

Chairman Larry Ruth called the meeting to order at 7:35 P.M. Members present were Gene Bavis, Elaine Leasure, Larry Ruth, Deborah Amsler and Pete Schillaci. Also present was Phil Williamson, Code Enforcement Officer, Norm Druschel, Building Inspector, Carl Hewings, Parrone Engineering and Arthur Williams, Town Attorney.

Pete Schillaci made a motion, seconded by Deb Amsler to dispense with the formal reading of the legal notice.

Motion carried.

Deb Amsler made a motion, seconded by Elaine Leasure to approve the minutes of August 13, 2007 as written.

Roll Vote:	Gene Bavis	Abstained
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Abstained

Motion carried.

Pete Schillaci made a motion, seconded by Gene Bavis to approve the minutes of August 22, 2007 as written.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Abstained
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

1. Request of Eugene Sanzotta to extend site plan approval for property located at 4613 County Line Road, originally approved 7/28/05. Property is zoned: RR-1.

David Matthews, of Matthews Consulting was present to represent Eugene Sanzotta the owner of property located at 4613 County Line Road. Mr. Matthews explained that the site plan was originally approved on July 28, 2005, but Mr. Sanzotta has not build on the property and is now interested in selling the lot and is requesting the Board to extend site plan approval.

Chairman Ruth was in receipt of a letter from David Matthews, dated August 10, 2007 that certified that the site plan, as previously approved, still conforms and is in compliance with all state and Town of Walworth laws, rules and regulations.

The Board has no further concerns.

Pete Schillaci made a motion, seconded by Elaine Leasure to extend the site plan approval for 4613 County Line Road for a period of 12 months from September 10, 2007.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

2. Application of Homer Sass for preliminary & final subdivision approval for a 2-lot Realty Subdivision of property located at 5569 Walworth-Ontario Road, north of Tummonds. Property is zoned: RR-1. (Public Hearing).

Eric Matzan, engineer for the property was present and explained that Homer Sass owns two adjacent properties; 5569 and 5547 Walworth-Ontario Road. Mr. Sass is seeking to reconfigure the land. The farmhouse (5559 Walworth-Ontario Road) is located on a 59.4-acre parcel. The intent is to subdivide this parcel so that the farmhouse is situated on a 1.481-acre parcel. The remainder of the land will then be added to the parcel at 5547 Walworth-Ontario where Mr. Sass currently resides.

The Board was in receipt of a letter from Wayne County Planning, dated August 30, 2007 that stated that they had reviewed the application at the August 29th meeting and recommended that the referral be handled as a local matter.

There were no concerns expressed by the Board or the Town Engineer.

Chairman Ruth opened the public hearing.

There were no comments from the public.

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

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

Gene Bavis made the following motion, seconded by Pete Schillaci:

I move that the preliminary and final Plat (Subdivision) Plan for the Sass Subdivision be approved as presented with the following condition:

1. After reviewing the Plat Plan for the Sass Subdivision, the Town of Walworth Planning Board has determined that a suitable park, or parks of adequate size cannot be properly located in any such plat 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 §180-58 paragraph E(13)) shall be assessed on each lot 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
	Pete Schillaci	Aye

Motion carried.

3. **Application of Benjamin Stopka for preliminary & final subdivision approval for a 2-lot Realty Subdivision of property owned by James Baur Schmidt located at 4880 Tiffany Road, 1776 ft. south of intersection of Tiffany Road and Plank Road. Property is zoned: RR-1.**

Benjamin Stopka of 4870 Tiffany Road was present to discuss the application. The Board was provided a map prepared by Grover & Bates Associates of East Rochester, dated August 28, 2007.

Mr. Stopka stated that he is purchasing 2.53 acres from his neighbor, James Bauerschmidt to combine with his existing parcel of 0.82 acres. Mr. Stopka stated that taking into consideration comments from the worksession of July 18th, the map had been adjusted so that the Bauerschmidt parcel measures 1.001 acre from the ROW and meets zoning requirements.

Carl Hewings stated that all concerns had been addressed to his satisfaction.

Chairman Ruth opened the public hearing.

There were no comments from the public.

Pete Schillaci made a motion, seconded by Elaine Leasure to close the public hearing.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

Elaine Leasure made the following motion, seconded by Deb Amsler:

I move that the preliminary and final Plat (Subdivision) Plan for the Stopka-Bauerschmidt Subdivision be approved as presented with the following condition:

- 1. After reviewing the Plat Plan for the Stopka-Bauerschmidt Subdivision, the Town of Walworth Planning Board has determined that a suitable park, or parks of adequate size cannot be properly located in any such plat 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 §180-58 paragraph E(13) shall be assessed on each lot 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
	Pete Schillaci	Aye

Motion carried.

4. Application of Richard DeVrieze for preliminary and final subdivision approval for a 3-lot Realty Subdivision and preliminary and final Site Plan Approval for one lot. Property located at the corner of Jacobs and Lincoln Roads. Property is zoned: RR-1. (Public Hearing).

Fred Shelley of Shelley Associate, P.E.,L.S. was present, along with the applicant, Richard DeVrieze. Mr. Shelley gave a brief history of the proposal to subdivide the land.

The Board was in receipt of a letter from Wayne County Planning, dated August 30, 2007 that stated that they had reviewed the application at the August 29th meeting and recommended that the referral be handled as a local matter.

The Board reviewed a map prepared by Shelley Associates, dated August 10, 2007. Parrone Engineering also reviewed the plans and offered comments in a letter, dated August 21, 2007. Fred Shelley addressed all the concerns to the satisfaction of the Town Engineer.

The access driveway to Lot 7 is not in compliance with NYSDOT requirements. Mr. Shelley has discussed the situation with James Brady, Wayne County Highway Superintendent. Mr. Shelley proposed an alternative design; a 20-foot wide driveway at the pavement that would taper down to a 14-foot wide driveway, 30 feet back from the edge of the pavement. Mr. Brady stated that this design would be acceptable. Mr. Shelley requested that the Planning Board waive the minimum width of access right-of-way as part of the approval.

The driveway has been lowered and the plan revised to propose two 6-inch culverts instead of one 12-inch culvert.

A lengthy discussion ensued about this proposal to subdivide the land and the fact that having Lot. 6 and Lot 7 as separate parcels would be in violation of § 180.21E Accessory Buildings. The existing barn (accessory building) on Lot 6 would not be allowed, unless a principal use is constructed within one year of the creation of the subdivided lot. If the principal use is not constructed within the one-year time frame the accessory building must be removed.

Both Phil Williamson and Norm Druschel were in agreement that this section of the town code is very cumbersome and of questionable value. Difficulties have arisen time and again throughout the years in other situations.

Art Williams stated that he did not see any way around this problem at this time. The question was raised if a variance could be granted? Mr. Williams answered that this would not be possible. Mr. Williams suggested that changes to the Town Code could be made at the same time the Storm Water Management Program is implemented by the Town. Making all changes at the same time could save both time and money. Art Williams stated that updating local law and filing the modification with the Secretary of State is a rather lengthy process that he would estimate taking at year or longer to complete. The Planning Board members concurred that they would be in favor of elimination of this portion of the town code.

Pete Schillaci questioned whether making lot 6 and 7 as one lot would be a hardship? Mr. DeVrieze stated that it would not. After a lengthy discussion, Mr. DeVrieze decided that he would keep lots 6 and 7 together, making this application a 2-Lot Subdivision. In the future, if the Town Code should change, he could come before the Board and request subdividing the two lots.

Chairman Ruth opened the public hearing.

There were no comments from the public.

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

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

Gene Bavis made the following motion, seconded by Pete Schillaci:

I move that the preliminary and final Plat (Subdivision) Plan for the 2-Lot DeVrieze Subdivision (Lot 6 & 7 as one lot) be approved as presented.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

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

I move that the preliminary and final Site Plan for the DeVrieze Subdivision be approved as presented with the following condition:

1. After reviewing the Plat Plan for the DeVrieze Subdivision, the Town of Walworth Planning Board has determined that a suitable park, or parks of adequate size cannot be properly located in any such plat 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 §180-58 paragraph E(13)) shall be assessed on each lot 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
	Pete Schillaci	Aye

Motion carried.

5. Application of Angelo Affronti for Modification of Home Occupation – Major, Category B to operate a small excavating business at 656 Jacobs Road; originally granted on 4/13/98. Property is zoned: RR-1. (Public Hearing).

Angelo Affronti was present to answer questions regarding his application for Modification of Home Occupation – Major, Category B to operate an excavating business at 656 Jacobs Road. Mr. Affronti explained that he is seeking modification of the original Home Occupation, granted on April 13, 1998. The original modification stated, Applicant/Owner shall not park more than two dump trucks on the property at any one time. Mr. Affronti stated that he would seeking a modification from two truck to six trucks.

Chairman Ruth stated that the Planning Board was in receipt of a letter from William and Renee Lansing of 564 Jacobs Road, dated September 5, 2007, voicing objections to the application for the modification of the Home Occupation (Planning Board file).

Chairman Ruth opened the public hearing.

Linda Jenkins – 542 Jacobs Road

Linda Jenkins said she has been a resident of Jacobs Road since 1994 and has observed that throughout the years Mr. Affronti's business has grown to a point where there is now "more and more dirt, stone and vehicles." Ms. Jenkins expressed concern that the focus of the neighborhood is changing and Mr. Affronti's business has grown to such an extent that it no longer belongs in a rural residential area. She also questioned who makes sure that the terms of the Home Occupation are enforced?

Renée Lansing - 564 Jacobs Road

Renée Lansing was present and addressed the Board. She stated that an excavating business with heavy highway equipment in a residential neighborhood is not in keeping with the goal of preserving and maintaining a residential atmosphere, as outlined in §180-43.1E(2).

Ms. Lansing stated that although there have been significant improvements made to the property, such as, the berm; there are still piles of dirt and stone. Ms. Lansing stated, "I can still hear the dump truck being emptied". She also stated the original permit was very specific about no more than two trucks, and "absolutely no hauling of material on the property". She commented that the banging of the dump boxes and the operation of loaders is evidence that the trucks are not leaving and returning empty. It was her opinion that the property is not in conformance to the original conditions of the permit. "This is nothing personal, I just believe this type of business does not belong in a residential neighborhood."

William Lansing - 564 Jacobs Road

William Lansing requested that the original Resolution of April 13, 1998 be read to those present. Chairman Ruth complied and read the Resolution in its entirety (filed Office of Town Clerk & Planning Board file).

Bill Lansing further stated that the banging and clanging of trucks has been going on for many years, seven days a week. He expressed concern about the enforcement of the original Home Occupation and stated that it was his opinion that the Code Enforcement officer failed to adequately address his complaints.

Gene Bavis clarified that it is not the role of the Planning Board to enforce the Home Occupation; they are the administering body for taking applications and issuing the permits. The Code Enforcement Officer's role is to investigate any complaints by residents who may feel that the conditions of the Home Occupation are being violated and take whatever steps may be necessary to address the complaint. The next level of authority is the Town Board.

Phil Williamson responded, "First of all, any complaints that have come in, have been come through the Town Supervisor, who has referred them to me and I have investigated them. However, I do not have the right to go on private property unless I'm invited. Secondly, there was a noise complaint about a year ago and Mr. Affronti agreed that all trucks would now exit the property from the east."

Deb Amsler questioned, "Are we addressing the issue of the violation of the existing permit, or are we approving or not approving the modifications requested by Mr. Affronti?"

Chairman Ruth responded, "Our role specifically is to address the applicant's request for modification of the Home Occupation to go from two trucks to six trucks. As part of that, when someone comes in and asks for any type of modification, or if they are asked to come in because there are complaints, we have the responsibility to determine whether to modify the Home Occupation or to null and void the original."

Elaine Leasure questioned if the Board could change the modification to four trucks instead of the six trucks requested. Art Williams answered, "Yes".

Pete Schillaci expressed some concerns about the clanging of the dump boxes and questioned Mr. Affronti as to whether he could clean them at another location prior to bring them back to Jacobs Road. Mr. Affronti stated that he could clean the dump boxes elsewhere.

Mr. Affronti noted there are many residents on Jacobs Road and if there was a real issue why weren't there more residents from Jacobs Road present at the public hearing?

Renée Lansing - 564 Jacobs Road

Ms. Lansing stated that it was her understanding that there is a portion of the Town Code that stated that one should not be able to tell what kind of business it is from the outside.

Mike Schwartz - 609 Jacobs Road

Michael Schwartz spoke in support of Mr. Affronti. He stated that although he heard trucks on occasion, it was not an everyday occurrence. He stated that the berm is a very good idea and a real improvement to the property. "There are other businesses on the street and some are a little more noticeable than others, but there are many ambitious people in the neighborhood. I'm not bothered about it: I have my own issues to worry about."

Mr. Lansing expressed concern about the height of the berm, stating, "the berm must be 20 feet high." Chairman Ruth commented, "The purpose behind the berm with the conifers in the first place is to provide a visual buffer."

Mr. Affronti responded to the concern by explaining that he piled some of the excess topsoil near the berm to more effectively conceal the vehicles and machinery. Discussion ensued about the piles of gravel (stone) and topsoil on the property. Phil Williamson commented that much of the stone had already been removed from the property. The Board reached the consensus that the remaining pile of stone must be removed. The topsoil could be used to enhance the berm and make a more effective visual barrier. Mr. Affronti agreed that he would grade and seed the berm.

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

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

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

I move, to accept the Modification of the Home Occupation, Major – Category B to increase the number of trucks parked on the property from two to six with the following conditions:

1. All trucks must leave and return empty.
2. No emptying of dump boxes on the property.
3. All piles of stone must be removed from the property within a period of 90 days from September 10, 2007.
4. The topsoil can remain to enhance the berm, but must be graded and seeded.
5. All other conditions of the original Home Occupation, Major – Category B, granted on April 13, 1998 must remain and be adhered to.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

Chairman Ruth stated for the record that the expectation by the Planning Board is that the applicant, Mr. Affronti, complies with this modification of the Home Occupation, as well as the conditions set forth in the original Home Occupation. If there is a violation, the applicant will be subject to review and possible revocation of the Home Occupation.

6. Other

Chairman Ruth reminded the Board that a 20-minute video on Storm Water Management would be shown at the next worksession.

Chairman Ruth adjourned the meeting at 9:50 PM.

Respectfully submitted,

Gail Rutkowski, Clerk

