

**MINUTES OF THE TOWN OF FORT EDWARD PLANNING BOARD MEETING
HELD ON WEDNESDAY, DECEMBER 13, 2017 AT TOWN HALL COMMENCING AT
7:00PM**

Chairman Belden called the meeting to order at 7:05pm

Pledge of Allegiance

PRESENT: Chairman Belden
Valerie Ingersoll
Joseph McMurray
Frank Wells
Zachary Middleton
Max Fruchter

ABSENT: Donald Sanders, Jr.

OTHERS PRESENT: Erika Sellar-Ryan, Chuck Weingart, Chris Boyea, Lauren Monaghan, Callie Ginter, Town Engineer Jim Houston and Special Counsel Stefanie Bitter

APPROVAL OF MINUTES: MOTION by Frank Wells, Seconded by Zachary Middleton to approve the minutes of the meeting of September 13, 2017 **ALL AYES**

**MHW Properties Subdivision
Erika Sellar-Ryan
Chuck Weingart**

Erika Sellar-Ryan: I am with Kelly & Sellar-Ryan and I am here with Chuck Weingart and he is a representative from MHW Properties. We were here this summer; the subdivision map we had at that time was done by Chazen and needed a little more information. At that meeting, the Board accepted the app as complete but in the discussion it was discovered that we needed an area variance because the entryway to Route 4 was not wide enough for your code thereafter Chazen went to the Zoning Board of Appeals on behalf of MHW and the area variance was granted. We are here tonight for in my opinion a very straight forward subdivision, we do meet all the requirements with the area variance that was granted. We are here to seek approval; the next person on the agenda for this evening is for site plan to develop the lot that will be sold off in the front. The goal is to sell off the lot in the back. Some of the wiggling around which has taken this project so long to get back to you is that we had to get some pretty documented information from the bank before they would sign off on their final approval. They have seen the subdivision plan and they have given their blessing.

Jim Houston went over his comment memo dated November 7, 2017; the applicant did not receive this memo:

C.T. MALE ASSOCIATES Engineering, Surveying, Architecture & Landscape Architecture,
D.P.C. 50 Century Hill Drive, Latham, NY 12110 518.786.7400 FAX 518.786.7299 ctmale@ctmale.com

November 7, 2017 VIA EMAIL ONLY

Mr. Mark Belden, Chairman
Town of Fort Edward Planning Board
118 Broadway
Fort Edward, New York 12828

*Re: MHW Properties - Great Meadow Federal Credit Union, 344 Broadway
Subdivision and Site Plan Application Review Comments
C.T. Male Project No. 14.4052-065*

Dear Chairman Belden:

C.T. Male Associates Engineering, Surveying, Architecture & Landscape Architecture, D.P.C. (C. T. Male) has completed a review of the project documents that we received for MHW Properties - Great Meadow Federal Credit Union. The package of information that we reviewed included the following documents:

Subdivision Application

1.) Plan - "Minor Subdivision for MHW Properties" prepared by Corner Post Land Surveying, PLLC, dated August 14, 2017.

Site Plan Application

2.) Site Plan Review Application - Great Meadow Federal Credit Union, signature page dated October 16, 2017.

3.) Short Environmental Assessment Form, signature page dated October 18, 2017.

4.) Plans - "Site Development Plans - Great Meadow Federal Credit Union", prepared by Bohler Engineering dated October 18, 2017.

5.) Plans - Architectural plans for "New Branch Office for Great Meadow Federal Credit Union", prepared by Rucinski Hall Architecture, Sheets A-1 through A-4 not dated.

Project site background

There was a "Subdivision of Land Application" submitted to the Town Planning Board for review with the signature page signed by Erika Sellar Ryan dated May 12, 2017. The plans were prepared by the Chazen Companies and initially dated May 12, 2017 and revised June 6, 2017 for the Zoning Board submission. The planning board referred the subdivision to the Zoning

Board because of the need for the applicant to obtain a variance for lot width. On August 15, 2017 the Zoning Board granted a waiver for the lot width associated with Lot 2.

C.T. MALE ASSOCIATES, D.P.C. *November 7, 2017 Mr. Mark Belden – MHW Properties – Great Meadow Federal Credit Union, 344 Broadway Page - 2*

Architecture & Building Engineering Civil Engineering Energy Services Environmental Services Survey & Land Services

With the granting of that variance in place the subdivision was set to be returned to the planning board for subdivision approval. Since the variance was granted the project has not been before the planning board.

The current application package includes a "Site Plan Review Application" and site development plans associated with proposed development on Lot 1 of the two (2) lots. The new application was signed by A. Ryan Roberts and the site plans were prepared by Bohler Engineering.

Subdivision of Land Application

The following subdivision related items should be addressed prior to board taking any action on the site plan:

1. Update the Subdivision of Land Application.
2. Update the Short Form EAF.
3. Revise the Subdivision plan to include a table showing the zoning requirements and what is provided on each lot.
4. Revise the Subdivision plan to clearly show the variance that was granted.
5. Show the existing utilities that service the property.

Site Plan Review Application

The following preliminary comments were generated based on our review of the Site Plan related documents:

1. The Commercial Plaza Zone includes all areas designated as C-1. The minimum lot area in the Commercial Plaza Zone is 20,000 sf. The tables on the plans and in the application should be revised to include this requirement. Regardless, this requirement is met with the proposed site plan.
2. The Zoning Information tables in the application and the Zoning Analysis Table on the plans needs to be coordinated. With respect to required number of parking spaces the application form says 4 spaces and plans say 6 parking spaces (it should be 7 spaces). Regardless, the number of spaces proposed far exceeds the minimum required.
3. Some of the entries in the tables need to be adjusted to correlate to the Commercial Plaza zoning requirements – for example side yard setbacks. Regardless, the setbacks proposed exceed the minimum requirements.
4. The plan shows parking spaces that are accessed from the east (former Agway store parking lot). The plan should show an easement on Lot 2 providing access to the parking spaces along the east side of Lot 1 and the parking spaces south of the Lot 1 and Lot 2 southerly property line.
5. The proposed light pole base for the light pole to the southeast of the proposed building is located within the NYSDOT drainage easement. Details of this light pole base and the buried system shall be submitted to confirm that the base will not adversely impact the buried drainage system.

6. The site plan should be submitted to the NYSDOT for their concurrence with the proposed improvements in their easement.
7. The former Agway site should be labeled Lot 2.
8. The proposed utility connections should be added to this plan.
9. The plan should eventually include all proposed signage.
10. The proposed building lighting, per the architectural plans, should be added to the site plan.
11. The plans should show how the existing monitoring well, shown on the subdivision plan, will be abandoned.

Please contact me directly at 518-786-7463 should you have any questions or comments regarding this correspondence.

Respectfully submitted,

C.T. MALE ASSOCIATES

Engineering, Surveying, Architecture & Landscape Architecture, D.P.C.

T. James Houston, PE

Senior Civil Engineer

c: A. Mahoney, Town Clerk

S. Bitter, Planning Board Attorney

Stefanie Bitter: As Erika said, you met in May and I was not at that meeting, I came in during the Zoning Board review which was for the lot width. The only question I have with the subdivision is where we stand with the Market 32 easement. The reason I say that is because the variance that was granted by the Zoning Board had a condition relative to having this inter connect with Market 32. If we have an issue with that it is something we need to address immediately.

Erika Sellar-Ryan: When we were here over the summer with Chazen we had long discussed about the fact that there was an easement here. At the time that Chazen did our first plan, we were under the impression because we were told flat out from the owners of that business because my client gave them a grading easement on 12 hours' notice and at the time instead of getting a reciprocal easement they said we don't have time for that but we will give you an easement whenever you want to open that up you let us know. We were also told at the time that the Planning Board mandated that there be access between those because of the light because the light would not have occurred if my client didn't give permission for that easement. So, when Chazen was here that was the impression that we were all under, we later found out that the Planning Board had not put that in their prior approvals and then we were approached by the owner of that lot who advised us that we would be able to have that access for us for a lot of conditions and our bank said no. They really wanted to restrict what we put on the lot. Based on that what happened was things came to a halt and I approached counsel for the purchaser and I said I can't get the easement and it makes no sense for me to negotiate the easement because I don't know what your budget is going to be and I don't know what you are going to want to agree to for a maintenance easement. My bank's only requirement was that whatever they get, they will not barricade it from us or prevent us from using that as well for ingress and egress, it

would just give us 2 exits and it makes sense with the light there. There is a note on the map regarding the other access agreements. Although this is a subdivision, this is a high traffic area and they are trying to make the lot as attractive as possible so as not to preclude anything back there. My client says that it is in your Master Plan from years ago that these all be connected.

Zachary Middleton: At the Planning Board meeting we cross tied Pizza Hut.

Erika Sellar-Ryan: Our understanding was that even though it is all under separate ownership you were going to treat it like a plaza that interconnects.

Zachary Middleton: We were told that when the Town sold that property the Town put that easement in; it had nothing to do with us. The Town sold the property and that is who came up with the reciprocal easement.

Erika Sellar-Ryan: I really don't want to get into it because it's really not a subdivision issue it's a site plan issue.

Stefanie Bitter: The way that the site plan resolution reads it does state it in relation to site plan and not subdivision. When the adjacent land owner Market 32 does return, I would recommend putting language in the area that states that the adjacent land owners will work together to have some sort of reciprocal easement and grant access that doesn't restrict use.

Chairman Belden: If I read the Zoning Board motion correctly it doesn't hold up subdivision it holds up site plan. It states, prior to the granting of site plan review for either lot 1 or lot 2 the driveway easement with Market 32 to be obtained so that traffic can utilize the signalized intersection.

Zachary Middleton: Did the Town Board file the easement with the County?

Erika Sellar-Ryan: I never looked at that

Chris Boyea: All that we can do, meaning the landowner, the bank, and my client is we can just go on record and note it as a condition that we agree to connect to the adjacent property if and when allowed. That is what is in our control. We all can agree that we want to connect and we will connect. To meet the condition of the Zoning Board that they want us to connect we can agree. There is a second party that is involved and that is Market 32, which is now up to them so if they come in to move a cart corral or a light pole or sign or something of that nature I think the Town may be able to address the issue at that time and open up the connection.

Chairman Belden: As far as subdividing the property tonight this is not an issue. This is an issue for site plan and we can have our counsel look at the deed.

Stefanie Bitter: Correct, as long as the notation is on the Mylar.

Erika Sellar-Ryan: You are correct in that one has nothing to do with other, the only thing I would point out is that this is a small lot so unless they are going to buy it, it's not worth me

getting a subdivision. Price Chopper has very strong opinions on what can be in this lot and if they want to offer my client the asking price of it we will let them take their opinion on whatever they would like to put there but since they are not reaching out to us to buy it and then telling us to restrict what's here by 40% and won't give us an easement; they have us over a barrel and that's not fair.

Chris Boyea: You are right it is a concern to subdivide without an end user. Our client, The Credit Union, is aware of this issue and is willing to move forward, close and build without that connection. In other words, we want it; we are willing to add that as a condition. It will not be a deal killer for our particular use.

Erika Sellar-Ryan: To be honest I thought this project came to a screaming halt when I got the rude phone call from the Price Chopper fellow about this not having access. Then when I contacted counsel it was initially a problem for the purchaser and then suddenly it didn't become a problem so much so that I assumed you had it and you just weren't telling us.

Chris Boyea: We think the location can support itself even without the cross connection.

BOARD:

Joseph McMurray: This says there is an easement off Route 4 for, is that for Lot 2?

Erika Sellar-Ryan: Yes, the reason being, there is already a curb cut here and this is so close to the light that we thought it doesn't make much sense to have another curb cut here, so the agreement was everyone could use our curb cut that way we don't have to get any permission from the State.

Joseph McMurray: Will this easement carry over to whatever purchaser comes in?

Erika Sellar-Ryan: Yes, and in addition to its being noted on the map, the reference indicates that we are doing a stand-alone easement that has passed back and forth between the attorneys for the last few weeks so everyone is on board with that. There is also a drainage easement there as well.

Valerie Ingersoll: Will you be removing the chain link fence?

Erika Sellar-Ryan: Eventually, yes if needed.

Valerie Ingersoll: What is coming out of lot 2?

Erika Sellar-Ryan: We won't know until lot 2 comes in for site plan.

Chairman Belden: How often are the monitoring wells checked?

Chuck Weingart: Yearly

MOTION by Zachary Middleton, Seconded by Max Fruchter to deem the subdivision application complete contingent on map revisions and set a public hearing on January 10, 2017 at 7:00pm **ALL AYES**

**Great Meadow Federal Credit Union
Site Plan
Bohler Engineering
Chris Boyea
Lauren Monaghan**

Lauren Monaghan: I am representing Great Meadow Federal Credit Union and their site plan application. We have a vacant property that currently is completely paved, once the subdivision is finalized that lot will be approximately .6 acres and we will build a brand new federal credit union building, your typical stand-alone bank branch. There will be full circulation with 3 drive through lanes, 34 parking spaces, we have added some green space, a sign for the credit union, we also have pedestrian access from the street to the entrance of the bank. Our access will be through the existing curb cut on Route 4 both entrance and exit. All utilities are currently available as far as water, sewer, gas and electric. We added some site lights for parking and a couple of building mounted lights as well. We do have the cross access between the lots and it will be free flowing as far as vehicular traffic. We meet all the zoning criteria. We are here to upgrade this site and bring life back to it.

Chairman Belden: Is the electric there underground or overhead now?

Lauren Monaghan: I believe its overhead now but we will bring it underground.

Chairman Belden: What can we discuss seeing as site plan is here before subdivision is complete?

Stefanie Bitter: We can make sure they are meeting all the zoning compliance. The first question I was going to have was about proposed signage. Obviously as we talked about earlier the idea of compliance with the variances that have been granted for this site has to be reviewed. If the Market 32 access agreement isn't going to be obtained we have to talk about how we are going to proceed timely because as Erika mentioned, she doesn't want to get her subdivision if this isn't a definite.

Zachary Middleton: Right now we are held up on site plan because the Zoning Board gave it the way they gave it. Why would the Zoning Board put a condition like that on knowing they didn't have it?

Stefanie Bitter: Because at that point in time it seemed achievable and at that point in time the applicant felt it was achievable.

Chairman Belden: The other thing that the Zoning Board might not have done was put in there that, prior to the granting of site plan review for either lot 1 or lot 2 the driveway easement with Market 32 to be obtained so that traffic can utilize the signalized intersection. I got the idea that the thought here tonight was that it was already in the deed.

Zachary Middleton: Was there somebody at that meeting who thought that that is not here now. Why would they put something in there that was not black and white at the time?

Stefanie Bitter: I can speak for the Zoning Board because I was there. At the time that traffic was being discussed and it was presented in a way that it was going to be obtained so if it was going to be obtained it was something that the Zoning Board felt was important.

Zachary Middleton: The greenspace shown on the map, was that just to be compliant?

Lauren Monaghan: No, that is just there because the existing curb cut is rather wide so we were just maintaining that, we didn't need the driveway that wide so we just added a little more greenspace.

Chairman Belden: The 4th thing from the Zoning Board states: Prior to the granting of site plan for either lot 1 or lot 2 greenspace for both lot 1 and lot 2 will be brought up to code pursuant.

Stefanie Bitter: That was because they couldn't meet the requirement with what was the existing conditions in the subdivision.

Zachary Middleton: So lot 2 has to meet green space?

Erika Sellar-Ryan: Can we have the Zoning Board come back?

Stefanie Bitter: Yes, that was my point, if you don't have the Market 32 easement you have to because that is a condition of the variance.

Chris Boyea: Obviously between now and the next meeting we are going to have to work it out, I will question and see whether or not legal has an opinion on this. We are connecting, we can go right to the property line but we just can't control the other side. As far as greenspace, the current lot 1 that we are developing is currently a paved parking lot so we have zero greenspace there today so there is no way that the lot that is proposed on the subdivision meets greenspace requirements because it's completely paved.

Stefanie Bitter: The purpose of this was so that the subdivision could be granted without requiring the greenspace to be addressed. It's not to restrict 1 lot from being developed while the other lot is not ready.

Chris Boyea: Can we ask for interpretation from the Zoning Board regarding the access easement as well?

Chairman Belden: If we can just change line 4 then why can't we just change line 3? If legal can explain to me how we can get around that I am more than happy to but the way it reads makes it difficult.

Zachary Middleton: Why don't we just have a joint meeting with the Zoning Board?

Stefanie Bitter: I drafted this in conjunction with the minutes; the Zoning Board hasn't reconvened since August 15th. If you read the resolution in its entirety it talks about how we got to that condition because we weren't dealing with the greenspace and it says that it exists as a pre-existing non-conforming use under that section of the code and that is how we were getting around it. It would have the same interpretation as you are working on that front lot. I think that the language can be modified. I think you could reconvene the Zoning Board for the purpose of addressing item 3 and either eliminating it in its entirety and then having them approve this resolution.

Erika Sellar-Ryan: Thinking about cost, could we have it on 1 night?

Joint meeting on January 10, 2018 at 6:30pm with the Zoning Board of Appeals

Joseph McMurray: Is that upper left hand corner open in case that easement ever goes through?

Lauren Monaghan: Yes

Valerie Ingersoll: Looking at the maps, it looks like your building is on top of the monitoring well out front.

Lauren Monaghan: We would relocate a well if we needed to.

Valerie Ingersoll: Is there room for a sign for a building on lot 2?

Lauren Monaghan: Yes there is plenty of room for a sign for a future user.

Valerie Ingersoll: On your short EAF question 8(b) are public transportation services available near the site of the proposed action. I believe there is a bus stop right there so that should be yes not no.

Chairman Belden: I like it; you have thought about snow removal, getting cars in and out easier and if somebody stops with their truck and trailer there is a way to get in and out of parking spots. We just have to get the 2 things cleared up with the Zoning Board and then move forward from there. When are you looking to break ground?

Chris Boyea: Right now we are focused on the closing.

Erika Sellar-Ryan: The closing is contingent upon all the approvals. I will go on record giving designated agency the moment the subdivision is approved if they want it.

Chris Boyea: As long as it can happen on the 10th.

MOTION by Max Fruchter, Seconded by Valerie Ingersoll to set a public hearing for site plan review for January 10, 2017 at 7:05pm contingent on the site plan application being deemed complete **ALL AYES**

Erika Sellar-Ryan: I sent correspondence on behalf of my client asking that we have the fees that we have paid to date for legal and engineering services be returned. The first reason and the biggest reason really is that this is not my client's conflict, we have been asked to pay for outside counsel when in fact the reason that outside counsel had to be procured was because your Town Attorney is representing someone who is appearing before your Board. That is not my conflict or is it my client's doing. Your Town Attorney is the one with that conflict. In my opinion it's really not appropriate to ask my client to pay for that outside counsel.

Chairman Belden: That would be something that the Town Board would want to look at, not the Planning Board.

Erika Sellar-Ryan: You have counsel here that is doing a good job in representing you but she had to come up to speed a lot and obviously your counsel does not. In addition to whether or not her hourly rate is different we are being charged for a lot of legal services that would not have been necessary had your own counsel been able to do it. This is not something that is unusual, I represent municipal boards and there are municipal boards that say if you do work on behalf of our Town you can't appear on behalf of people in front of you and I understand that your Town Attorney is not standing in front of you but it is a financial interest that is in front of you. That reason and also I was disheartened to see that there was communication and I have been over it with counsel and I do respect Stefanie a lot but it's not appropriate to have outside counsel talking with the counsel that recused themselves because they have a conflict. On the engineering side there were entries relating to him contacting Mary-Ellen.

Stefanie Bitter: I can just tell you that the conversations we had were relative to market 32 and if there was some sort of planning determination connecting the two and I had told Erika that after she issued the letter.

Erika Sellar-Ryan: It's not that I doubt what they spoke about but if people are going to be talking then what is the sense of having outside counsel. I respect you because you are an Attorney of integrity and I don't think you would talk about things your weren't supposed to but that is the whole point of outside counsel.

Aimee Mahoney: I can place you on the agenda for our January 8th Town Board meeting if you would like or I can ask the Supervisor when he comes back from vacation and see if he can make a determination.

The Board went through Jim Houston's comment letter from December 12th :

C.T. MALE ASSOCIATES Engineering, Surveying, Architecture & Landscape Architecture,
D.P.C. 50 Century Hill Drive, Latham, NY 12110 518.786.7400 FAX 518.786.7299 ctmale@ctmale.com

Architecture & Building Systems Engineering □ Civil Engineering □ Environmental Services □ Survey & Land Information Services

December 12, 2017 VIA EMAIL ONLY

Mr. Mark Belden, Chairman
Town of Fort Edward Planning Board
118 Broadway
Fort Edward, New York 12828

*Re: MHW Properties Subdivision, 344 Broadway
Subdivision Plan Application Review Comments
C.T. Male Project No. 14.4052-065*

Dear Chairman Belden:

C.T. Male Associates Engineering, Surveying, Architecture & Landscape Architecture, D.P.C. (C. T. Male) has completed a review of the revised Minor Subdivision Preliminary Plat. The plat that we reviewed was titled:

1.) "MHW Properties Subdivision, Minor Subdivision Preliminary Plat" prepared by Corner Post Land Surveying, PLLC, last revised December 5, 2017.

The following comments were made in the November 7, 2017 comment letter:

1. Update the Subdivision of Land Application – *we did not receive a new application.*
2. Update the Short Form EAF – *we did not receive an updated Short Form EAF.*
3. Revise the Subdivision plan to include a table showing the zoning requirements and what is provided on each lot – *a table was added showing statistics associated with Lot 1. No table/information was provided for the remaining lot (Lot 2).*
4. Revise the Subdivision plan to clearly show the variance that was granted – *the plat indicates that an "Area Variance" was granted but a "Lot Width" variance was granted.*
5. Show the existing utilities that service the property – *this information is not shown. The Grading, Drainage & Utilities Plan that was generated in support of the Site Plan shows many of the utilities that service the existing property.*

Some of the more significant differences noted between the prior survey plat (August 14, 2017) and the revised "Preliminary Plat" (last revised December 5, 2017) include the following:

1. Map reference to the Chazen sketch plans was removed.

2. Notes 7, 8 and 9 were added to the Plat. The focus of these notes is access easements between Lots 1 and 2. Of particular interest, Note 7 is intended to provide access to Lot #2 across Lot #1 for access to the road that services Market 32.

3. Tax map sketch plot was added.

Please contact me directly at 518-786-7463 should you have any questions or comments regarding this correspondence. **C.T. MALE ASSOCIATES, D.P.C.** *December 12, 2017 Mr. Mark Belden – MHW Properties Subdivision, 344 Broadway Page - 2*

Architecture & Building Engineering Civil Engineering Energy Services Environmental Services Survey & Land Services

Respectfully submitted,
C.T. MALE ASSOCIATES
Engineering, Surveying, Architecture & Landscape Architecture, D.P.C.
T. James Houston, PE
Senior Civil Engineer
c: A. Mahoney, Town Clerk
S. Bitter, Planning Board Attorney

Zachary Middleton: They may have to go to the Zoning Board for signage like we had to do for McDonalds. 32sf is maximum signage; remember we made McDonalds get a variance for their front sign and the signage on the building.

Lauren Monaghan: We will check with the applicant and see if they want to apply for the variance or remove 2 of the 3 signs.

Chris Boyea: I do want to address comment 6 from C.T. Male, there is an easement there that NYSDOT has for their drainage system, it is currently a paved parking lot on top of it, and we are putting less paved parking on top of it. For us to get a sign off from some DOT department in some building that knows about this DOT easement, we will happily go talk to DOT, we will submit it to DOT but we certainly would like some consideration not to hold up site plan approval because of it.

Chuck Weingart: Can you request a new traffic study? One hasn't been done since Market 32 came along.

Chairman Belden: I can't ask the applicant to do that.

Erika Sellar-Ryan: Do we need to submit a new subdivision application?

BOARD: Yes

OTHER BUSINESS:

Chairman Belden informed the Board of the Annual Training Session April 22-24, 2018 at the Sagamore.

ADJOURNMENT:

MOTION by Max Fruchter, Seconded by Zachary Middleton to adjourn the meeting at 8:38pm
ALL AYES

DATED: December 14, 2017

Aimee Mahoney, Clerk

