

Hamlin Planning Board *Minutes*
Monday, June 3, 2013
7:30 pm

The regular meeting of the Hamlin Planning Board was called to order by the Chairperson Linda Morey at 7:30 pm at the Hamlin Town Hall located at 1658 Lake Road, Hamlin. The location of the fire exits and AED was explained for those present.

Present: Judith Hazen, Dave Martin, Linda Morey, Mark Reeves, Peter Toner, and Dave Wolfe.
Also present: Town Engineer, J.P. Schepp, Town Attorney Ken Licht, Town Board member Dave Rose, Conservation Board members Jeanine Klopp and Ed Evans.
Residents: Sabine Frederick, Pete Ritchie, Lorie Vyuerby
Applicant representatives: Darryl Moser DDS, Robert Winans LaDieu Assoc., Douglas Heath attorney, and Keith O'Toole attorney.

Mark Reeves requested amending the minutes from the May 6, 2013 meeting. He asked to add the following comments to the Hamlin Meadows Subdivision Public Hearing. The comments from Mr. Beehler regarding the concerns of property value from resident Fran Hulsizer. The retort was "Fran has problems with everything". An incorrect last name of a Board member will be changed. Mark Reeves comments regarding resident Bill Richmond's statements will be added as the following: "We can only vote of what is on print, which clearly states doubles".

Motion made by Mark Reeves, seconded by Peter Toner to approve the minutes as amended.
Members polled: Judith Hazen aye, Mark Reeves aye, Linda Morey aye, Dave Martin aye, Peter Toner aye, and Dave Wolfe aye. Motion carried, minutes approved with corrections made to pages 2 & 3.

The Clerk read the Proof of Publication.

Chad Fabry brought up an issue with the newspaper notice. One of the addresses was not entered as it was on the notice sent from the Building Dept. The Planning Board legal notices were sent out to the correct addresses. Ken Licht stated that there was sufficient notice to the neighbors.

PUBLIC HEARING

**PRELIMINARY SITE PLAN APPROVAL GLOFF SUBDIVISION
480-542 WALKER ROAD, HAMLIN**

Application for Gloff Subdivision and Preliminary Site Plan Approval for a single lot subdivision with a single family home, located at 480-542 Walker Road, Hamlin.

Darryl Moser, of Schultz Associates, represented the Gloffs. They have been to the Zoning Board and have received approval to construct a barn for storage. The property has a long driveway which may result in the forming of a turn around. There will be no excessive grading at the site.

Chairperson Linda Morey opened the Public Hearing and asked if there were any comments from those present and to state their name and address. There were no comments.

Chairperson Linda Morey closed the Public hearing.

J.P. Schepp had no comments.

Jeanine Klopp had no concerns.

Ken Licht had no comments.

Chad Fabry had no concerns.

The county comments are in. No comments from the Board.

A motion was made by Dave Martin, seconded by Peter Toney to approve the application for the Gloff Subdivision and Preliminary Site Plan for a single lot subdivision with a single home, located at 480-542 Walker Road, Hamlin. This is a Type II Negative SEQR.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Toney aye, and Dave Wolfe aye. Motion carried.

Linda Morey asked Darryl Moser if they are also seeking Final Approval. He replied yes. She asked for any comments from the Board.

A motion was made by Dave Martin, and seconded by Mark Reeves to grant Final approval of the Gloff application for a single lot subdivision with a single home, located on 480-542 Walker Road, Hamlin. This is a Type II Negative SEQR.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Toney aye, and Dave Wolfe aye. Motion carried.

PUBLIC HEARING

PRELIMINARY SITE PLAN APPROVAL

SPOHR SUBDIVISION

1928 MOSCOW ROAD, HAMLIN

Application for Ken and Katie Spohr for a Preliminary Site Plan Approval for a single family residence at 1928 Moscow Road, Hamlin.

Tim Harris, of DDS represented Ken and Katie Spohr. He reported that there have been no major changes. They have addressed all comments from the Town engineer, DOT and Water Authority.

Chairperson Linda Morey opened the Public Hearing. She asked if there were any comments from those present and to state their name and address. There were no comments.

Chairperson Linda Morey closed the Public Hearing.

J.P. Schepp had no engineering concerns.

Ken Licht had no comments.

Jeanine Klopp had no issues.

Chad Fabry had no concerns.

Dave Wolfe asked if we had anything in writing from the Board of Health regarding the septic system.

Tim Harris replied that The Monroe County Health Department had approved the repair of the existing system. They will address the concerns and will re-submit to the county. Peter Tonery asked if the re-submit is just a formality? Tim answered yes.

Linda Morey to Chad Fabry: Please make sure that the application is signed by both parties (husband and wife).

County comments are in. No comments from the Board.

A motion was made by Peter Tonery, seconded by Mark Reeves to grant preliminary and final approval to Ken and Katie Spohr for a site plan approval for a single family residence located at 1928 Moscow Road, Hamlin. This is a Type II Negative SEQR.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey abstained, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. Motion carried.

PUBLIC HEARING

PRELIMINARY AND FINAL SITE PLAN APPROVAL PETER RITCHIE 1468 LAKE ROAD WEST FORK, HAMLIN

Application for Peter Ritchie for a Preliminary and Final Commercial Site Plan Approval at 1468 Lake Road West Fork, Hamlin. He is seeking a change of use for an existing accessory structure.

Mr. Richie represented himself.

There is no change for building #1. There will be no additions and no paving. He is seeking a change of use for only building #2. 16 parking spaces are required. There are 17 combined parking spaces.

Chairperson Linda Morey opened the Public hearing. She asked if there were any comments from those present and to state their name and address. There were no comments.

Chairperson Linda Morey closed the Public Hearing.

J.P. Schepp commented that there was little change of intensity of use.

Jeanine Klopp had no comments.

Ken Licht replied that the deed was conveyed in May to Radar Automotive, LLC. The actual owner should sign the application also; Mark Rader and Peter Ritchie need to sign the application.

Chad Fabry had no site plan concerns. He does have building code concerns and code issues to be resolved. The C of O will not be issued until the building is up to code.

Linda Morey asked if there was a need for special equipment such as an oil separator or air handler?

Chad Fabry replied that it is not a refinishing shop. It is largely a restoration shop with at the most spot painting and frame up work.

Dave Wolfe asked if there was more than one employee. There are no employees, just one (1) tenant.

Ken Licht stated there is no reason to come back to the Board. Mr. Ritchie can take care of any issues as indicated.

There was no need for county comments concerning this application.

A motion was made by Judith Hazen, seconded by Mark Reeves to approve Peter Ritchie and Radar's LLC application for a Preliminary and Final Site Plan Approval at 1468 Lake Road West Fork, Hamlin for a change of use for an existing accessory structure, pursuant to Mr. Ritchie signing the application. Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Toney aye, and Dave Wolfe aye. Motion carried.

PUBLIC HEARING

PRELIMINARY SITE PLAN APPROVAL

**GREG WHELEHAN AND
MARGARET AND PATRICK CULHANE
2222 BRICK SCHOOLHOUSE ROAD, HAMLIN**

Application for Greg Whelehan and Margaret and Patrick Culhane for a Preliminary Site Plan Approval at 2222 Brick Schoolhouse Road, Hamlin. They are seeking a Simple Sub-lot Combination.

Darryl Moser, of Schultz Associates represented the applicants. There are 2 lots on this application, one is 13 acres and the other is 8 acres. It is the intention to combine both lots into 1 lot. There is no planned construction for this area. It would mean erasing a lot line and a change in the tax account number. Mr. Whelehan is the single/sole owner now.

Chairperson Linda Morey opened the Public hearing. She asked if there were any comments from those present and to state their name and address. There were no comments.

Chairperson Linda Morey closed the Public Hearing.

J.P. Schepp had no engineering concerns.

Ken Licht had no comments.

Jeanine Klopp had no concerns.

Chad Fabry had nothing to add.

Darryl Moser stated that the driveway width is 10 feet. This preceded the requirements now needed for a driveway. Dave Martin stated that an emergency vehicle can access the property.

Peter Tonery stated that this is not a Simple Sub-lot combo but rather a Sub –lot Combination.

County comments are in.

A motion was made by Mark Reeves, seconded by Peter Tonery to approve the application of Greg Whelehan and Margaret and Patrick Culhane for a "Preliminary and Final" Sub-Lot Combination at 2222 Brick Schoolhouse Road, Hamlin. This is a Type II Negative SEQR.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. Motion carried.

AGENDA

PRELIMINARY AND FINAL APPROVAL

MA'S COW SUBDIVISION

1612 MOSCOW ROAD, HAMLIN

Application for Ma's Cow Subdivision "Preliminary and Final" Single Lot Subdivision Approval at 1612 Moscow Road, Hamlin. Joseph Heberle is seeking a Simple Subdivision.

Mr. Maier was present, representing Joseph Heberle.

The property is a 5 acre approved lot. It is proposed to merge it into the remaining orchard property. It will remain farmland. It is the assumption that this change is for tax purposes. The County comments have come back. They state to keep it farmland.

J.P. Schepp had no comments.

Ken Licht had no concerns.

Jeanine Klopp had no issues.

Chad Fabry had no comments.

County comments are in. No comments from the Board.

A motion was made by Dave Wolfe, and seconded by Peter Toney to waive the Public Hearing appearance in July and grant Preliminary and Final approval for the application for Ma's Cow Single Lot Subdivision located at 1612 Moscow Road, Hamlin. This is a Type II Negative SEQR. Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Toney aye, and Dave Wolfe aye. Motion carried.

AGENDA

PRELIMINARY SUBDIVISION APPROVAL

ROCKOW-BYRON SUBDIVISION

3947 & 3935 BRICK SCHOOLHOUSE ROAD, HAMLIN

Application for Rockow-Byron Subdivision for Preliminary Subdivision Approval at 3947 & 3935 Brick Schoolhouse Road, Hamlin. Duane A. & Cherie K. Rockow and Kimberly S. Byron are seeking a simple subdivision.

Mr. Maier represented Duane A. & Cherie K. Rockow and Kimberly S. Byron.

This property is on the South side of Brick Schoolhouse Road, West of the Fork. They want to add onto a garage which is tight to the lot line. The structure could be removed but they would rather purchase 20 feet from their neighbor.

They are waiting on County comments.

J.P. has no concerns. Mr. Maier states there might be a concern with the utilities. A utility pole runs through the Rockow property. The septic system may be an issue and he has yet to be provided with abstract which would show an easement.

Ken Licht states that it is a lot line adjustment.

Chad Fabry has no issues.

Mr. Maier asks if it will require another meeting? Yes, it will need a lot line exception and agreement to adjust the lot line, and County comments are not in.

A motion was made by Peter Toney, and seconded by Dave Wolfe to table the Application for Rockow-Byron Subdivision for Preliminary Approval at 3947 & 3935 until the July Planning Board meeting.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Toney aye, and Dave Wolfe aye. Motion carried.

AGENDA

PRELIMINARY SIMPLE SUBDIVISION

MIKE-MATT LANDS PARTERSHIP

1147 MOSCOW ROAD, HAMLIN

Application for Preliminary Simple Subdivision Approval located at 1147 Moscow Road, Hamlin. Mike-Matt Lands partnership is seeking re-subdivision of the Five (5) acres on the Northwest corner (originally Lot 10-Jensen Subdivision).

Keith O'Toole is representing Mr. Frank Mastrodonato who has a contract to purchase Lot A. This property consists of Five (5) acres on the Northwest corner, it was originally known as Lot# 10 of the Jensen Subdivision. It will now be referenced as Lot A. "Frank Mastrodanato owns Nuts Corners, which is an existing restaurant. He is interested in the lot because it is across from the entrance and exit to Hamlin Beach State Park, which is the only State park in the area. It would be a great location for food, alcohol, retail etc. It would attract local residents and other clientele such as boaters, hikers, campers, and fisherman. We are asking for a simple subdivision with no new development. It has all been approved by the Town of Hamlin in the past. The zoning is there for retail, alcohol, maintenance and storage uses. If we don't get the subdivision approved, there is no use in going before the Zoning Board".

J.P. has no comments.

Jeanine Klopp has no issues.

Ken Licht stated there was once commercial use of the property; it is AG only now since the golf course closed about 2 years ago. The use being proposed is not allowed under current zoning.

Linda Morey stated that farmland to a restaurant is not a permitted use and would have to go to the Zoning Board for a variance.

Chad Fabry responded that property use doesn't affect subdivision and he is not opposed to the subdivision of the land.

Peter Tonerly states that his comments were distributed earlier. It is a farm, part of the Kludt farm being actively farmed. The application is based on the use of a prior owner. Remarks differ actually on use not permitted whether past, now, or in the future. A restaurant is not permitted. It is not just a Simple Subdivision – it is not as simple as it appears to be.

Douglas Heath is present, representing Mike-Matt lands. These are two applications concerning the 5 acre parcel with 2 buildings. They have not asked the Planning Board for a commercial use, they are asking to put the 5 acre parcel back into Jensen Subdivision Lot# 10. My understanding is that the golf course continued to be in use until fall. His application was on March 18, 2013, and has been timely in coming to the Board to subdivide. Keep the distinction separate between my client to subdivide and Mr. O'Tooles client. It is a farm and has been a farm, 4 weeks planted now. We are two supporting professionals with inconsistent comments. The building was primarily use for a golf course, once subdivided they were accessory structures. My interest at this time is to get all issues cleared of so we can address independent of Mr. O'Tooles request. Two permitted uses of buildings with subdivision are professional offices or single family structure. Why does Mr. O'Toole need to change the use for his client?

Linda Morey stated it used to be known as the Yanty Creek subdivision. Douglas Heath said Mr. Speer purchased the property in 1995.

Peter Tonery – leaving out all parcels along Jacobs Road. When Ozzies Corners sold, all parcels went with it.

Mr. Heath – Mr. Speer came to the Town to combine all known as Ozzie’s Corner Subdivision. The house was subdivided off of a piece, and then sold the piece with the house independent. Transaction was finalized 12-20-2012. Then on 12-31-2012 it became the Yanty Creek Subdivision.

It was the Jensen Subdivision with 10 lots. Mr. Speer bought vacant lot in 1995. There was a house on Moscow Road. Mr. and Mrs. Speer bought a large piece of land and then purchased the house. They came before the Planning Board and joined it all into one. Which was Ozzie’s Corners Subdivision, 41-42 acres in anticipation of sale in fall. They backed the house and barn off the original Ozzie’s Corner Sub. In December 2012, the Yanty Creek subdivision had 6 different abstracts and tax maps. The deed description stated RVI district. It was then subdivided back off to the original boundary. The Jensen map in 1995 restored Jensen Lot# 10 with the intentions to seek purchasers of the rest of the property. My client is seeking to return it to Lot# 10, same footprint use other than permitted by RV-L. They would come to the Town for variances for other than permitted use. The only reason it is called the Clubhouse Subdivision is that it is easy and simple language. That is our proposal.

Linda Morey asks is the land from the boundary to Jacobs Road part of what was purchased by Mr. Speer? Douglas Heath replied yes. Old Survey maps show it as the Wolfs Den which was owned by a farmer at one time.

Keith O’Toole stated that I have read and appreciate Peter Tonery’s comments. Discussing zoning is a courtesy. We are not asking for any zoning permits this evening. If Lot# 10 worked before why won’t it function today as a 5 acre lot? All we are asking is to drop a line and restore a lot that previously existed.

Peter Tonery responded that the waters are muddied by the correspondence, intentions and information. You are asking the Planning Board to sanction uses that are not permitted. If we agree, saying all are ok....when actually none are ok.

Keith O’Toole stated” zoning is zoning and planning is planning and never the twain should meet”. All we are asking for is a lot. A tumble down barn is the same as a good building. If we don’t get the zoning or approvals our client will walk.

Peter Tonery responded you are asking to turn back the clock, at other stages down the road the planning board might be asked to sanction the uses when they can’t.

Chad Fabry added we don’t know if they are accessory structures. They are vacant structures where uses are allowed in R-VL, which is up to the owners due diligence to find suitable use conforming to the Town Code.

Ken Licht stated addressing what the Planning Board can do on a subdivision issue, can't give an answer. We have a non conforming lot size and setback. Is there a principal structure? Is the one now construed as one? The Planning Board does not have to sanction any of the requests in Mr. O'Tooles letter. Question about interpretation of the Town Code could be cleared up by the Zoning Board. He also has a question for the Assessor.

A motion was made by Mark Reeves, seconded by Peter Toner to table the Application for Preliminary Simple Subdivision Approval located at 1147 Moscow Road, Hamlin. Mike-Matt Lands are referred to the Zoning Board to ascertain primary or approve accessory structures at 1147 Moscow Road, Hamlin

Mr. Heath opposes, there are several permitted uses for that building. Mr. Toner referred to the April minutes that said it was a primary structure and the other 2 buildings were accessory structures to the home. They are exempt because they are AG.

Chad Fabry stated that the 2nd issue is that the business is discontinued and abandoned. Douglas Heath states the golf course building was the primary building to the clubhouse. Linda also said that the biggest issue is that there have been so many changes on the property, need zoning to clarify.

Dave Martin posed a question, sell the clubhouse lot as subdivision, leave the rest of the land for Mike-Matt lands, 36 entire and Lot B will be 31 acres.

Mark Reeves remarked that an accessory building is not allowed without a house. It needs zoning approval because it is a non-conforming structure. Mr. O'Toole interjected that the solution to this is to grant preliminary and final approval for the subdivision subject to zoning approval.

The above mentioned motions were carried on with: Dave Wolfe nay, Linda Morey aye, Mark Reeves aye, Judith Hazen aye, Peter Toner aye and Dave Martin abstained. Motion has passed. The applicants will need to make application by June 5, 2013 for the next Zoning Board meeting which will be held on June 17, 2013.

AGENDA

PRELIMINARY SUBDIVISION APPROVAL

GRAHAM-HOUGH SUBDIVISION

129 & 153 HAMLIN CENTER ROAD, HAMLIN

Application for Graham-Hough Subdivision Preliminary Subdivision Approval at 129 & 153 Hamlin Center Road, Hamlin. David and Victoria Graham and Scott and Joan Hough are seeking a Simple Lot Subdivision.

Darryl Moser, of Schultz Associates is representing the Grahams and Houghs.

These are two separate applicants using the same map. Mr. Graham had a 100 x 200 piece of property and sold a portion to Mr. Grant. Then Mr. Grant sold his parcel to Mr. Hough. Then Hough sold a parcel to Mr. Graham. These are two separate tax parcels, just combining them. It will need 2 lot line adjustments.

Darryl said the County comments are not in. Could they fall into the exception?

Ken Licht responded yes, if they had not been submitted to the County. Since they were, we need to wait for the response.

J.P. spoke to Darryl. Both Buildings are labeled as one. That has been changed.

Jeanine Klopp had no comments.

Ken Licht had no concerns.

Chad had no issues. He asked what the zoning is for the property. Darryl Moser responded RL.

A motion was made by Peter Toner, seconded by Dave Wolfe to table the application of Graham-Hough Subdivision Preliminary Subdivision Approval at 129 & 153 Hamlin Center Road, Hamlin until the July 1, 2013 Planning Board meeting and County comments are in.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark reeves aye, Peter Toner aye, and Dave Wolfe aye. Motion carried.

**FINAL SITE PLAN APPROVAL
HAMLIN MEADOWS SUBDIVISION, SECTION 2 (21 – 27 units)**

Application for Final Site Plan approval for Hamlin Meadows Subdivision *Section 2 (21-27 units)*

Judith Hazen has recued herself from the voting as she lives in the complex.

Bob Winans of LaDieu Associates p.c. represented James Beehler and Hamlin Meadows Subdivision, Hamlin. He is seeking final approval for 6 lots that may become 2 family units if there is interest. It was recommended that the Town Board also approve the recommendation of the letter of credit in the amount of \$266,192.00 for 3 years or cash.

The approvals have been attained by the Monroe County Pure Water and the Water Authority. The easements are taken care of. This was received had preliminary approval in April.

J.P. has no engineering concerns.

Ken Licht has no comments.

Jeanine Klopp has no comments.

Chad Fabry has no issues.

Linda Morey made a suggestion about the rental property, that maybe the façade of the units could blend in with the existing home facades.

Peter Tonery stated that homeowners are concerned about the number of rental units in the development. Residents have expressed that they feel betrayed by what kind of community they were led to believe they live in. He is not sure that is an issue of the Planning Board.

Linda Morey asked for any other questions or comments.

A motion was made by Dave Wolfe, seconded by Peter Tonery to grant the application for Final Site Plan approval for Hamlin Meadows Subdivision *Section 2*(21-27 units), Beehler Lane, Hamlin. Linda Morey stated that the Bond has been approved and will go before the Town Board (letter of credit in the amount of \$266,192.00 for 3 years or cash). The Mylar can't be signed by Ken Licht until the easements have been filed and have been approved.

Members polled: Judith Hazen recued, Dave Martin aye, Linda Morey aye, Mark Reeves nay, Peter Tonery aye, and Dave Wolfe aye. Motion carried.

DISCUSSION

Dave Rose spoke on behalf of the Town Board. Interviews have been completed for the open position on the Planning Board. The Town Board will vote at its next meeting. The new member should be in place for the next Planning Board meeting.

Peter Tonery brought it to the Boards attention that there is vending cart selling hot dogs, etc across the street from the Hamlin Town Hall. Does it fall under the Peddlers law and does it require a license? Merchandising and peddling is defined as the selling of any services.

Ken Licht states that not all businesses need to be licensed. He stated the law, the context of a peddler is someone engaged in merchandising going house to house.

Linda Morey stated that the cart is in the parking lot of the hardware store.

Chad Fabry said vending cart is just using the space. The cart owner does have Monroe County Health Department approvals. He stated that he did not actively pursue the issue and he has read the code. It is a mobile trailer and he does have the ability to change locations. The cart owner is on private property. Dave Rose stated the cart owner is the Fire District Chief. He does have a DBA.

Linda Morey added that the business has approval for a hardware store, not a food cart.

Ken Licht states that the Zoning Review Board has struggled with the Peddlers law for the past three (3) months. The police want background checks. All applications are been reviewed to determine if they need a peddlers permit. Ice cream trucks are not subject to the peddler law because they are not going door to door.

Dave Wolfe asked what about the carnival food vendors? Should they be required to apply license for one week?

Dave Rose said there is a Public Hearing on Monday evening.

Linda Morey asked if we have anything in code. Is the vendor required to have insurance?

Chad Fabry said not for door to door.

Linda Morey suggested they decide at the next Zoning Workshop for clarity or not.

Peter Tonery added do we roll it over. Commercial light use, determine light use – CGB – principal use permitted.

Peter Tonery also brought up sign violations. The sub shop in the Tops plaza has a sign in a wagon parked in the parking lot near the road. Community and Charitable signs are allowed.

Linda Morey asked the group if there was anything else.

ADJOURNMENT

A motion was made by Mark Reeves, seconded by Judith Hazen to adjourn tonight's meeting.

Members polled: Judith Hazen aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. Motion carried.

Minutes respectfully submitted by:

Cheryl J. Pacelli
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Planning Board will be held on Monday, July 1, 2013 at 7:30 pm. Deadline for fees is June 18, 2013.

