

Village of Skaneateles
Planning Board Meeting
November 5, 2009

A continuation of the Parkside Subdivision

Present: Bruce Kenan, Chairman
 Steve Krause, Member
 William Eberhardt, Member
 Douglas Sutherland, Member

 Jorge Batlle, Clerk to the Planning Board
 Riccardo Galbato, Attorney for the Planning Board

 Gregg Sgromo, Dunn & Sgromo Engineers for the developer

 Robert Lotkowitz, Village DPW
 Clifford Abrams, State Street

Absent: Lauren Waite, Member

Chairman Kenan opened the meeting at 7:47pm. Gregg Sgromo, Engineer for the developer said, "...variances for the trees, the 4 trees that were planted earlier this year and the trail and the extension on the Plats. I believe that has expired." Attorney Galbato said, "it's been a year already. And also, as I said in my memo, if this Board chooses to make any kind of a recommendation to the Trustees. They are going to talk about the issue of drainage and whether it's going to be treated as a Village expense or some other type of device, like a drainage district, if it's possible with the Village."

Chairman Kenan asked, "what would the Trustees like to do on that? Have they expressed an opinion?" Member Eberhardt said, "there is a note from Mike Byrne in there somewhere." The Chairman asked, "what did he say?" Member Eberhardt said, "we've never done that and why are we doing it?" Galbato said, "keeping it as a Village expense."

Member Krause said, "I like option 2, which is the way the Town does it...two is not a district it just gives the Village the right to go in and take care of the water course, if the property owner has failed to do so. It's an easement." Galbato said, "we are going to get an easement. It's a question of ???village do opt to do any operation." Member Krause said, "then they charge the cost of said maintenance back to the land owner. That's the way the Town does it. Do they still do it that way, Bob?" Bob Lotkowitz replied, "no, they are creating drainage districts." Galbato said, "that's by Town Law." Sgromo said, "the thing that's unfair about ??? couple of lots have detention basins in their lots so that particular homeowner could actually be..." "...it's a huge expense, but it serves more than just..." said Member Sutherland.

Galbato said, "in restrictive covenants you could list out lots such and such as shown on the plat copy." Sgromo said, "I would like to see it spread out to as many users as possible. It keeps the cost small and it is benefiting actually ??? ." Member Krause said, "that gets really dicey because the people who really benefit are downstream of that detention basin. If it weren't there guess where the water would go?" Sgromo said, "but the impact is caused by all the lots that drain into it." Krause said, "that's true, siltation or what-ever it is." Sgromo said, "you'd benefit but it 's meant to be something that doesn't force that impact on them." Member Sutherland said, "well, it's really more of a matter of simply maintaining the requirement and everybody within there ideally would contribute their proportional share to maintaining the requirement that water be managed in a way that leaves the ???" Sgromo said, "I don't think we have any problem with a covenant that allows the Village to charge that back to all the home owners in Section 2 and 3 and 4. I think Section 1 is hard to do at this point. I don't recall as I was not party to all the discussions, at the initial approvals as to how the Village was going to handle that. I don't know what the thinking was back then. The only districts that have been formed in a village is like a lighting district or something like that, which is a little different. Drainage districts I don't ever have been formed by a village." The Chairman said, "I'm not sure why they are any different." Sgromo said, "Town Law for villages and towns is very different in every respect." The Chairman said, "I mean, if the Village has lighting districts and sidewalk districts, which according to Mike's (Byrne) memo that have, why is a drainage different? Does it function any different than that? So, Mike goes through kind of a well maybe this and maybe that, in his memo and then winds up saying *I think it would be wise to have a policy discussion with the Mayor and the Trustees. Perhaps Lauren or another representative of the Planning Board and you, Rick, would arrange to attend the Trustees' meeting on November 9th to initiate that discussion.. From your municipal experience in Cayuga County you may have some idea of procedures and costs involved in creating a district and could address those issues with the Trustees as well.*" Galbato said, "I have no idea."

The Chairman said, "it sound like from what you said that the developer would not be opposed to creating a district where the residents of Sections 2, etc., bore in some proportion the costs. But you think that there is no practical way to get the residents of the first group involved." Sgromo said, "I think that would be a difficult process to go through. The lots have been sold and they have no obligation to join." The Chairman said, "it seems like it is the Trustees' decision, if that's the case. We could easily form a district. It would be a little bit disproportionate on everybody in the area, but it is not so much money that it makes a huge difference. It is up to the Trustees to decide whether they just want to make it a Village-wide cost or a subdivision cost."

Member Krause said, "Lauren seemed to feel pretty strongly in her e-mails that it not become a Village-wide charge because she cites it as marginal land." Chairman Kenan said, "clearly, maintenance of the drainage ways is more critical here than it might be in other places. Because there is no room for error." Member Sutherland said, "and probably the diciest portion is portion of the first phase." Sgromo said, "that lot is in Section 2, Lot 19. There is actually very little drainage in Section 1 itself. They do drain towards..." "...is there a reason why a decision tonight vs. a decision by the Trustees makes a difference?" asked the Chairman.. Sgromo said, "no." The Chairman said, "then if not, I think that's what makes sense." Sgromo said, "I wanted it brought to you and let you guys discuss it." Galbato said, "I think Mike was wondering if this

Board had any recommendation to the Trustees.” The Chairman said, “well, Lauren has some feeling on it. I would certainly encourage her to express herself on that. If anybody else want’s to. I’m impartial on the subject. I think it is up to the Trustees to decide.”

Bob Lotkowitz asked, “what has the Village done on other subdivisions.” Galbato said, “I live on Prentiss Drive.” Lotkowitz asked, “is there a district in there?” Galbato said, “no. In the restrictive covenants though, the Village can charge back to the property owners that abut – the property owners that have the easements on them.” The Chairman said, “it only effects those that have the drainage easement on their property.” Galbato said, “and there is the trail that goes to West Lake Street, and the retention pond.” Lotkowitz asked, “it is not a drainage district?” Galbato said, “no. There are restrictive covenants in there and then it’s in everybody’s abstract.”

Member Eberhardt asked, “did we do something like that in Whitegate too?” Galbato said, “that’s all Homeowners’ Association.” The Chairman asked, “any you have a Homeowners’ Association?” Galbato said, “no.” Lotkowitz asked, “so the pond at Whitegate gets mowed by the Homeowners’ Association.” Chairman Kenan said, “(of Prentiss) I think there’s a Homeowners’ Association.” Member Eberhardt asked, “what’s our status at Whitegate?” Galbato said, “there’s a Homeowners’ Association. My understanding – I haven’t read anything on that, it was before my time, is if the Homeowners’ Association does not take care of the easements that are in place there, then if the Village does it then they would charge back to the Homeowners’ Association.” Member Eberhardt said, “that’s what I remember.” Member Krause asked, “did they ever have sidewalks on their agenda?” Member Eberhardt said, “those are all loose ends.” Bob (Lot.) just brought up final paving too.” Lotkowitz said, “we are tearing up the curbs and everything because of the – you can just go up there and see curbing and the drainage – the plow just tears that up because the final coat is not there.” Eberhardt said, “no trees, no paving. We just did that.” Member Krause asked, “it is not top coated, just base course?” Lotkowitz said, “yes. It needs another inch or so.” The Chairman asked, “do we still hold the bond on that?” Sgromo said, “from the sounds of it you do. It probably isn’t enough to do it. If it’s on costs of 15 years ago, asphalt has gone up quite a bit in 8 years. At some point that road is going to get a very serious beating without a top coat. Water will infiltrate easier. It is not good.”

Chairman Kenan said, “so counsel, the developer is obligated whether or not the bond is sufficient? Would that be fair to say?” Galbato asked, “on what subdivision?” The Chairman said, “Whitegate, or anything that’s in the past here...the developer got an approval for a subdivision, and among the conditions were paving and drainage, trees and sidewalks and all these things. By some miracle they have gotten away without doing all this, a lot of those things. There’s a bond. We just heard that the bond probably doesn’t cover the cost of the blacktop anymore. So the developer is saying to himself, ha, I don’t care about that damn bond. It’s cheaper that putting the pavement in. I’m asking, doesn’t the developer have a legal obligation, regardless of the sufficiency of the bond?” Galbato said, “probably.”

The Chairman continued, “and the Village, if it decided it was going to enforce its rules that they may come, could go after them and tell them – or take them to court and make them to court and make them do it, right?” Galbato said, “yes.” The Chairman said, “or, can they do the work themselves and charge the property? Could the Village put a top coat on those roads, in

Whitegate, could they charge the property owners for the improvement, because the developer didn't?" Member Krause said, "then all the home owners sue the developer instead of the municipality. That's what will happen." Member Eberhardt said, "and adding the trees that weren't planted." Member Sutherland asked, "is there a difference if it's a homeowners' association – there's actually an association of these folks versus just a bunch of folks that each own a parcel as you find it?" Galbato said, "...on Whitegate would be do we take title to the road? I don't know if we ever did. I know that I've heard on Prentiss Drive the road is not owned by the Village – title." Member Krause asked, "who is plowing the road?" Batlle said, "under a special agreement. And it is the same with Whitegate."

Member Krause said, "why don't we ask Rick to look into it and establish for us the options like he did here for the drainage districts. So we can have ..." "we are enforcing these things that haven't been enforced for 20 years," said the Chairman. Member Krause continued, "...an informed idea of what we can do and what we can't do. So then we can make a recommendation to the Trustees." Galbato asked, "before Christmas?" Member Krause said, "well, sometime. Today is Thursday and we certainly don't need it by the weekend." The Chairman said, "we have wandered off the subject here – Creek side and Parkside. Is everybody comfortable with the idea of referring this to the Trustees and inviting Lauren and who ever else is interested from the Planning Board to participate in that?"

Member Krause said, "In order that we recognize that this is just one of many shouldn't we embark upon a process of correcting these ills of a number of subdivisions." Member Sutherland said, "I would start on this one rather than do them all at once." Member Krause said, "but let's initiate a process where we are going to get through them." Member Sutherland said, "this would be a bigger one than many and if we get the bugs worked out on this one." Galbato said, "I think our process has improved in the sense that there are conditions now before the Chairman signs the maps on subdivisions, including Parkside." The Chairman said, "and there is also the sale of lots. No sale should take place ???requirements." Galbato said, "notes on the maps that are legal notice to a perspective buyer of what the restrictions are, or conditions. If it is not on the map and not in the issuance of covenants and it is just a resolution somewhere, you are not putting a perspective buyer on notice, legal notice of that type of condition. Then they have legal issues involved, trying to enforce against that." The Chairman said, "with that analysis, let's deal with that. Do you want to move on?"

Sgromo said, "as far as the final plats go, we would like the Board to consider – you don't have to do it tonight obviously because we have to get this drainage district set up – but allowing us to file the plat for Section 2 prior to all the conditions being met. It would be a resolution. The trails, they haven't started they are either going to be ??? tomorrow or by Monday we will definitely be starting on the trail. The road, I don't think is going to be in before the plants close, the asphalt plants. What we'd like to do is ???those conditions for filing Section 2 and see if there is something there - not that anybody is going to occupy the house or the lots or anything. But there was the couple that was here (Side B) ...and would at like to at least get going with building. The only other lot that I think he'd like to finish to get sold and something built on is possibly Lot 19 to kind of finish up that Section One - get it all wrapped up. I don't see anybody occupying the houses before we are done meeting all those conditions that are currently in there. But at least we'd like it to be able to sell a lot or two and start some of that

construction going, specially the couple of Lot 12 that were patiently waiting for to help us to get to this point.”

Member Krause said, “I sense that we probably help the developer more if the pressure was in place. That’s my sense. If you allow the plat to be filed and you can start selling houses, then the pressure is off him to meet all the requirements. We’ve been struggling to get him to meet the requirements.” Member Sutherland said, “one this that would happen is you have houses that couldn’t be occupied until the conditions were done.” Member Krause said, “so the home owners would be pressuring him also.” Battle said, “and they would be all over the Village for not doing COs. Don’t loose that control. Well the family has to move in by next week can we get a CO? Don’t put that pressure back on the Village. The Trustees will cave.” The Chairman said, “you will have to come back with a request anyway.”

Sgromo said, “I just thought that maybe the Planning Board could consider – I think we’ve made tremendous progress – everything is done extremely well out there.” Member Krause said, “it’s a;; relative Gregg. It’s pretty hard to go down.” Sgromo said, “I think it’s gone along extremely well compared to just about any other construction site that we are involved in, or anybody else, I think. There’s little hiccups but nothing too major. The weather has been tough this Fall. I think he’s made an honest effort to get everything in place. The creek walk will be – if not done by Springtime, I would be surprised that it’s not done hammering it out this Fall.” Member Krause asked, “so when you decide to make a request, you are going to make it formally and come back?” Sgromo said, “yes.”

Sgromo said, “one more thing on the creek walk. In order for them to start this Fall, they are going to need to have some construction traffic on Section 2.” Member Sutherland said, ‘and that is legitimate. You can’t have the creek walk guys trucks going over the Fennell Street bridge - the unfinished, unpaved roadway that’s basically all mud. You need to get in from the finished side.” The Chairman asked, “do you want to make a motion for that clarification?”

Member Sutherland said, “**I would move that the construction access limitation be modified to allow for only creek walk construction vehicles to come in off of West Elizabeth Street because it is just not feasible to come in off of Fennell Street over the top of the bridge at this time.**” Seconded by Member Krause. The vote was 4-0 in favor of the motion.

Sgromo said, “the open matter relative to the 4 trees.” Chairman Kenan said, “Lauren has spent a lot of time on the tree subject. Part of what she is doing is trying to get a little clarification on planting specs and so-on, and caliper of trees. Unless it’s critical tonight, and I don’t think it is because you are going take them out and replant them. Maybe we do that next month.” Member Krause said, “I think Lauren has some really good ideas that your client is going to appreciate. She is trying to leave things that have already been done but make sure what gets done next gets done better. I think that’s the right kind of approach. Sgromo said, “one of the reason is we already have that tree planting plan, we just didn’t want to do this with every single lot in the next 4 years or so. That can definitely wait until next month.

The meeting was closed at 8:08pm.

CC: Kenan, Waite, Eberhardt, Krause, Sutherland, Sgromo, Galbato cc: Lotkow
MJB