

CHILI PLANNING BOARD
January 8, 2019

A meeting of the Chili Planning Board was held on January 8, 2019 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Michael Nyhan.

PRESENT: Paul Bloser, David Cross, Matt Emens, Glenn Hyde, John Hellaby, Ron Richmond and Chairperson Michael Nyhan.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways; Eric Stowe, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

Chairperson Michael Nyhan declared this to be a legally constituted meeting of the Chili Planning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

PUBLIC HEARINGS:

1. Application of American Packaging Corp, c/o Lee Foerster, owner; 100 APC Way, Columbus, WI 53925 for resubdivision approval to combine Lot #1 & Lot #2 of the American Packaging Subdivision into one lot at properties located at 100 APC Drive and 100 Beaver Road in L.I. zone.

Matt Tomlinson and John Karnes were present to represent the application.

MR. TOMLINSON: Good evening, everyone. Matt Tomlinson from Marathon Engineering. I have John Karnes with APC, as well, representing the owner.

As stated, we're simply combining two lots back into the one that existed prior to development. Originally we split off the piece that the building is on and was purchased. Subsequent to that, American Packaging bought the remaining lands and now we simply want to combine them back into one overall parcel. Simply -- mostly to combine tax bills, simplify addresses. One is 100 Beaver Road. One is 100 APC Drive. Mail still sometimes goes to 100 Beaver Road which was the address before it got changed so this will simplify things for the future.

MICHAEL NYHAN: Any plans for development of that land?

MR. TOMLINSON: Potentially. Portion of Phase 2, which we were here last year for the approval, is taking place right now. The railway siding is just about all of the way in. So it is really a matter of get up and running. And the remainder of Phase 2 being built, which I think is a total of 185 or 200,000 square feet in total, 155 is still being built, so we're still a couple years from starting to think about anything else.

JOHN HELLABY: Curiosity question more than anything. How has production been over there?

MR. KARNES: Very good, very positive. We keep continuing to grow, so it has been good growth.

JOHN HELLABY: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Michael Nyhan made a motion to close the Public Hearing portion of this application, and John Hellaby seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

Michael Nyhan made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and John Hellaby seconded the motion. The Board all voted yes on the motion.

MICHAEL NYHAN: Any conditions?

JOHN HELLABY: Nope.

MICHAEL NYHAN: Application of American Packaging Corp, c/o Lee Foerster, owner; 100 APC Way, Columbus, WI 53925 for resubdivision approval to combine Lot #1 & Lot #2 of the American Packaging Subdivision into one lot at properties located at 100 APC Drive and 100 Beaver Road in L.I. zone.

JOHN HELLABY: Second.

DECISION: Unanimously approved by a vote of 7 yes with no conditions.

2. Application of Paul Road Industrial Center LLC, owner; 1020 Lehigh Station Road, Henrietta, NY 14467 for resubdivision approval of Lot R3B of the Paul Road Industrial Park Subdivision into 2 lots at property located at 200 Aviation Avenue in L.I. w/ADATOD and FPO zone.

Kevin McIntee was present to represent the application.

MR. MCINTEE: Kevin McIntee with MRB Group here representing Paul Road Industrial Center, LLC in their application for resubdivision of their property located at 200 Aviation Ave. in the Paul Road Industrial Center.

As we discussed last month, we kind of snuck up on you with the subdivision. We have -- we're coming back with it today officially. We have a five-acre parcel being subdivided off approximately a 30-acre lot. This application was reviewed, I believe, in 2003 or 2005 and approved as is and we just need to come back for further approval.

DAVID CROSS: Do any of the lots you're subdividing -- will any of them require any variances? Any variances required for these lots?

MR. MCINTEE: No. We have a variance required for the 5-acre lot, for the parking in the front yard. That was approved in 2005 and carries through to today.

DAVID CROSS: Okay. That's all I have.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Michael Nyhan made a motion to close the Public Hearing portion of this application, and John Hellaby seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

MICHAEL NYHAN: It is the right size lot.

Michael Nyhan made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and John Hellaby seconded the motion. The Board all voted yes on the motion.

MICHAEL NYHAN: Application of Paul Road Industrial Center LLC, owner; 1020 Lehigh Station Road, Henrietta, NY 14467 for resubdivision approval of Lot R3B of the Paul Road Industrial Park Subdivision into 2 lots at property located at 200 Aviation Avenue in L.I. w/ADATOD and FPO zone.

JOHN HELLABY: Second.

DECISION: Unanimously approved by a vote of 7 yes with no conditions.

INFORMAL:

1. Application of Paul Road Industrial Center LLC, owner; 1020 Lehigh Station Road, Henrietta, NY 14467 for final site plan approval to erect a 30,000 sq. ft. manufacturing warehouse at property located at 200 Aviation Avenue in L.I. w/ADATOD & FPO zone.

Kevin McIntee was present to represent the application.

MR. MCINTEE: As discussed, the same thing as last month is being proposed. There has been minor changes. All of the comments have been addressed. The -- most of the comments were in regards to the SWPPP and they were very -- very minor site changes. Mainly slight changes to bioretention, and that, I believe, covers any changes to the plans themselves.

MICHAEL NYHAN: Elevations remain the same?

MR. MCINTEE: Yes.

MICHAEL NYHAN: The actual structure itself?

MR. MCINTEE: Yes.

MICHAEL NYHAN: On the drawing I saw there was a cross parking easement. Did I see that on the plans? You're applying for that or you have that already?

MR. MCINTEE: That is from -- I guess it would be 100 Aviation to the north. At some point they needed extra space for their trucks to turn around so they got an easement from our property.

MICHAEL NYHAN: Do you plan on connecting those two parking lots?

MR. MCINTEE: I don't know.

UNIDENTIFIED SPEAKER: No.

PAUL WANZENRIED: The app -- did the applicant -- has the applicant reviewed County Comments?

MR. MCINTEE: We do have a copy of those and we have taken a look at them, yes.

PAUL WANZENRIED: Have you reviewed County Comments?

MICHAEL NYHAN: Just got them.

MR. MCINTEE: I don't believe ---

MICHAEL NYHAN: Do you want to summarize anything you're concerned about, Paul (Wanzenried)?

PAUL WANZENRIED: Um, the project review report. It states that the Monroe County Development -- DRC has reviewed the subject application and has identified the following points that require appropriate action. Prior to the submission of final plans for approval -- I assume that would be by the County Development Review Committee. Just want them to be aware that that has to be done. And there are several items in there. 1, 2, 3, 4 -- those are the first 4 on that letter.

MR. MCINTEE: Sure. Sure. I believe most of their comments are generally generic. I believe one is in response to the wetlands that are located on the lot that we're subdividing off, so we are not concerned about the wetlands in our current property.

And a comment was made for the subdivision. We will be re-delineating the wetlands on the lot that is subdivided off before that is ever developed. A couple of those other comments involved Pure Waters getting their approval and things like that. I can't remember all of the comments off the top of my head, but nothing stuck out that was unaddressable or with changes in the site plan in any extreme way.

MICHAEL NYHAN: So --

PAUL WANZENRIED: You have a standard condition that --

MICHAEL NYHAN: Yes, that County Comments will be addressed.

PAUL WANZENRIED: With the County Comments, I would just like that reinforced, please.

MICHAEL NYHAN: Sure.

You say you do have a copy of the County Comments?

MR. MCINTEE: Yes.

MICHAEL NYHAN: In your brief review of those, you don't believe there will be any changes to your final plan at this point? You will be able to comply with each one?

MR. MCINTEE: Yes.

MICHAEL NYHAN: Okay. The nine conditions from the previous site plan approval.

Any additional that anybody saw from tonight's meeting or reviewing -- I will read them off again.

MATT EMENS: Yeah.

MICHAEL NYHAN: SEQR was completed at the first meeting.

So I will read the conditions that I have here for the application.

So the conditions of approval for final are all conditions -- all previous conditions imposed by this Board that are still pertinent to the application remain in effect.

Upon completion of the project, the applicant shall submit a Landscape Certificate of Compliance to the Building Department and the landscaping architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscape plan.

Approval is subject to final approval of the Town Engineer and the Commissioner of Public Works.

Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.

The applicant shall comply with all pertinent Monroe County Development Review Committee comments.

Building permits shall not be issued prior to the applicant complying with all conditions.

The application is subject to all required permits, inspections, code compliance regulations.

Copies of all easements associated with this project shall be provided to the Assistant Town Counsel for approval.

And all filing information; i.e., liber and page number shall be noted on the mylars.

Applicant to comply with all required life safety conditions and permits from the Town Fire Marshall and any signage change shall comply with the Town Code, including obtaining Town sign permits.

Any other conditions outside of those?

Application of Paul Road Industrial Center LLC, owner; 1020 Lehigh Station Road, Henrietta, NY 14467 for final site plan approval to erect a 30,000 sq. ft. manufacturing warehouse at property located at 200 Aviation Avenue in L.I. w/ADATOD & FPO zone with the aforementioned conditions.

JOHN HELLABY: Second.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
2. Upon completion of the project, the applicant shall submit a Landscape Certificate of Compliance to the Building Department from the Landscape Architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscape plan.
3. Approval is subject to final approval by the Town Engineer and Commissioner of Public Works.

4. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
 5. Applicant shall comply with all pertinent Monroe County Development Review Committee Comments.
 6. Building permits shall not be issued prior to applicant complying with all conditions.
 7. Application is subject to all required permits, inspections, and code compliance regulations.
 8. Copies of all easements associated with this project shall be provided to the Assistant Town Counsel for approval, and all filing information (i.e. liber and page number) shall be noted on the mylars.
 9. Applicant to comply with all required life safety conditions and permits from the Town Fire Marshal.
 10. Any signage change shall comply with Town Code, including obtaining sign permits.
2. Application of Western Realty LLC, owner; 949 Bay Road, Webster, New York 14580 for final site plan approval to erect two industrial buildings totaling approximately 70,000 sq. ft. at property located at 30 Airline Drive in L.I. w/ADATOD zone.

Joe Ardieta and Jeremy Kimble were present to represent the application.

MR. ARDIETA: Good evening. Joe Ardieta of Vanguard Engineering tonight representing the client, Western Realty. With me tonight is Jeremy Kimble of our office and Ron Pattison of Western Concrete -- or Western Realty, excuse me.

I'm not going to go over the overview of the project. We have seen it enough times. I will go over the changes we have made since the last time we were here before you.

The Town Engineer noticed that -- and they were accurate, that we actually kind of double-dipped on a portion of land on the site in that for storm water management, we utilized dry swales, but used them in areas that were also reserved for future parking should it be needed. So if that reserved parking was ever used, the runoff reduction volume practice would have been eliminated and we wouldn't have complied.

So we had to revamp the storm water management practices that we used and we eliminated the bioretentions which you see on the map below you that are no longer proposed and the dry swales. Now, the swales are still going in in the areas where the reserved parking is going -- would go, but we're not counting those toward our runoff reduction volumes. Instead of the bioretentions and counting those swales, we put in an infiltration basin on the southeast corner of the lot. It's a linear -- essentially a linear depression that would hold water and water would infiltrate the -- the majority of the water would infiltrate. What overflows would overflow into the pond. That was the practice that we employed.

We submitted the revised SWPPP to the Town Engineer. He issued comments on last Thursday. And we have since revised the SWPPP and the drawings and the engineer's report and resubmitted it back to them and to you yesterday.

MICHAEL NYHAN: Okay. Anything else?

MR. ARDIETA: So, I was also in communication with Dave Lindsay about a potential -- he is requesting an easement for snow storage at -- along the north. I don't see a problem with that. We'll just have to relocate our hot box a little farther south than where we have it right now.

MICHAEL NYHAN: One of the conditions from the preliminary site plan approval was the applicant would send a property survey and abstract to the Applicant to send the property survey and abstract to Town Counsel, Town Engineer, Building Department, and Planning Board Chairman. Abstract and survey for proof of no easement for an old railroad spur visible on pictometry map.

As of today's date, we have not received an abstract that indicates that there is no easement.

MR. ARDIETA: No. Actually, we sent the abstract and the survey about a week ago and my client's attorney has actually been in communication with the Town Engineer regarding the railroad.

MICHAEL NYHAN: Have you received a copy of it?

ERIC STOWE: Have not got a copy of the abstract.

MICHAEL NYHAN: Paul (Wanzenried), has the Building Department received a copy?

PAUL WANZENRIED: No.

ERIC STOWE: I have been talking with the attorney, or -- or an attorney for Western Realty. My chief concern with that is that it appears on the one set forth -- the dated map -- 1/4, that a portion of that railroad track may come through the drainage easement we're going to take, and that -- without having -- without reviewing the easement, to have an easement over an easement becomes problematic. Without at least knowing what the terms say.

I -- I believe when you say -- when the attorney says that they don't see a problem getting it released, I believe that. We need to see a release or know that the easement we're going to take is not going to be impeded or we're not infringing on somebody else.

MR. ARDIETA: I understand. I can tell you that the surveyor and the survey, um, does not show an easement. Um, I read through the abstract. It was difficult to -- to discern -- and I did see a railroad easement, but it was difficult to discern the boundaries of that easement. I could not figure out where it was because it was so old, from the 1800s. I couldn't actually tell if the easement was over this land or not. It was at that point, I said, "Let's leave it to the attorneys to handle it."

ERIC STOWE: Okay.

MR. ARDIETA: But I don't show an easement on the drawings because I cannot place a boundary on our drawings.

MICHAEL NYHAN: Okay. So as a Board, for us to be able to approve a final drawing without knowing where the easement is or if it is even going to impede the edge of the drawing itself, or major revisions may need to be made to the drawing if the easement isn't released, it would be impossible for us to approve a final drawing.

MR. ARDIETA: Well, we would have no problem having a contingency that if there is an easement over the land, it be released prior to the signature of the drawings.

MICHAEL NYHAN: Does that present any legal --

ERIC STOWE: We -- we tried to do this and we didn't -- we don't have an abstract.

MICHAEL NYHAN: Okay.

ERIC STOWE: So --

MR. ARDIETA: I don't -- I can't -- I don't understand. Because we -- we mailed it a week ago and I emailed it. So -- I'm -- I don't know.

MICHAEL NYHAN: Well, but you -- well, you even said you know there is an easement but you don't know where it is so you don't know where to place it on your drawings. Therefore, you didn't put it on the drawings. If there is an easement there, we need to see where that is going to be on the drawing before we can approve it. It's as simple as that.

If you can't figure that out, then I think we really do need to leave to the attorneys to figure it out so it can be placed on the drawing or it can be released so it doesn't need to be on the drawing.

MR. ARDIETA: I agree with you. To me, this is an issue where -- I would propose we move forward with the verbal approval and then -- just wait for staff and you to sign after it has been resolved.

MICHAEL NYHAN: Well, Planning Board, I think, needs to see that and make a decision because there may be an easement and you may leave it on the drawing. The Planning Board needs to see that before they decide if they want to move forward with the final in that condition. Without seeing that at all, you know, on the plan or not even knowing what it is, if you're asking the Board to approve something we don't know anything about, you will not have a very favorable result and I'm fairly confident when I say that.

MR. ARDIETA: Does it matter the fact that the rails that are there connect to nothing?

MICHAEL NYHAN: No.

MR. ARDIETA: Because they're disconnected.

MICHAEL NYHAN: I understand that, but if there is an easement and it is still active, that's --

ERIC STOWE: Railroads play by different rules than normal civilians in the sense that you can't adversely possess against a railroad and they take easements just by putting them in there. So there are different stuff for railroads than there are for normal.

MICHAEL NYHAN: I think probably the best way to pursue, if you wanted to request to table this until such time that you can produce a release from that easement, or definitively show that on a final drawing for us to review, we would be willing to entertain that.

Otherwise, we can move forward. But if there is a declination of this application to the applicant, then you wouldn't be able to just come back for a certain period of time. Is it a year, Paul (Wanzenried), before they would be able to return?

PAUL WANZENRIED: No.

If they're declined?

MICHAEL NYHAN: Right.

PAUL WANZENRIED: Yeah, I think so. It's about a year.

MICHAEL NYHAN: So.

MR. ARDIETA: I understand. Are there any other issues that the Board has?

MICHAEL NYHAN: Yeah, let's review that.

Outside of the easement issue, Ron (Richmond), do you have any questions or comments relative to what we have seen so far?

RON RICHMOND: No.

MATT EMENS: Joe (Ardieta), two things. One -- one of the conditions that was on here, and I lost my spot here, um, from the preliminary approval, was to provide a location of any outdoor equipment or vehicle storage on the final plans that were going to be done outside.

Did I miss that or have we completely crossed off we are not storing anything outside?

MR. ARDIETA: Our intent was to store in the middle area between the two buildings.

MATT EMENS: Did I miss that? Is that labeled on here or not?

MR. ARDIETA: I probably missed that. I would have to add that to the drawing.

MATT EMENS: That was one.

And the second one is the comment about the -- let's see. Lu Engineer, Michael Hanscom's comment, Number 4, about the concrete wash-out location. I'm assuming that is for the -- the end-user that is going into the building?

MR. ARDIETA: No. It is actually for the -- for -- when concrete is being used in the construction of the site.

MATT EMENS: Okay.

MR. ARDIETA: It's on the plans that were submitted yesterday.

MATT EMENS: Great.

MR. ARDIETA: But the storage area I did forget.

MICHAEL NYHAN: That was the designated parking spaces between the two buildings, right?

MATT EMENS: Right.

MICHAEL NYHAN: I remember that. You can add that to your letter.

JOHN HELLABY: It appears you have answered most of the Lu Engineer's questions in your response on January 3rd, correct?

MR. ARDIETA: Yes.

JOHN HELLABY: That's all I have.

MICHAEL NYHAN: You satisfied with the SWPPP or any comments you want to make prior to --

MICHAEL HANSCOM: I haven't had a chance to fully review the plans that were resubmitted a couple days ago.

MICHAEL NYHAN: Okay.

MICHAEL HANSCOM: But there is probably not an issue. Only thing that may come up is in the filtration basin, you have to establish the infiltration, the true infiltration rates.

MR. ARDIETA: With infiltration, you have to do infiltration tests out in the field. Once we decide to employ infiltration basins as a method, we used -- we used 1-inch per hour perk rate, which is kind of standard for slow soils and we have hired Foundation Design to actually go out in the field and do actual infiltration tests and determine the water table because that's also the parameter for infiltration rates.

When they get back to us with the actual infiltration rate, we'll plug the number in and re-run the calculations. And this is -- this is circumstantial.

However, in talking with Jim Baker, Foundation Design, he said he was actually on a project very close to this site and although the soils are listed as the same in the soil survey, he -- he said they actually perked very well. It's not to say ours will perk well, because with my luck, it wouldn't. But it's possible.

MICHAEL NYHAN: It sounds like it is pretty much the same, other than adding those parking spaces where you intend to park equipment in between the two buildings?

MR. ARDIETA: Yes.

MICHAEL NYHAN: If you want to request that to be tabled, I will certainly entertain a motion to do that.

MR. ARDIETA: Yes. We'll request a table.

MICHAEL NYHAN: Make a motion to accept the request from the applicant to table this?

JOHN HELLABY: Second. The Board voted unanimously in favor of the motion.

DECISION: Unanimously tabled by a vote of 7 yes until the applicant resubmits for the following reason:

1. Applicant has not produced abstract to determine railroad easement and show on final site plan or show easement has been released. At the request of the applicant motion was made and voted to table the application until the applicant can make a determination on the railroad easement. The applicant will resubmit for final site plan approval once the details of the railroad easement are resolved and they are ready to move forward.

Michael Nyhan made a motion to accept the 12/11/18 Planning Board meeting minutes and Matt Emens seconded the motion. The Board was all in favor of the motion with the exception of an abstention from John Hellaby.

The meeting was adjourned at 7:31 p.m.