

TOWN OF GATES
PLANNING BOARD MINUTES
July 25, 2016

The regular meeting of the Gates Planning Board was called to order at 7:35 PM by Chairman Wall.

PRESENT MEMBERS: M. Wall, Chairman; D. Cambisi, T. May, K. Rappazzo, J. Argenta, D. Chamberlain, John DiCaro, Town Attorney; L. Sinsebox, Town Engineer; C. DiPonzio, Councilman

ABSENT MEMBERS: G. Lillie, J. Amico

The first matter on the agenda was approval of the June 27, 2016 Planning Board minutes.

Ms. May made a motion to approve the minutes as received. Mr. Chamberlain seconded the motion. All were in favor; the motion carried.

TUSCAN WOODS APARTMENTS
OWNER: Fiore Buttarazzi
LOCATION: 837R Spencerport Road
ENGINEER: Lantech Surveying

PRELIMINARY/FINAL SITE APPROVAL
MR (Multiple Residence Zoning District)

Mr. Winans, Engineer from Lantech Surveying & Planning handed out some items to the Board.

Mr. Wall stated that application was tabled last month and asked for a motion to untable the application. Mr. Rappazzo made a motion and Mr. Argenta seconded the motion.

Mr. Winans, Engineer from Lantech Surveying & Planning stated that they were tabled last month to allow them to submit additional information, which the Board requested, and since that time they have submitted updated drawings which reflect the information requested and also submitted a wall report, discussing the existing wall along the entrance and also a trip generation report talking about the traffic trips in and out of the site onto Spencerport Road and also submitted a copy of easement from across the existing property onto Spencerport Road. In addition, during that time storm water information that the Town Engineer requested was submitted.

Mr. Wall stated that he had a couple questions about handicap parking spaces.

Mr. Winans stated that they are keeping the two end units designated as handicap units for now. He also said they are striping at least an 8 ft. paved area outside the garages on both of those units to allow for the handicap vehicle to unload. They are required to have 2% of the units to be handicap accessible which they will be following with that. If other tenants come in and need to have handicap accessibility, he stated that they can work with that with the parking spaces. He stated that they have more than enough handicap spaces to work with. Originally they had spaces striped near those outside garages and now they have clearly called out those spaces with striping.

Mr. Wall said that he understands that the lower unit is handicap accessible. Which garage is associated with the handicap unit? Is it the one on the far left or the second in?

Mr. Winans said that it would be the one on the far left. The first one would access through the garage or would go around if there is a vehicle in the adjacent parking space. Go around to the sidewalk to access the entrance.

Mr. Argenta said that they have a parking space blocking the garage. Is this correct?

Mr. Winans answered yes.

Mr. Argenta then asked if the garage is wide enough so that it could be considered accessible?

Mr. Winans said as far as the vehicle pulling in and unloading? He then stated that the vehicle would park outside the garage, it has the 8 ft. wide space to unload and to get back into the vehicle and then the person would have to bring the wheelchair into the garage or go to the front door.

Mr. Argenta wanted to know if the handicap person could park the vehicle in the garage.

Mr. Winans said that he would have to check on that. As far as he knows, that is not planned for. They would have to park outside.

Mr. Argenta went on to ask if the striped spaces in front of the garages assigned spaces?

Mr. Winans said yes they are.

Ms. May stated that she likes that they added the pet stations. She went on to ask how the DOT report is coming?

Mr. Winans answered that as far as the access with the DOT, they have submitted plans to them and had a copy of a letter and they asked for a little bit more information on the entrance and a few minor details and then they are ready to submit for their permit.

Mr. Argenta asked about the handicap units on the ground floor and then wanted to know if the second floor units had balconies. Anything provided for ground floor units. As far as outdoor access.

Mr. Winans answered no.

Mr. Argenta asked if lights were going to be mounted on the buildings?

Mr. Winans stated yes. They would be right at the entrance and one at the garage. On the new plans they are also showing street lights.

Mr. Argenta wanted to know about the back side of the building if lights would be provided.

Mr. Winans stated no there would not be lights on the back side.

Mr. Argenta asked if the lights are shielded. Mr. Winans stated yes they are shielded.

Mr. Argenta asked about sidewalks. Mr. Winans stated that after discussion among themselves, they have decided to eliminate the sidewalk so that it would not create any issues with people walking into the parking lot. They would have to walk down around on the driveway.

Mr. Argenta asked if there are only 2 handicap spots? Mr. Winans stated that there are two for the unit and one in the parking area. Mr. Argenta then said that they need to make sure that the handicap spot in the parking area has a loading zone. He also stated that they would mark the handicap parking spot as van parking so they are covered all the way around.

Mr. Chamberlain asked if they were going to put some kind of lighting on the entrance road. Mr. Winans said that there is an existing light there now and they were going to maintain that. Relocate it.

Mr. Argenta asked if they had any building finish samples.

Mr. Winans provided samples of the roofing material, siding material and the siding colors. Four different colors they plan on doing the buildings.

Mr. Rappazzo asked if each building was going to be a different color. Mr. Winans answered yes.

Mr. Winans answered by saying each building would be one color and then one color trim.

Mr. Wall asked about the shingles. Mr. Winans answered they are charcoal gray.

Mr. Rappazzo asked if the photo submitted is representative of what is going to be built. Mr. Winans answered yes. Mr. Rappazzo asked if there is a possibility of getting wheel stops on all the parking spaces to prevent vehicles blocking the sidewalk. Mr. Winans said that they could do that.

Mr. Rappazzo asked what happens with the lower unit where it looks like a sliding glass door. He wanted to know if that was a patio. Mr. Winans said that there is a small concrete area down there just outside of the window. It is not really a patio per say. There are no sliding glass doors. They will have to provide final architectural drawings before they get any building permits. The area can be used to put a few lawn chairs out there. No grills are allowed out there.

Mr. Rappazzo asked if there will be anything around the patio at buffers it like landscaping. Mr. Winans stated that there is a little landscaping around it. Right now the drawings do not show any landscaping but only shows a space.

Ms. May asked about her concern with children running in the street. She worries about cars zipping through. Will there be speed bumps or something to slow cars coming in.

Mr. Winans stated that they will be putting a speed limit notice sign right at the entrance. Hopefully it being a dead end street, cars will not be speeding through.

Mr. Wall asked about the retaining wall report and stated that the Board would like to see the recommendations of keeping heavy vehicles away from 6 ft. He thinks this is all good to ensure the integrity of the wall. Mr. Winans said that they added to the plans that they would be putting orange fencing up 5 ft. away from the wall to keep traffic and contractors away from it. Also a note that the contractor is responsible for any damage to the wall and they would be responsible for repairing it.

Mr. Wall asked if they could get those notes added to the plan that the contractor will be responsible for wall damage. He would like something in writing.

Mr. DiCaro stated that if that wall failed, it would have a negative impact on that use and as a result, the Board feels that there ought to be a commitment to maintain that wall in the event of failure. The Board is going to make that a condition of their approval if anything that you agree to maintain that wall.

Mr. Winans said that is their intent and doesn't see why they can't put that in writing.

Mr. Rappazzo said that he would be interested to know what this project would look like if the wall wasn't there if this plan propose taking that wall down and grading that slope off. What would the impact be.

Mr. Winans stated that as he has evaluated it, he has done many walls and slopes, that it could be sloped off and you wouldn't need the wall. The wall right now is pretty extensive for what is needed and maybe it can be removed. Mr. Rappazzo said it is just a matter of time and what is stopping us from just taking it down. Mr. Winans agreed. He said this is something that can be discussed with the property owners.

Mr. DiCaro stated that the Board could make their condition that the applicant agree to repair the wall or with the agreement with the other property owner, remove it and replace it with a slope if that is an acceptable alternative. He went on to say that they are going to have to be committed to repair or removing it. This is an acceptable alternative. Mr. Winans stated that the problem would be that both parties would have to agree to it.

Mr. Wall asked if there are any cellars in the apartments. Mr. Winans said that there are no basements in the buildings.

Mr. Wall went on to ask about landscaping. He stated that they don't mention a guarantee on there. So the town is asking for a two year guarantee. Mr. Winans agreed. So in the conditions he is asking that they summarize that information. Mr. Wall went on to ask about entrance plantings. Mr. Winans stated that they are showing 4 pine trees along the entrance to block the existing building in the entrance and also they have added 4 on the south end in the open area after a conversation with a neighbor on that side where they decided to eliminate a fence and plant some trees. Leave it as it and not touch that area except for the trees. Based on the other neighbor's comments, they are now showing three trees on the northwest corner to block the visual aspect over into that property.

Mr. Wall asked if the four trees in the entrance are salt tolerant. They are close to the roadway and the tree closest to Spencerport Road may be impacted by salt spray. Mr. Chamberlain said that pine trees are salt tolerant.

Mr. Rappazzo said that he is concerned that the two trees on the end may block visibility of the driveway and the sign for traffic on eastbound Spencerport Road. Mr. Winans said that they may have to adjust the trees. Mr. Wall said that maybe they can slide the trees to the south a bit. He also stated that it should note on the plan who should own those trees. They are being planting on the adjacent property owners but it will be a shared access drive so he said he thinks that they should be owned by the apartments and should they fail within the two year guarantee. Mr. Winans agreed.

Mr. Wall went on to state that as far as the LED lighting, he understands what they are trying to do with this type of fixture, but is there a different type of fixture they would like to look at because with the LED fixtures, there are significant dead spaces in the parking lot.

Mr. Winans thought that a designated light at each building and the driveway they could possibly add another one or two in there.

Mr. Rappazzo said that it seems that its very dark, a lot of dead spaces, very little light and the parking spaces themselves there is very little light of the walkways. A visitor that came in and had to walk down to the end building in the dead of winter will be walking in almost complete darkness for half the way.

Mr. Winans said that it is a very good point. Their intent was to keep it minimal as it is in a residential area and not be too bright. Mr. Rappazzo said that the shielding would help with that for those apartments to the east and the buildings would definitely shield the light, but the road and the parking spaces need a lot more light.

Ms. May stated that again, thinking of the kids, that in the winter it gets dark early. Mr. Winans said it would not be a problem to add more lights.

Mr. Wall asked about the existing tree rows on their plans if it was accurate on their plans. Mr. Winans stated that what is there in the buffer area will be maintained. He also stated that they weren't putting any swales or other new grading in those areas.

Mr. Rappazzo stated that the lot was fairly wooded to start with and is there any concerns that the buffer could thin out because it is not a part of a larger mass anymore. Is there a possibility to add some pines to kind of keep it. Mr. Winans asked if he meant sporadically to fill it in. He said a half a dozen just to fill it in. Will have to do it by eye. The idea would be to save as much of the brush but they could go in and spot some in the open areas.

Mr. Argenta asked if the light fixtures are dark sky compliant. In other words no light going up. Mr. Winans said yes, there will be a top on it and keep the light down.

Mr. Chamberlain said that he thought they had talked about the width of the entrance road being 22 or 24 ft. Mr. Winans said it is 24 ft. Mr. Chamberlain said it is labeled at 20 ft. by the chiropractor's office.

Mr. Sinsebox said that they have addressed all concerns and only a couple of minor things left.

The meeting was opened to the public.

Mr. Dwayne Blave, 64 Appian Drive and 865 & 869 Spencerport Road. He asked the board to table this application for the time being because there is no way that he could be prepared for this evening. He went to the town to get updates on the projects and anything that was brought up on last month's meeting and the town could not provide anything. Mr. Chamberlain said that he did speak with him. Mr. Blave agreed that he did speak to Mr. Chamberlain and that there were no new drawings and anything that was brought up was that he asked Mr. Chamberlain about the variance for the front parking lot and Mr. Chamberlain told him they do not need a variance because that is not the front anymore, it's the side. Mr. Chamberlain agreed with him. Mr. Blave went on to say that there are no new drawings. As a home owner and one that has more to do with that property than anyone else since he boards the chiropractors office with both pieces of property, he thinks he deserved to know what is going on there. The buffer they talked about they completely removed on the northwest corner of the property. He also stated that he contacted Mark Assini, who was going to get him updated on the project by Mr. Amico which he did not get. No e-mail, no phone calls. There is no way that he can be prepared this evening to talk about the project because the only information he got was from Mr. Chamberlain.

Mr. Rappazzo told him that the applicant is proposing three pine trees to screen his property from the apartment complex. They are called out as 6 ft. high pines. They will start out that high and grow from there.

Mr. Blave asked about the possibility of a privacy fence. He again said he is not prepared because he had no plans. The only information received is from Mr. Chamberlain. He stated that the public needs to be informed before a decision is made.

Mr. DiCaro stated that the public has been notified before of the application. The applicant has described what he is going to do. He understands that Mr. Blave wants to see detail but he said that the details don't seem as important to him as his concern for privacy. Mr. Blave said yes he is concerned about the value of his properties. He said the signs were not visible about the meetings and the people on Appian Drive have only become aware of this whole project in the last couple of meetings. Mr. DiCaro stated that all legally required public notice has been used and that a number of members of the public have approached the various boards before and expressed issues with it. He told him he should voice his concerns. Mr. Blave said he did last month and he got no reply. When he spoke last month he said that nobody from the Board or the applicant said a word to the point that it was awkward and he turned around and walked and sat back down. This is the first

time he has ever had to deal with something like this so he doesn't know how it works but at least they are talking to him this time. Last month nobody said a word to him.

Mr. Wall thanked him for his concerns. He stated that when the Board goes into Executive Session they will discuss doing a preliminary approval that would give him time to talk with the applicant and to see what they can do to address your concerns before we consider a final approval. Mr. Blave said that would be ok with him.

Ann Renda, 58 Appian Drive said that her only concern is the drainage. At the last meeting she was told the pipe was going to be continued down through behind the property and when she stopped in to see the drawing, it was told to her it would be behind her property and it would not be covered. Her question was if someone would be maintaining that if branches and things fall in there so that the water flow will continue. Would someone be responsible to keep that cleaned out.

Mr. Sinsebox answered her by saying the drainage pipe would be maintained. Town of Gates will keep that channel open and clean it. Mr. Winans also stated that there will be a property management maintenance group that will be maintaining the property and anything that goes into that swale will be maintained on a regular basis.

Catherine Thorson, 46 Appian Drive said that she had no idea what was happening until she got home one night and the trees were torn down. So you can imagine what that was like. She knows that things are not going to change at this point but she has two really important questions. Are any percentage of these units going to be subsidized? And how much will they be rented for? What is the pet policy. Mr. Winans stated that one unit will be allowed a pet. So if it is yes, what's to protect my children from a dog running right into my backyard. It makes her really sad that they are building apartments behind her. She said that there are so many apartments in this town already. We have so many bad things happening to this town and they are drawing in more. It makes her really sad.

William Gouski, 56 Appian Drive stated that he has concerned with this development. His first concern is the flooding in the front yards of 54 to 58 Appian Drive. But also in the back yards. With the rain fall, their back yards get really flooded. Now with a complex taking up some of the soil we might see even more of a flood problem. Concern is will there be more flooding in their back yards now because of less soil and less space to soak it up. His second concern is traffic. Just trying to make a left onto Appian Drive at peak times you have cars zooming around. His concern is making a left onto the complex, now you have folks making a left into the complex and then another left onto Appian Drive. Traffic concern in that area with also a right hand turn onto another street. Last concern is the size of the project. It looks small back there and the project looks large. It looks like a big development in a small space. He went on to say that a concern would be a privacy fence on Appian Drive because he didn't think that was even proposed. His last concern is that there seems to be a lot of uncertainty and a lot of questions and as a resident he feels uncomfortable with the development and what has been presented so far.

Mr. Winans stated that they are adding catch basins storm sewers and adding rear yard swales so everything is directed to catch basins and should improve the drainage in that area. He also stated that the number of units does meet the zoning code.

Mr. Wall asked Mr. Winans that because the back yards are pretty much a low spot, that what is being proposed for drainage is going to take water away from those back yards?

Mr. Winans said that once they are done with their grading and swaling and catch basins it should take care of all that.

Mr. Winans stated that after talking about the wall and idea would be to meet with the Town Engineer and Dept. of Public Works and take a look at it and come to some agreement with the owner, that when we are working

out there and have the vehicles and putting in the sanitary sewer that would be a time that its appropriate for the wall to come down we could do it at that point and put a slope in. It's just a matter of moving the wall. Would like the town staff involved on it to make sure everyone is in agreement with it. That would be an option. An appropriate time to get it done.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, Mr. Wall made a motion declaring the Gates Planning Board Lead Agency for this project pursuant to SEQR regulations and finds that this project is an Unlisted Action under SEQR. There is no significant adverse impact on the environment; no further SEQR action is required.

Mr. Argenta seconded the motion. All were in favor, the motion carried.

Mr. Wall then made a motion to grant Preliminary Site Approval of Tuscan Woods Apartments with the following conditions:

- 1) Add "Vegetative materials will not be used as fill for the site" note to Note 17.
- 2) The Applicant is to denote the width of the garage for the handicap accessible units.
- 3) Building mounted lights and additional street lights are to be added to the final plan. Photometrics are to be updated for Final Approval.
- 4) A note to the plans that no patios are to be constructed on the western-side of the development.
- 5) For Parking Space #63, depict the correct ADA loading space.
- 6) Add wheel stops to all parking spaces adjacent to the buildings.
- 7) Please correct the Building Elevations to depict the sliding glass doors on the front elevation.
- 8) The Applicant is to meet with the Town representatives and the adjacent property owner to discuss the retaining wall; more specifically, discussing the removal, replacement, and / or repair of said wall. Should the wall remain, there will need to be an agreement to identify the responsible party(ies) to repair or replace the wall in the future.
- 9) The Buildings are to be built based upon the samples provided, which include siding of white, sandstone, silver and wedgewood and shingles are the architectural charcoal gray.
- 10) The entrance access drive be corrected to be 24 ft. width.
- 11) The applicant discuss the landscaping and privacy fencing with the adjacent neighbors.
- 12) The applicant to provide a sidewalk to Spencerport Road for any children utilizing the school bus.
- 13) The applicant relocate 4 pines adjacent to Spencerport Road further south in the property so as not to impact the visibility of the cars entering and exiting the development.
- 14) A note be added to the final plans stating that the detention pond and drainage culverts are to be privately owned and maintained.
- 15) The final drainage calculations are to be provided to the Town Engineer for his review and approval.
- 16) That all conditions set forth by Monroe County of Planning and Development are to be incorporated into the final plan.
- 17) All signage will conform to the Town of Gates standards.
- 18) The Gates Fire Marshal should review and approve the plan prior to final review.
- 19) All necessary easement agreements are to be reviewed and approved by the Town Attorney.
- 20) Adding a landscape table to the site plan and including all building landscaping.

Seconded by Mr. Rappazzo. All were in favor, the motion carried.

PARKVIEW PLACE, SECTION 4
OWNER: RMEQUITY HOLDINGS LLC
LOCATION: 3990, 4060 Lyell Road
ENGINEER: Schultz Associates

FINAL SUBDIVISION APPROVAL
R-1-15 (Residential Zoning District)

Kris Shultz of Shultz Associates stated that he is the consulting engineer presenting Premier Homes, Bob Marcello for Section 4 Parkview Place. This is the four single family lots that were proposed as part of the overall preliminary. If you recall the project was set up so that these four lots would represent a transition from the existing single family neighborhood to the north of the project and would also guarantee to the neighbors that the densities of the development would not approach their existing units. The four houses as depicted are per the original overall plans that were approved. Currently out on the site there has been a lot of construction, sanitary and storm sewers have been extended from Elmford Road into the project and they will run southerly all the way up almost to Lyell Road. Also the main storm water detention facility has been constructed as those plans have been submitted to the Town Engineer for review. We are just about at a point where we can topsoil and seed if we can get some rain. Hopefully by fall we can expect the rain to be coming in and can get the site green vegetated. Basically here tonight looking for preliminary/final approval on these lots. We anticipated these lots to be developed last but there has been significant interest from folks looking to buy and build on these lots. Each of these houses will be custom homes built by Bob Marcello.

Mr. Chamberlain asked if he could explain the retention pond being on Lot 404. How is the home owner's association having a partial interest in that pond as being on someone else's property. Mr. Shultz said that there is an easement on it and they are part of the homeowner's/condominium association will cover that. And it is part of that. So basically even though the pond will be on part of that lot, the maintenance and everything else is being taken care of by the association. The homeowner who buys that lot will not be responsible. The pond was positioned where it was a logical place to put it and then it was made sure that there would be no burden placed on the future single family homeowner for maintenance of that pond.

Mr. Rappazzo asked if that includes access. Mr. Shultz answered yes.

Mr. Rappazzo asked how the condominium association would access the pond. Mr. Shultz stated that it comes in from Lyell Road. It is part of the improvements for the first phase which includes an access road all the way down to the pond. The key thing with this project is we wanted to make sure there wouldn't be any way to drive through from Elmford Road to Lyell Road.

Mr. Dicaro asked if they have already created the agreement. Mr. Shultz answered that the agreement for the first phase has already been submitted to the state attorney general's office.

Mr. Rappazzo asked if the configuration of the extension of Foxwood Trail with turnarounds is for fire access or town access? Mr. Shultz replied yes. He said basically they extended the turnaround so that fire trucks and town trucks could turn around. That portion is actually a private drive and there will be a separate association covering maintenance of that portion for the four lots. He also stated that they spent a good amount of time with the Fire Marshal to make sure that the configuration would work properly.

Mr. Chamberlain stated that Mr. Sinsebox and himself have discussed in the future that they would like to see maps that are going to be filed list the actual dates in their files. Mr. Shultz agreed.

Mr. Wall asked how the berm area is going to be constructed.

Mr. Shultz stated that the berm is actually up. They were anticipating this meeting and wanted to have it landscaped but because of the weather it was not conducive. After the weather improves you will see that landscaping going in. Mr. Cordero has been very involved in looking at specific trees and the placement of the trees. They looked at elevations that the trees would be of the size and height to generate enough shielding and density. There are both pines and ornamental trees with some color.

Mr. Sinsebox stated that:

- 1) Prior to filing of the plat map, the easement for the storm water management facility needs to be clearly noted on the plat map regarding ownership and maintenance responsibilities of the HOA. Also an easement for the common private drive and utilities to be shown on the subdivision map.
- 2) The proposed inlet for lot 402, as required at preliminary, approvals needs to be added as planned.

The meeting was opened to the public.

Connie Kominski, 21 Elmford Road had a question about the project. She asked why after Brongo came in and took trees down and lifted a lot of the stumps and cleaned some of the debris, why haven't they come back to finish pulling up those stumps? Is there a timeline to clean up the buffer zone?

Mr. Shultz answered her by saying they were waiting for this approval this evening to then go back and clean it up.

Ms. Kominski then asked the Board to please approve it!

Kim Hill, 25 Elmford Road had a question on if there is an obvious gap of trees will they enhance the barrier. Mr. Shultz said that they will definitely enhance the gaps. Mr. Wall told Ms. Hill that Lee Cordero, Town Board Liaison, will be out there to make sure the planting are done. He went on to tell her that if she sees him to make sure to speak with him. Ms. Hill stated that she has been in communication with Lee Cordero.

Tom Ryback, 27 Elmford Road had a question about the berm. He wanted to know if it was going to extend behind his home and if there will be lighting back there. Mr. Shultz answered by saying it is a single family house behind him and no significant lighting to shine in his yard. He also stated that they will add additional landscaping after the home is built behind him. Where there are big gaps they will fill in. They will meet with him at the time to decide what needs to be put in. Mr. Ryback asked the board if that was ok.

Mr. DiCaro answered by saying that it is impossible by any board to guarantee that every resident will get what they want. The applicant has clearly outlined what the board's approval initially was. A buffer is a vague term. It is intended to do the job to protect your property and no guarantee that it will be perfect but they have committed because they have an obligation pursuant to what the board did to do and make their best efforts. If they fail to satisfy you and it is an unreasonable failure, they have other parts of the subdivision that they will come back to the board for and they won't get the approval because they didn't live up to their commitment. It's hard to tell you today that they are going to make you happy. They are going to try. They have to try and be reasonable about it. Mr. Shultz is describing what is going to happen. Mr. Ryback said that it all sounds reasonable to him.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, Mr. Wall then made a motion to grant Final Subdivision Approval for Parkview Place, Section 4 with the following conditions:

- 1) All conditions of the Preliminary Site approval are to be incorporated into the final plan.

- 2) All Stamps of Approval from the regulatory agencies are to be affixed to the final plan prior to the signature of the Planning Board Chair.
- 3) The Applicant will coordinate the final landscaping plantings with the Town Board Liaison prior to planting.
- 4) That all easements are to be reviewed and approved by the Town Attorney.
- 5) That the Applicant add the liber and page of the easements to the plans.
- 6) That the applicant address all the town engineer's final comments.
- 7) That the applicants, when appropriate, finalize the pulling of the stumps.
- 8) The applicant to be mindful of adding landscaping sufficient to address light spill when the final driveway locations are proposed.
- 9) A letter of credit is to be submitted to the Director of Public Works in an amount sufficient to cover drainage and landscaping.
- 10) That the applicant provide to the town as built map of the detention facility and drainage.

Seconded by Mr. Chamberlain. All were in favor, the motion carried.

FAITH OUTREACH MINISTRY
OWNER: RMEQUITY HOLDINGS LLC
LOCATION: North side of Buffalo Rd.
East of Elmgrove Rd. intersection
ENGINEER: Vanguard Engineering P.C.

PRELIMINARY/FINAL SITE APPROVAL
R-1-11 (Residential Zoning District)

Mr. Wall asked Reverend Anthony Iwunor to step up to the the podium.

Mr. Wall asked the Reverend if he was aware of all the issues with the cross access easement between himself and Lifetime Assistance. Before starting he asked the Reverend to update the Board on where they are on the easements. He asked if Lifetime Assistance has seen the updated plan.

Reverend Iwunor stated the Mr. DiCaro was supposed to have the information from their lawyer.

Mr. DiCaro stated that their lawyer sent him information about an easement but it has to do with storm water not the cross access easement.

Reverend Iwunor stated that his lawyer was to forward it to Mr. DiCaro and gave him a copy as well. He said the lawyer forwarded it to me and so that I can make a copy for myself.

Mr. Wall stated that his understanding was that our Town Engineer sent out a copy of a sample easement agreement that would be something they could use as a template. It outlines who is responsible for repair.

Mr. Sinsebox sent this sample to Mr. Ardieta and suggested that he forward it to the lawyer. This has to be a formal agreement signed by the Reverend. We need to see that document. We still have not received it.

Mr. Wall stated that his concern is that the only thing they have from Lifetime Assistance is a letter dated September 2, 2014 and the project has changed considerably from 2014 to now. He said that even if they get a letter from Lifetime Assistance stating that they are ok with the new layout. He went on saying that if they recall the plans showed the building being in the back and the new plans are depicting the building up front which definitely has a different impact to Lifetime Assistance' property. That is why an updated letter is

needed from Lifetime Assistance saying that an easement agreement will be forthcoming. He stated that he does understand that a lot of this is out of his control because going back between the two attorneys the timing is a little bit out of our control. Even a letter from Lifetime Assistance stating that they have reviewed the updated plan, this Board would have a better comfort letter of proceeding for final approval on this. We don't know if Lifetime Assistance has even seen the new layout.

Mr. DiCaro said that even if it was sent, it is unexecuted and there is no evidence that Lifetime Assistance is willing to sign it. If this is the first time we asked for it then it would be one thing but the Board asked you for this a number of times now. I think that you should have your attorney give me a call so that we can discuss this. Without this agreement, this project is not going to get final approval. This agreement needs to be taken care of. He stated to Reverend Iwunor that he needs to understand the central need for this. There is no point in discussing anything else if this is not done. This is not the first time this has been mentioned. It has been mentioned many times. There is a serious miscommunication. Mr. DiCaro again asked the Reverend to have his attorney contact him.

Reverend Iwunor said that his attorney tried to contact Mr. DiCaro but that he was on vacation at the time.

Mr. DiCaro said that there was no message left for him if the attorney phoned him. He did not get a phone call nor an e-mail. He went on to tell the Reverend that we don't have what we need and he needs to speak with his attorney. He said the Board is not going to approve them without the letter. He said this is vital for an approval. What the attorney sent Mr. DiCaro was not what is needed.

Reverend Iwunor stated that he talked with his attorney and he told him he forwarded everything to Mr. DiCaro.

Mr. DiCaro said he feels like they are in a time warp because they have had this conversation before. He again asked the Reverend to have his attorney contact him.

Reverend Iwunor again stated that Lifetime Assistance stated that they have no problem with the easement. Mr. DiCaro again stated that the letter was written before the plans were changed. The Reverend agreed that the letter was before the plans were changed. He went on to say that it is the same easement and nothing has changed.

Mr. Wall stated that we need Lifetime Assistance to see the new plan.

Mr. DiCaro said that we need Lifetime Assistance to execute an agreement because without it, it doesn't matter if they sent them a letter or not. The Board has no executed agreement nor a letter that is current that deals with the project as it exists today.

The Reverend said that this is a difficult situation.

(At this point could not understand what was being said by the Reverend).

The Reverend then added that he would go and get it signed himself and drive there himself.

Mr. Wall said that this is not the first time we have asked for this. This is something that is needed to move the project forward. He then stated that his preference is that we need the executed agreement before we can consider final approval on this.

Ms. Cambisi said that we have no indication that Lifetime Assistance knows anything about what is going on.

Reverend Iwunor said Lifetime Assistance has no problem with it. The letter is for who is going to maintain it.

Ms. Cambisi asked if Lifetime Assistance has seen the recent plans or only those from 2014.

The Reverend answered by saying that Lifetime Assistance has nothing to do with the building – just the easement.

Mr. Wall asked the Reverend if we have an executed agreement tonight. The Reverend said that is all he has is the letter of 2014.

In Executive Session, Mr. Wall asked the Board their thoughts on tabling the project to allow for the attorneys to discuss the access agreement.

After discussion among the Board Members, Mr. Wall made a motion to TABLE Final Site Plan Approval based on the following information and requirements to be completed before Final Site Plan Approval is considered.

Seconded by Ms. May. All were in favor, the motion carried.

- 1) The Applicant's Attorney and the Town Attorney are to discuss the Easement Requirements for the project; more specifically, the Cross Access Easement Agreement between Lifetime Assistance and the Church. It is noted that a sample Cross Access Easement Agreement was emailed to the Applicant's Engineer with the intent that it would be forwarded to the Applicant's Attorney. The Board would like to know the estimated timeline for providing an executed easement between Lifetime Assistance and the Church.
- 2) In order for the project to be constructed, the project will need to develop a portion of the land owned by Lifetime Assistance. Because both the plans and the easement layout have changed since the original meeting between Lifetime Assistance (on or before 9/2/2014), the Applicant is required to meet with representative(s) of Lifetime Associates to discuss the updated 2016 project / changes to the plan / new easement layout. Please have Lifetime Assistance document the meeting on their letterhead or contact the Town Attorney.

There being no further business to come before the Planning Board, Mr. Wall adjourned the meeting at 9:18 PM.

Respectfully submitted,

Linda M. Saraceni
Recording Secretary