

**PLANNING BOARD MINUTES  
MONDAY, DECEMBER 9, 2013  
BUTLER MEMORIAL HALL  
48 GENESEE STREET, NEW HARTFORD, NY  
RODGER REYNOLDS MEETING ROOM  
5:30 P.M.**

The Regular Meeting was called to order by Chairman Elis DeLia at 5:30 P.M. at which time the Pledge of Allegiance was recited. In attendance were Board Members Peggy Rotton, Ellen Rayhill (arrived at 5:35 P.M.), G. Brymer Humphreys, William Morris II, Julius Fuks, Jr. and Heather Mowat. Also in attendance: Town Attorney Herbert Cully, Codes Officer Joseph Booth, Highway Superintendent Richard Sherman and Recording Secretary Dory Shaw.

Draft minutes of the November 12, 2013 meeting were received by each Board Member. Motion was made by Board Member Bill Morris to approve these as written; seconded by Board Member Peggy Rotton. All in favor

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Public Hearing: **Trailside Subdivision, Glendale Avenue, New Hartford, New York.** Amendment to Final. Developer: R. Kessler & Associates. Tax Map #316.000-2-34; Zoning: Medium Density Residential. (Final approval was given to this major 9-lot subdivision on December 10, 2012. Granted Amendment to Final on August 12, 2013 to reverse to 2 lots in order to secure a Building Permit. This Amendment to Final is to reverse back to the original plan). Mr. Rob Kessler and Mr. Aaron Falkenmeyer, P.E., Delta Engineers, appeared before the Board.

Chairman DeLia opened the Public Hearing at 5:30 P.M. and asked if there was anyone present to address the Board regarding this application:

-Mr. Patrick Mineo, 6 Liberty Avenue. He submitted pictures of his flooded property for the Board's review (these were taken at the end of the last storm, June 2013). He isn't against any building, but there is a major water problem at his property, which has flooded three (3) times in the last 2 ½ years. He explained how water travels from Middle Settlement Road into the roadway of Liberty Avenue onto his property. He wants the Town of New Hartford and Oneida County to take care of the water problem. Holding ponds are totally full which he believes belong to BOCES and Lowe's. He sees pipes coming into the wetlands from Whitesboro, and the pipes are too small. He is holding the Town of New Hartford and Oneida County responsible for any future damage to his property.

-Mr. Ed Wiatr: He referred to a letter from Delta Engineering dated November 4, 2013 which identifies some critical issues at this subdivision and he wants this Board to take note of it. He said there are also substantial flooding issues throughout the Town, and also referred to a problem behind Wal-Mart. He'd like the Board to consider the facts of the residents in this area.

Chairman DeLia asked if there was anyone else who would like to speak – there was no response. The Public Hearing closed at 5:40 P.M.

Chairman DeLia asked Codes Officer Booth if this subdivision meets all Town regulations – Mr. Booth said yes. Chairman DeLia also asked Highway Superintendent Sherman if he has reviewed this regarding roads, etc. – Mr. Sherman said yes. Further, Chairman DeLia referred to Town Attorney Cully regarding SEQR. Attorney Cully explained this previously had gone through SEQR review and the developer had to deal with storm water issues that he may be causing or grading. Offsite is not an issue. The issue would be is this creating any additional storm water flows off their site. His understanding is there has been a problem but the problem originated in Whitestown. The developer has agreed to dedicate a portion of this subdivision to storm water detention. Under SEQR, the law requires the storm water go through at the same rate = not add to it.

Chairman DeLia referred to Town contract engineer Christian Lawton, P.E. of Barton & Loguidice. Mr. Lawton said everything Attorney Cully stated is correct. He reviewed this project over a year ago, preexisting floods - whatever goes onto that site you have to make sure it is equal to or less storm water – this project has less than five (5) acres and they didn't have to have a storm water detention. At the time of the study, we wanted to go one step further and Mr. Kessler did so. He felt this developer has gone beyond what is needed. He said all the water comes from Whitestown, drains through the site prior to any development. What has been done is they have taken one of those flow thrus and connect it into a detention and during big storms now that detention will store the water and release it slowly. It is his opinion they did make the situation better.

Chairman DeLia asked Highway Superintendent Sherman: who is responsible to maintain the basins. Mr. Sherman said the Town takes them over when the development is done – we maintain them. However, he said there should be an easement to get to it. Chairman DeLia also referred to the detention basins mentioned during public comments – who owns them. Mr. Sherman said it is on the BOCES complex. Chairman DeLia would like Mr. Sherman to contact them regarding maintenance.

Further, Chairman DeLia stated offsite issues come under the GEIS as this is in the Middle Settlement Road GEIS area. There are funds to help with storm water management and maybe the Town Board should look into this. He asked if there was still a Storm Water Management Committee – it was stated no. Chairman DeLia would like the Town Board to get these comments especially regarding storm water.

Board Member Humphreys asked what happens with the detention basin once it is full – Mr. Lawton said there is a spill over, and he explained the purpose of a detention basin.

Board Member Rotton referred to the pond on the other side of the trail. The pipes could use some maintenance and she'd like to see this accomplished as this may contribute to the problem also.

Mr. Rob Kessler asked if what is being said is that his site is retaining water and there is a pond there? Answer: no – the pond is on the other side.

Board Member Mowat asked Mr. Lawton if he worked on this project at the beginning. Mr. Lawton said he wasn't here yet, Barton & Loguidice had it – this was approved in 2012. She asked if Barton & Loguidice mentioned any storm water problems – he said no. He heard Whitestown and Whitesboro mentioned and BOCES as there is a lot of land contributing. Mr. Kessler is a small piece of this. He

didn't find anything that pointed to problems.

Board Member Mowat also referred to the letter from Delta Engineering of 11/4/13. Mr. Lawton said the letter came because this was drawing attention. He asked the engineer to look at some things, i.e., what can be done on site to help alleviate this problem, maybe with some green space. The answer was no because it is up hill from where the water comes from Whitestown. He explained what the preexisting drain thru looked like and how the water travels. Further, there is a NYSDEC wetland that can't be touched. We have done what we can do at this point with the land that is there.

Board Member Mowat referred to the last paragraph of this letter – Mr. Lawton said it is not that detention pond. She also referred to the Wal-Mart issue and has he looked at it. Mr. Lawton looked at the New Hartford Senior Apartment complex and there is a problem with swale when they get growth in there – it is a common factor. Board Member Mowat asked if it is something the Town is looking into on dealing with the task of what is happening in this area. Mr. Lawton said residents will still have water across the road at Middle Settlement. It is a continuing problem.

Chairman DeLia said a lot of development was pre-SEQR. Mr. Lawton said the June storm happened when the ground was saturated. Chairman DeLia asked if this development met Town requirements and SEQR – answer: yes.

Codes Officer Booth commented that in the June 2013 storms he doesn't think the system was fully up and running for this development. Mr. Kessler said his work was done at the end of August - he is taking one of the pipes and slowing the water down to help – the pipe is 1 ½ times the size required.

At this time, Chairman DeLia asked the Board Members if they had any additional questions - none.

Motion was made by Board Member Heather Mowat to grant Amendment to Final for this Major 9-lot subdivision based on what has been heard and determined from our engineer and that this has met the letter of the law and no increased impact; seconded by Board Member Bill Morris. Vote taken: Board Member Julius Fuks, Jr. abstained from voting on this project:

Chairman Elis DeLia – yes	Board Member Heather Mowat – yes
Board Member Bill Morris – yes	Board Member Brymer Humphreys – yes
Board Member Ellen Rayhill – yes	Board Member Peggy Rotton – yes
Board Member Julius Fuks, Jr. - abstained	

Motion passed by a vote of 6 – 0 (and 1 abstention).

There being no further business, the meeting adjourned at 6:00 P.M.

Respectfully submitted,

Dolores Shaw  
Planning Board Secretary  
dbs

