

EDINBURG PLANNING BOARD

October 24, 2024

Date of Meeting

Regular Meeting

Type of Meeting

Doug Sterling, Wendy Clark, Bruce Brownell,
Rich Kedik and Steve Arata

Members Present

None

Members Absent

Mary Beth Walsh, Town Attorney
Michael Stewart, Interim Code Enforcement Officer
Jason Kemper, Director, Saratoga County Planning
Deborah Slotnick, Applicant
Michael Hopkins, Applicant, MGH Estates
William Ebert, Applicant
Brendon Fitzpatrick, Applicant

Others

Regular Meeting:

Chairman Sterling opened the meeting at 7:05 p.m.

Approval of Minutes:

Board Member Arata made the following motion:

BE IT RESOLVED the minutes for the May 23, 2024 meeting are approved. Board Member Clark seconded the motion. All in favor, none opposed. Carried: 5-0.

Review of New Map:

Application No. P03-33
MGH Estates Ltd.
Tax Map No. 93.-1-34.11
Minor Subdivision

The corrected subdivision map was reviewed. Saratoga County Real Property flagged the deeds which were submitted by the Applicant prior to the submitting the mylar for this subdivision..

Town Attorney Walsh stated the 62 day requirement for map filing had expired two years ago. This applicant could have been required to submit a new application but Chairman Sterling stated it would be punitive. Town Attorney Walsh agreed it would be appropriate to move along.

Director Kemper stated County Planning referral was never made and this Board approved a lot which was not allowed by the Town of Edinburg Land Ordinance. The County Planning referral was made and the initial comment was that landlocked parcels are not allowed in the Land Ordinance. Large wetlands were present on the parcel. The Applicant transferred land and filed deeds without filing a corrected map. Multiple attempts to contact the Applicant without a response.

Board Member Kedik made the following motion:

BE IT RESOLVED Application No. P03-33, MGH Estates Ltd., Tax Map No. 93.-1-34.11, Minor Subdivision is approved with the submission of the corrected map to be filed in the Saratoga County Real Property office within 62 days. Board Member Clark seconded the motion. All in favor, none opposed. Carried: 5-0.

Preliminary Conference: Application No. 2024-001
William Ebert
Tax Map No. 81.-2-13.111
Minor Subdivision

The application is a two lot minor subdivision of 43 acres resulting in two parcels 8.5 acres and 34.27 acres. Sacandaga Snowmobile Club owns the shed sited on the proposed 8.5 acre parcel which houses their trail maintenance equipment. This club has received grants which supports their grooming of the trail and is an important part of the community as these trails are used year round by snowmobilers and hikers. A letter was submitted by the Sacandaga Snowmobile club. The two landowners (owner and direct adjoining neighbor) agreed on the lot line.

Chairman Sterling stated this is a difficult situation as the building did not have a permit and should never have sited six feet from the boundary line. He further stated it slipped through the cracks and he is having a problem approving an illegal action. Director Kemper stated the application did not slip through the cracks, but rather the club was trying to obtain a building permit. The former CEO classified the shed as a temporary building. Chairman Sterling stated the former CEO is always blamed. Interim Code Enforcement Officer Stewart stated from a logistical standpoint, the past is the past and he believed it was done in good faith. If the ZBA denies the application, the building will be required to be moved or removed. Either way, it will be a non-issue for the Planning Board if the ZBA does not approve an area variance. Chairman Sterling stated it is a problem.

Chairman Sterling stated only the Zoning Board of Appeals can do this application right at their November 7th meeting. He further stated this is not a shed (24' x 48') and that 12' x 12' is classified as a shed.

Director Kemper stated the facts are that the applicant did everything they were instructed to do and will do whatever is required.

Town Attorney Walsh stated if the ZBA grants relief, a Planning Board public hearing will be held in November in her absence. Chairman Sterling stated if the ZBA delays or denies, the Planning Board public hearing will be cancelled.

Board Member Clark stated regardless of the ZBA decision, the Applicant will still be granted a subdivision.

Director Kemper stated numerous building permits were granted by the former CEO which have issues. This Applicant is attempting to clean up his issue. The Snowmobile Club did everything they were instructed to do at the time of the shed construction while the previous Applicant (MGH Estates) sold lots illegally and was still able to obtain a signed corrected map.

It was determined there would be a quorum for the November 14th meeting.

Board Member Clark made the following motion:

BE IT RESOLVED Application No. 2024-001, William Ebert, Tax Map No. 81.-2-13.111, Minor Subdivision is deemed complete and set for a public hearing at a special meeting on November 14, 2024. Board Member Brownell seconded the application. All in favor, none opposed. Carried: 5-0.

New Business:

**Application No. 2024-002
Marvin and Alice Hassell Family Trust
(represented by Deborah Zlotnick-daughter)
Tax Map No. 68.13-1-10 and 68.13-1-9
Boundary Line Adjustment**

The Applicant reviewed the history of two parcels which were owned by her parents since 1988. The property is in a trust which states the parcels must be distributed equally. Each parcel consists of a building but the size of the lots are not equal. The Applicant and her brother want to own the land that is under their camps and share the horseshoe driveway. In 1990 the parcel which will be transferred to her brother was improved with a trailer. At that time, he was issued a building permit.

Chairman Sterling stated these parcels are located in Lakefront Residential which requires 1.3 acres and if they do not meet this requirement, the lots are illegal. Applicant Zlotnick began to explain the parcels have always been substandard lots. Chairman Sterling stated he knew the point she was trying to make. Chairman Sterling further stated this application would be referred to the ZBA. Discussion ensued regarding previous applications with substandard lots; Applicant's brother siting a temporary trailer on his lot which should not have been approved because it did not meet the square footage requirement; etc.

Chairman Sterling stated both of the parcels are undersized and the Planning Board cannot approve an undersize lot. CEO Stewart stated these lots are pre-existing, non-conforming. Chairman Sterling stated the lots lose their grandfathering status once any changes are made. CEO Stewart reviewed Section 8.1 of the Land Ordinance. He stated the buildings

exist and this Board would only be adjusting the property line. CEO Stewart stated Section 13.6 would waive the requirement of a public hearing

Heated discussion ensued regarding whether:

- A public hearing would be required as this application relates to Section 8.1.
- Requirement of Section 8.1 is that the parcel must be equal to or exceeding the minimum lot size requirement.
- Applicant has received a waiver from moratorium.
- It is common sense to keep the process simple.
- If the application goes to a public hearing what will the Board be voting on.
- CEO Stewart stated he is trying to make the process less burdensome on all involved and Section 8 can be interpreted two different ways.
- Chairman Sterling stated this is a discussion which this Board usually does not have; the CEO has stirred up something this Board does not need; and pointed out that CEO Stewart is not a member of the Board. CEO Stewart stated the Chairman asked him to sit on dais with the Board member.
- CEO Stewart stated the Applicant is being required to do a subdivision requiring minimum lot requirements; by denying the waiver and requiring the public hearing process does not cover what she is applying for; and a common sense approach using the waiver makes it a simple process.
- Discussion continued on the process; whether it could be deemed non-jurisdictional; undersize lots, etc.

Board Member Kedik inquired if we go to a public hearing, the Board cannot approve the boundary line adjustment based on today's thinking. Chairman Sterling stated the process is always the same. Board Member Kedik inquired how is the Board supposed to vote. Chairman Sterling stated to CEO Stewart that he open a can worms that has never been opened. CEO Stewart stated he was simply interpreting the law. Board Member Kedik stated the Board will not be able to vote.

The Applicant inquired if she will be required to appear before the ZBA. She further stated the adjoining neighbors have no objections to a boundary line located in the center of two lots be divided so the area is more equally between two siblings. She stated she was referred to the Planning Board and how can she proceed if the Boards cannot decide what she must do. Chairman Sterling stated a "double" meeting is required by the State and he did not receive this application in time. Director Kemper stated that an application can be handled in one meeting but it is not recommended. Chairman Sterling stated if the Applicant is denied, she can take it to court.

Town Attorney Walsh stated based on the discussion of the Board, she believed it would be approved. Board Member Arata stated he would agree with CEO Stewart that a public hearing is not required. Director Kemper stated whatever procedures are used, they must used consistently to be fair to the applicant.

Board Member Clark made the following motion:

BE IT RESOLVED Application No. 2024-002, Marvin and Alice Hassell Family Trust, Tax Map No. 68.13-1-10 and 68.13-1-9, Boundary Line Adjustment is deemed complete and the public hearing is held at a special meeting on Thursday, November 14, 2024. Board Member Brownell seconded the motion. Carried: 4-1 (Arata).

Old Business: **Application No. P09-23**
 Patrick Austin and Kara Schultz
 Tax Map No. 68.17-1-4 and 67.-2-31.2
 Boundary Line Adjustment

Chairman Sterling reviewed the application which was deemed complete at the January 25th meeting. The Applicant did not appear but at the January meeting stated it was their intention to combine a portion of the right-of-way which only services their parcel.

Board Member Kedik made the following motion:

BE IT RESOLVED Application No. P09-23, Patrick Austin and Kara Schultz, Tax Map No. 68.17-1-4 and 67.-2-31.2, Boundary Line Adjustment which was deemed complete at the January 25, 2024 meeting is now set for a public hearing at the November 14, 2024 meeting. Board Member Arata seconded the motion. All in favor, none opposed. Carried: 5-0.

Old Business: **Application No. P10-23**
 Brendon and Lindsey Fitzgerald
 Tax Map No.: 94.-1-47.1
 Minor Subdivision of Land

Chairman Sterling reviewed the new subdivision map for requested corrections: Siting the wells and moving the proposed property line for one house to meet setback requirements. The Application provided an email from Saratoga County Department of Public Works stating the existing driveway can be utilized to service both structures.

Board Member Clark made the following motion:

BE IT RESOLVED Application No. P10-23, Brendon and Lindsey Fitzgerald, Tax Map No.: 94.-1-47.1, Minor Subdivision of Land is deemed complete and the public hearing is set for November 14, 2024. Chairman Sterling seconded the motion. All in favor, none opposed. Carried: 5-0.

New Business: **2025 Meeting Schedule**

Chairman Sterling reviewed the proposed meeting schedule for 2025 and stated he wanted an additional meeting added for the month of November. He stated it should be on the second Thursday rather than the fourth Thursday as the Thanksgiving Holiday is on that date. In 2025, it would be November 13.

The Secretary stated she would check with Town Clerk Ferguson to confirm that date is not utilized for another agency's meeting.

New Business: New Subdivision Application

New Applications:

CEO Stewart stated he has received a new subdivision application for Property Owner Robinson (no additional identifying specifics were given). It will be reviewed at the November 14th meeting.

Procedures Review:

Chairman Sterling stated he had a "spy" at the ZBA who had supplied him with information. He further stated in his review of the previous procedures of this Board, the Secretary would have an interaction with the former CEO. The Secretary stated this was incorrect as the Chairman of each Board usually was notified new applications were received. The Chairmen would interact with the CEO to gain a full understanding of the application and determine if it was complete and add it to the following month's agenda.

Proposed current procedure for receiving new applications:

- Procedure would continue with Interim CEO Stewart reviewing the new applications for completeness and notifying the Chairman of the appropriate Board it was complete.
- The path of an application was reviewed from the acceptance of the application; referral to the Secretary; and, disseminating the application to the Board. It would result in the initial meeting with the Planning Board.
- Who would be responsible to make referrals to Saratoga County Planning and APA will be determined.
- Director Kemper stated in the recent past staff deemed an application complete and referred it to the Board. If at the Board meeting the Board Members in their review found it was not complete; would note was missing; and, referred back to the Applicant. This process added an additional meeting to that application. The code and requirements were not followed.
- Chairman Sterling stated it would need to be done according to State requirements.
- Director Kemper stated this Board actually did a Conceptual Site Plan Review which would allow the applicant to know if he had a major red flag on his application.
- Chairman Sterling stated he would call it whatever the Director believed it should be called. He further stated the CEO would refer it to APA if it needs their approval. Director Kemper stated a simple subdivision does not need APA approval. The CEO would determine if it needed APA approval.
- Interim CEO Stewart stated he had set a checklist which would serve as a quick referral list for completeness but he is in the process of determining what would need to be referred to APA.
- Director Kemper stated multiple lots would require a Jurisdictional Inquiry Form (JIF) and whether it would be classified Class A or B. Chairman Sterling stated he does not

understand the classifications of A and B in particular why a three-lot subdivision would be classified as Class A.

- Interim CEO Stewart stated if he issues a building permit for anything, it should have a Site Plan Review because it is how the law is written. Discussion ensued on Planning setting up rules and regulations on what should require a Site Plan Review (i.e. residential does not need a site plan review).
- Chairman Sterling stated flexibility is needed so this Board can make adjustments in the law.

Ebert Application:

The discussion turned to the Ebert application which the Chairman did not believe followed the procedure discussed. Director Kemper stated he spoke with then Supervisor Raymond; the Town Board granted a hardship waiver to Applicant Ebert; and, the Secretary started the notification to the Boards process. Chairman Sterling inquired why he was not notified of the waiver. Director Kemper stated he was instructed via email from Town Clerk Ferguson to contact Chairman Sterling regarding the approval of the hardship waiver. Chairman Sterling stated the Town Supervisor does not instruct this Board on what should be done. Chairman Sterling was asked if he wished this discussion to be on the record and he stated he did. Director Kemper stated only the Town Board sets policy. Chairman Sterling insisted he was never notified of the waiver for the Ebert application. The Secretary stated the Town Clerk notified her the waiver was approved in September.

Director Kemper stated as a resident of the Town, he is embarrassed on how this meeting and the Ebert Application is being handled. He further stated Chairman Sterling stated to him that he would drag out the Ebert Application for six months. Chairman Sterling stated the problem is somebody wants to change the procedure. He further stated that he does not micromanage the Town Board and he had no knowledge of the Ebert waiver approval. Director Kemper inquired on how many days per week Chairman Sterling visits Town Hall and during those visits, he would have been advised of the Ebert waiver approval. He further stated he is just trying to relay the facts of the Ebert waiver and application to Chairman Sterling. He stated the lot line adjustment has nothing to do with the previously constructed shed; that the Applicant had applied for a building permit for and was advised by the then CEO no permit was necessary for a temporary building. Chairman Sterling stated that Director Kemper should remember that he (Chairman Sterling) is the judge and he wants approval and proof. He did not wish to discuss the MGH Estates mistakes and that Director Kemper should “shut up.”

Board Member Clark immediately made a motion to adjourn the meeting at 8:45 p.m. Board Member Arata seconded the motion. All in favor, none opposed. Carried: 5-0.

Respectfully submitted,

Diane Byrne
Secretary