking spaces or not. After a back and forth discussion the Board agreed that they could be counted as part of the 40 required spots as there was nothing in town code indicating that they could not be. In addition, three additional parking spaces can be obtained by filling in and leveling off an area at the rear west end of the parking lot.

Discussion ensued with the consensus among the Board being that with the 33 spots, 4 postal truck spaces and the additional 3 parking spots at the rear west end of the parking lot there was ample parking. The back lot would be overflow parking, but the parking spaces would not be part of the 40 required.

There was a brief discussion by the Board regarding the issue of parking at Casselman's garage that was discussed at the previous worksession. In the past, Mr. Englert has allowed the garage to park facing the building, instead of parallel to it. Chairman Ruth asked if there needed to be any kind of written agreement in place, such as an easement, etc. Phil Williamson stated that each business is separate and each owner would be required to have its own parking layout. Any special parking arrangement would be informal and between the two property owners, not a town issue. Joe Englert reminded the Board that he has been trying to be neighborly and encourage more business in town and make it easier for the next-door neighbor, but he would make changes to the way the lot was delineated if he had to, such as adding a curb.

Karel Ambroz questioned if the parking spaces and the travel lanes were compliant with the New York State Department Fire Code. Norm Druschel stated they were adequate. Karel also questioned the required size of the parking spaces. Norm stated that the minimum size is 8 ft. by 16 ft. long and is the same size as the spaces at the Town Hall complex.

Gene Bavis commented, "I believe the parking issues have been resolved." The other Board members agreed.

Chairman Ruth opened the public hearing.

There were no comments from the public.

Gene Bavis made a motion, seconded by Deb Amsler to close the public hearing.

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

Motion carried.

Gene Bavis made the following motion, seconded by Deb Amsler:

After considering the factors set forth in Chapter 180-53(B) of the Town of Walworth Municipal Code and the application for Special Use Permit approval, I move that the Board find:

- (1) the location and size of the proposed use, the nature and character of the operation involved, the size of the site in relation to the proposed use and the location is:
  - (a) in harmony with the orderly development of the zoning district in which it is located.
  - (b) does not prevent the orderly and reasonable use of permitted or legally established uses in the district where the proposed use is to be located or permitted or legally established uses in adjacent districts.
  - (c) does not prevent the orderly and reasonable use of adjacent property or properties in adjacent districts, and
- (2) the location, nature and character of the operation involved in the proposed special use does not unreasonably discourage or prevent the appropriate development and use of adjacent lands and buildings in the district or land and buildings in adjacent use district or unreasonably impair the value of land within the district where the special use is proposed or in the adjacent use district, and
- (3) the use will be in harmony with and promote the general purposes and intent of Chapter 180 of the Town of Walworth Municipal Code, and
- (4) the public health, safety, welfare, comfort, convenience or the order of the adjacent land, surrounding neighborhoods in the Town of Walworth will not be affected by the proposed use in its location, and
- (5) the application for special use be granted upon the following conditions:
  - 1. Hours of Operation are 6 A.M to 9 P.M. (seven days a week).
  - 2. The capacity is set not to exceed 45.
  - 3. The owner of the property must adhere to the parking regulations as set forth in Walworth Town Code Section §180-39 (b) - Off-street parking. Three additional parking spaces will be added to the rear west side of the building being marked. The parking design must be approved to the satisfaction of the Building Inspector.
  - 4. The applicant will adhere to all other Federal, State and Local Codes, as apply to the particular use.

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

Motion carried.

**3. Request of Mr. & Mrs. Eugene Sanzotta for re-certification of the site plan for Lot #2 of the Lincoln Hills Subdivision, originally approved on August 21, 2000.**

Chairman Ruth read a letter from David Matthews, PE of Shelley Associates, 1268 Ridge Road, Ontario, NY 14519, dated 6/5/2010 requesting re-certification of Lot #2 of the Lincoln Hill Subdivision. Lot #2 is part of a 5-lot subdivision will all lots consisting of at least 5 acres in area. The original subdivision and site development plans were prepared by Kreiling Associates and approved by the Planning Board on August 21, 2000. Mr. Matthews stated that the lot will be developed as shown on the original site plans with a three-bedroom home with a minimum of 2000 sq. ft.

Shelley Associates, PE certified that that the site plan had been reviewed and complies with the current requirements of the Town of Walworth Zoning Code except the current land zoning is designated as RR-1A instead of R-20 as shown on the approved plan. The septic design is consistent with current requirements of the NYSDOH standards.

Gene Bavis, made the following motion, seconded by Karel Ambroz:

I move to re-certify the Site Plan for Lot #2 of the Lincoln Hills Subdivision for a period of 12 month beginning July 12, 2010.

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

Motion carried.

**4. Request of Mr. Craig Kota for re-certification of the site plans for the Kota Subdivision (158 and 162 Mildahn Road), originally approved October 2007.**

The Board was in receipt of a letter, dated June 8, 2010 from Edwin A. Summerhays, Land Surveyor, 2509 Browncroft Blvd. Suite 209, Rochester, NY 14625 requesting recertification of lots 158 and 162 Mildahn Road. The site plan was originally approved at the August 13, 2007 Planning Board meeting. Mr. Summerhays certified that the waste water systems shown on the plans were designed in accordance with the New York state Health Department guidelines which have not changed since the approval of the original plans.

Deb Amsler made the following motion, seconded by Karel Ambroz:

I move to re-certify the site plan for 158 and 162 Mildahn Road for a period of 12 months beginning July 12, 2010.

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 8:40 P.M.

Gail Rutkowski, Clerk

