

**Town of Austerlitz Planning Board
Regular Meeting Minutes
July 3, 2013**

The Austerlitz Planning Board meeting:

Members present included Chairman Charles Knauss, Richard Madonia, and Beth Meehan. (Absent: Charles Lawson and Susan Geel)

Also present:

Terry Cozzolino, Cozzolino Real Estate
Bill Better, Lawyer

Audience in attendance:

Debra Lee Magadini
Martin and Judy Weinberg
Silvia Y. Beaupre
Penny Rubin
Jean Coughiano
Stew Martin

Mr. Knauss calls Public Hearing to order at 7:00pm.

David Seth Michael: Minor subdivision on State Rte 203- (Bill Better presenting)

➤ *Public Hearing : (Request to re-schedule)*

Bill Better confirms that no notices were sent to surrounding neighbors. Mr. Better presents the board with a rough draft of the "Driveway Maintenance Agreement" that was requested previously (4 copies were left to board for review). Mr. Better requests to move Public Hearing until next month. Mr. Knauss agrees. (One map left for file).

Exit: 7:03pm

Apra: Site Plan Review to clear cut 30 acres for horse pasture on Mallory Rd (Terry Cozzolino from Cozzolino Real Estate representing Jesus Flores, buyer):

➤ *Public Hearing: started at 7:04pm*

Debra Magadini first to speak from public:

Ms. Magadini expressed that she is confused on how this project is considered agricultural use? Her asks were how this would qualify, and under what zoning?

Mr. Knauss responds that raising and breeding horses are considered an agricultural pursuit.

Ms. Magadini also asks if there is a more clear idea of the project, with a more accurate drawing (from forester). Her concerns referred to some conflicting information (in letter on file from county). Mr. Cozzolino filled out the environmental assessment form, dated: 4/22/13, whereas some things checked off, and some did not, like the environmental impact it would have (and the concern of the barns). By the barn, Ms. Magadini explained, there is a bend so that the water doesn't wash out the road- a culvert was placed. Her major concern is that this will carry pathogens and barn waste that will affect her pond. She goes on to express that she is ultimately concerned where the barn is placed, as natural rain water will be flowing into her property. Her ask is if any studies have or will be done on the waste water?

Mr. Knauss responds that no studies have been done. He suggested that they could look into this concern. Mr. Knauss confirms with Mr. Cozzolino that this is 80-100ft farther up the hill, and the water would not run off that way.

Ms. Magadini goes on to explain that she already put \$8,000 into this issue prior. She explains that this may cause a fertilizing problem. She did some research on horses, and stats that they produce 51lbs of urine and feces a day per 1000lb horse. The bedding used will also be a waste problem. Ms. Magadini explains that she loves horses, but pasture land should be on flat ground, which is better for the horse's well-being- not a hill top. Ms. Magadini also asks how Jesus will be with management of the stalls/barn. Concerned of a fly problem.

Mr. Cozzolino suggests that if barn is moved 100ft, there will be no run off in this direction. Expresses that there is a possibility to moving barn.

Ms. Magadini explains that there is also a lot of old forest. What happens with all of these trees that are gone? What happens to soil?

Ms. Magadini also expresses her concern that Mr. Cozzolino has a financial incentive into selling this property and to go through with this plan.

Mr. Cozzolino is insulted by the comment. He explains that he showed Jesus many different properties, and Jesus wants the view. Mr. Cozzolino is a neighbor of this property as well, and wants everyone happy.

Martin Weinberg speaks from public:

Mr. Weinberg expressed some of the same concerns, including noise and odors. States that it is now quiet and peaceful, and he worries about the effects as he is positioned right below the hill. He too, is concerned with drainage and the impact it will have on many things at the bottom of the hill. He is uncertain of why this project would move forward without addressing these concerns first.

Mr. Knauss explains that this is the whole purpose of the public hearing. His initial thought of agricultural enterprises, is that raising horses are the least offensive. He expresses that horse farms live very well in rural areas and are not 'odor free' but less of an agitation than any other kind of agricultural.

Mr. Cozzolino offered anyone from audience the opportunity to visit the land, so he can give a tour and explain the project in person.

Mr. Weinberg explains that he is not personally comfortable walking the property without outside expertise on the effects of various levels, such as the cutting of trees and the effect of the run off. He expresses that there is an awful lot of uncertainty. He suggests that these questions are important and need to be answered.

Mr. Cozzolino states that the building inspector did go up with him and approved.

Mr. Knauss agrees. They did not find any problem with the plan. He explains that something could be altered a bit here and there. Mr. Knauss also states that there will be about 6-10 horses and due to the amount of acreage per horse- there should be no problems. Again, Mr. Knauss reiterates that horses are least offensive, and would be very happy to revisit these concerns and make a determination.

Mr. Weinberg explains that their goal is not to stop this from happening but to get everyone comfortable with this idea. Mr. Weinberg confirms that no one will be comfortable, until they receive facts. He explains that there is a lot of money changing hands, and a lot of money to build the barns. He would like to see a smooth transaction, by having the necessary information to come to an accurate decision.

Silvia Beaupre speaks from the public:

Ms. Beaupre explains that she is adjacent/below the property. Her first concern is that she never received notice, but rather heard through a neighbor.

Mr. Cozzolino shows that there was a return receipt, showing proof that one was mailed. May have been supplied with an incorrect address.

Ms. Beaupre goes on to express that her main concern is the run off, since she too, sits below that hill. She explains that they have always experienced difficulty with that road. In past times, a lot of water came into her house when it was first built. Other concerns included deforestation, noise, and would like to know what will happen to the road? Will people be coming to visit this 'attraction'? She explains that the road doesn't tolerate the amount of access already.

Ms. Beaupre then asks about the Building Inspector- would like to know exactly what is he inspecting, since the building is not built yet?

Mr. Knauss states that he is unsure. He explains that the County was contacted in regards to the land clearing and improvement of the property. As far as he knows, they are looking at it in regards to land clearing only at this moment. The next issue is placing and building the farm. Mr. Knauss states that there are two issues involved.

Jean Coughiano comes forth to speak from the public:

Ms. Coughiano revisits the definition of agricultural use- and explains that it would need to be used for a profit motive to be considered. Referencing Appendix 1 of the zoning law, Ms. Coughiano explains that a bunch of these requirements have not been met, and thus the reason why everyone is here. She would like to see a clearer and concise idea of what is intended including future development. She goes on to explain that the map they all received showed 15 acres being cleared. She would like to know exactly how many horses there will be and what Jesus is going to do with this piece of land. She suggests that there should be a sketch of proposed location, to include where everything is going to be, including future development plans and a blue prints. Ms. Coughiano referenced Section 4- whereas they should be aware of the dimensions, have a narrative description, and should include a construction schedule. Also, there should be an erosion plan description, and suggests that the planning board may require road mitigation. Ms. Coughiano explains that they have already done a lot of road work prior in which they placed huge ditches and gullies because of the amount of run off after it rains. She is concerned because the road is already such a mess and has drove her car into rut because there was so much mud into tires due to previous construction vehicles creating a mess with their tires. She expresses her concern of why she should have to pay for all of the repair work due to this already existing issue with the road.

Mr. Knauss explains that, "A road, is a road, is a road." There will always be consequences. His concerns are that these 'issues' are being stretched a little too far. There needs to be some sort of balance and limits along the line.

Ms. Coughlano goes on to conclude that we do have a zoning law, and that they will need to operate within that law. She is comfortable that everyone will follow this law.

Penny Rubin speaks from the public:

Ms. Rubin suggests that there is a need for a state pollutant discharge system (referencing letter sent to Charlie), confirming that they are not the only ones who have concerns with this. Ms. Rubin is concerned with the well and septic systems. She also addresses the 2- 2 bedroom apartments that Jesus plans to construct. She explains that under the state law, he cannot have residential facilities above a barn. Ms. Rubin would like to see all of these ideas and needs to be looked at all together as a whole instead piece by piece. She suggests that this should meet everyone needs including the neighbors. She goes on to confirm that this is not about denying anyone a home but recognizing challenges and addressing/fixing them.

Ms. Rubin would like to get something in writing from the town attorney of what he is purposing to do and if it is deemed as agricultural use. If it is labeled the wrong thing, will Jesus be willing to switch gears and meet the requirements?

Judy Weinberg speaks from the public:

Ms. Weinberg asks if the building inspector is qualified to determine the run off, etc.? What are the exact qualifications in terms of this project?

Mr. Knauss confirms that he is not licensed, but common sense does come into play with position of run off and distance.

Stew Martin speaks from the public

Mr. Martin asks if this is a "done deal?"

Mr. Knauss explains that this is a conversation. That the outcome of this is to adjourn the meeting until next month, where they will get some information together, visit the site, address the public's concerns, and will be back here next month still discussing this.

Mr. Martin asks if under the guides of Agricultural, would this have to remain as a horse farm? As a right of purchase, does the community have a say in this?

Mr. Knauss confirms that as a community there is voice because here everyone is speaking of their concerns. Mr. Knauss suggests that Jesus will purchase the land and move forward with a plan based on the outcome of this meeting. He explains that he did not go ahead with the final purchase until he has the approval to move forward with the project. Jesus sees values in this property- he just needs to know how he will get there.

Mr. Martin believes that the most logical solution to this is to have an environmental impact study done by professionals.

Mr. Knauss replies that they will continue this meeting one month from tomorrow, on Thursday, August 1st. He explains that they will try to answer some of these concerns and address the issues and see where it goes from there.

Mr. Martin, again, asks if there will be any action on hiring someone to conduct a study?

Mr. Knauss, states that again, they will work to address these problems, but probably will not have an actual study done. However, Jesus wants to purchase this property, and every criteria has a dollar sign to it. There was a fee for the application, money spent on forester, lawyers, etc., so this may be considered.

Mr. Cozzolino will address this with Jesus. He doesn't think he would have a problem with paying someone to conduct a study.

Mr. Martin also asks to understand the power structure of this? He explains that he bought his house 7 years ago between a dealer and seller. Would like to know what rights we have?

Mr. Knauss states that it goes back to why we are here discussing this plan- the community has the right to voice their opinions. The planning board will try to mitigate the situation and develop compromise through thoughts and ideas.

Mr. Cozzolino left a copy of the forestry with Mr. Knauss

****Public Hearing will be held open until next month****

Mr. Knauss calls Regular Meeting to order at 8:28pm

Approval of June Minutes:

Mr. Knauss requests the last paragraph of David Seth Michaels Subdivision be changed to include, "Road Maintenance Agreement," to describe what the stipulated information consisted of. Also, Mr. Knauss requests that the approval for the May minutes be changed from '5-0' to '4-0' as Beth Meehan was not present during that meeting to approve. All revisions requested have been made.

Motion to approve the June Planning Board minutes made by: Richard Madonia,
Seconded by: Beth Meehan
Approved 3-0

Old Business:

***Robert Pace: Minor subdivision on Slate Hill Rd (Dan Russell presenting)-
Still pending. No update.***

New Business: N/A

No further Public Comments

*****Reminder: Next meeting scheduled for Thursday, August 1, 2013*****

Meeting adjourned by Mr. Knauss: 8:32pm

Submitted by:
Heather Tompkins