

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.

Pete Schillaci made a motion, seconded by Elaine Leasure to approve the minutes of September 10, 2007 as written.

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

Motion carried.

### 1. Site Plan for 617 Penfield Road.

Robert Wray was present along with his real estate agent, Marilyn Kessler. Mr. Wray explained that 17 years ago he purchased two approved building lot. He sold one of them, but when he applied for a building permit a few month's later for the second lot, he was informed that he could no longer build on it, as the approval had been revoked. He did not pursue the issue any further until recently when he came to Norm Druschel to question what could be done. Mr. Druschel suggested he discuss the situation with the Planning Board.

Chairman Ruth questioned, "What was the reason you were told you wouldn't be able to build on it?" Robert Wray stated, "I really wasn't given a reason. I understand that the people that bought the first lot had some problem with the septic. There appears to be a significant drainage problem with the pond across the street and the culvert under the road onto the property." Mr. Wray showed the original map with all the approval signatures to the Board.

Carl Hewing stated that he had read the correspondence from Paul Russell, the Town Engineer at the time. He explained that it was his understanding that there was information on the site plan regarding drainage that was incorrect which resulted in the Town Board revoking the approval. Phil Williamson commented that regardless of the fact that the approval had been revoked, the signatures are 17 years and that the site plan would need to recertified. He read from § 151-21 that states:

"Site plan approval, will expire if construction is not started within one year and completed within two years of the date of the final site plan approval, except that the site plan approval may be renewed by the Board in its discretion upon the submittal of a written application to the Board by the site plan applicant, accompanied by a statement from an architect, professional engineer or land surveyor licenses to practice in the State of New York setting forth that the site plan, as previously approved, still conforms and is in compliance with all State and Town of Walworth laws, rules and regulations."

Phil Williamson read a letter from the Hartung 2-lot Subdivision file addressed to William Wray, dated August 11, 1992:

"Be advised that at the Walworth Planning Board meeting Monday, August 10, 1992, a motion was made and unanimously carried to revoke the approval for the above-identified two-lot subdivision identified as Drawing No: H-5278 prepared by Herman J. Klingenger, P.C. based upon our engineer's report that the elevations on the culvert were misrepresented posing a significant health and safety hazard."

Gene Bavis stated, "Decisions made by the Planning were made based on information on the map that was incorrect, therefore it would not be the fault of the Planning Board."

"I don't know whose fault it is, but it certainly isn't mine. I purchased the land with the understanding that the lots were approved...the signatures were on the map. That is why we have Town Engineers. I was not aware that I purchased a lot that should not have been approved in the first place."

Chairman Ruth stated, "I can well appreciate your position, but the time to pursue an engineering error would have been 17 years ago. At this point in time it needs to be looked at again to make sure it still meets today's standards."

Phil Williamson suggested contacting Mr. Klingenberger, if he was still in business. Carl Hewings stated that he had looked at the file and correspondence from Paul Russell, Town Engineer at the time and it appeared that there were inconsistencies on the original plans. Mr. Hewing stated that he was in agreement that further field data must be collected to make any determinations based on current standards. Mr. Hewings stated that with further field information, there may be ways to rectify the drainage problems.

Mr. Wray responded that after talking to Norm Druschel he doubts it would meet current standards and questioned whether there is enough space for a septic. He further stated that after paying \$20,000 for each property, he wasn't sure he wanted to invest an additional \$4,000 to \$6,000 for additional engineering fees with no guaranteed positive outcome. I certainly would not want to sell anyone a lot that would not work for them."

Gene Bavis questioned whether he had considered hiring an attorney? Mr. Wray stated that this had been suggested to him before and again mentioned his reluctance to incur costly legal fees to pursue the matter.

Mr. Wray questioned, "What other options would I have for this land?" Chairman Ruth stated, "You could try to sell the property to someone who adjoins it, but you may not be able to recoup the money you've put into it."

Chairman Ruth stated that the Planning Board is willing to work with Mr. Wray, but there really wasn't any further advise the Board could give at this time.

## **2. Video – Stormwater Pollution Prevention for Construction Sites training session**

The Planning Board viewed a 20-minutes video on Stormwater Pollution Prevention for Construction Sites.

Gene Bavis made a motion, seconded by Deb Amsler to adjourn the meeting. Chairman Ruth adjourned the meeting at 8:15 P.M.

Gail Rutkowski, Clerk