

**PLANNING BOARD
TOWN AND VILLAGE OF ARCADE
17 Church Street, Arcade, New York 14009
Village Office 585 492-1111
Town Office 585 492-4685**

At a meeting of the Planning Board of the Town and Village of Arcade held on Wednesday, July 12, 2017, at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

MEMBERS PRESENT: Don Suttell, Andy Schnitzler, Paul Bijhouwer, Rich Kosmerl

MEMBERS ABSENT: Aaron Felber

OTHERS PRESENT: Larry Kilburn, VOA Superintendent of Public Works; Town ZEO Don Roberts

The meeting was called to order at 7:05 P.M. by Chairman Bijhouwer.

APPROVAL OF MINUTES:

MOTION by Andy Schnitzler, seconded by Don Suttell and unanimously carried, to accept the minutes of April 12, 2017.

ADDENDUM TO AGENDA

REPRESENTING THE VILLAGE BOARD OF TRUSTEES, SUPERINTENDENT OF PUBLIC WORKS LARRY KILBURN, REQUESTING RECOMMENDATIONS AND COMMENTS CONCERNING THE SALE OF VILLAGE OWNED PROPERTY LOCATED BETWEEN MT. VIEW DRIVE AND DEACON DRIVE:

History of the Property:

1. Mr. Kilburn explained the Village has owned the property since 1958 but does not know how or why it was acquired.
2. After the flooding that occurred in the 1990's, surveys were conducted and it was recommended that retention ponds be constructed behind the Park Street Cemetery and the piece of property in discussion. The Park Street retention pond was completed but funding for the area between Mt. View and Deacon was not able to be secured.
3. A home owner on Mt. View has approached the Village seeking to buy the publicly owned property that abuts his property in order to build a home further back from the roadway.

4. The Village had a survey completed dividing the acreage into ten lots corresponding to the property owners on Mt. View. The VOA would retain Lot 10. It could be subdivided at a later date connecting to Deacon Drive.
5. Said property owners have been offered the opportunity to purchase adjacent lots. All but one has shown interest. The lot not purchased by adjacent owner would be purchased by the neighbor.

The Planning Board noted, with the concurrence of County Enforcement Officer Don Roberts, that the VOA has executive privilege and is exempt from its own zoning laws, and thus there is no requirement for Planning Board subdivision approval. However, the Planning Board notes and appreciates that the VOA is doing their due diligence in asking this Board for recommendations and comments.

After lengthy discussion with Mr. Kilburn and Mr. Roberts, this Board approved returning the following recommendations and comments for the VOA's consideration and directed the Secretary to do so:

1. These lots are in the FEMA designated Flood Plain due to the stream which runs through all parcels. Purchasers should be notified, in writing, that joining these parcels to the existing lots on which their homes are built could trigger a requirement from their mortgage lender that they purchase Flood Insurance. In that case, they would need to either pay the cost of the insurance or hire a Professional Surveyor to prepare and file a Letter of Map Amendment (LOMA) with FEMA, documenting that their home is outside of the FEMA floodplain, a process which can be lengthy and costly.
2. Buyers should be notified, in writing, that they would need to obtain Flood Plain Development Permits to be able to build on sections of the property documented as in the flood plain.
3. An option that would not involve the Flood Plain issue would be to redraw the back boundaries of each lot so as not to include the Flood Plain areas, which the VOA would then retain. It would be attached to Lot 10 owned by the Village. Picking a common topographical elevation as the desired point of staying out of the flood plain, then having a surveyor establish all lot boundaries above that height would eliminate the new property owner concern for flood plain issues. This should be done with a single straight line as the rear boundary of each lot, not merely following the topographic line to maintain a common sense straight rear property line. Straight line rear boundaries would be encouraged for each lot. It is noted it would be hard to establish a single straight line boundary depth common to all the lots due to the reverse "C" shape of the stream bed without seriously truncating some lots. This option would have the additional benefit of preserving the potential for the Village to construct a flood control facility in the retained flood plain area.
4. Lots should be sold only to adjacent contiguous property owners, and the purchaser(s) should be required to legally join the lot with an existing parcel that already has road

frontage. This being the case, more than one lot could be sold to one existing property owner with road frontage as long as they are all joined to create a single lot with road frontage. A new survey and recording with the County of the merger would need to take place.

5. Once one property is sold, it would not be possible to have access to the others. Any lot not sold would have to be retained by the Village and later offered to a new owner of the contiguous property or could be offered to owners on either side. The Village should obtain a legal easement across each lot providing right-of-way access to any unsold landlocked lots for any necessary purposes, until the last landlocked lot is sold.
6. What is the Village foregoing in flood control if this property is sold? The property allows the opportunity for mitigation to some extent for the downstream areas of Jackson, Deacon, Haskell and Sullivan. This area has been recommended in the past as an area for construction of a flood control facility that would benefit those property owners.
7. The VOA was serious enough in the past to apply for funding to do this. The fact that funding was not granted could mean there was a lack of money at that time, but might be available in the future. Considering the history of flooding, the Planning Board feels the VOA should consider long and hard if they are willing to forego the opportunity to use this property for drainage retention.
8. It is suggested that contact be made with Wyoming County Soil and Water to obtain aerial and topography maps.
9. Proper procurement procedures should be investigated and followed.
10. If this property is sold and at a later date it is determined that flood control mitigation is needed in this area, eminent domain is a very costly and time consuming process in order to re-obtain the property. Once sold, any future possible runoff flood control facilities become politically more difficult and much more expensive if not entirely impossible. Retaining ownership of the land area in the flood plain would minimize that risk and provide possible minor flood alleviation features to be added.
11. The normal subdivision process in Village of Arcade Zoning Law requires that a Public Hearing be held. Even though this process is not binding on the Village Board, the Planning Board recommends that the Village Board hold such a hearing to obtain input from the community, especially in light of the flood control issues discussed in this letter.
12. The subdivision and sale of this property appears to be an Unlisted Action under SEQR. It is advised that the Village Board initiate and complete the SEQR process prior to taking any final action, likely as Lead Agency, starting with completion of the SEQR short form. A coordinated review is recommended, with potential involved agencies being the Village and County Planning Boards, NYSDEC, and NYSHPO.
13. Finally, it is the hope of this Board that the VOA considers it worth one more look at flood mitigation potential of this property before making an irreversible decision. The Village has a long history of damaging floods, and this property represents one of the few opportunities that exist to build a flood mitigation project on property currently owned by the Village.

WORK SESSION - CONTINUATION OF UPDATES TO TOWN OF ARCADE ZONING LAWS:

Town Zoning Officer Don Roberts provided a draft of a Land Separation law that would become Section 816 B. Board members will review it for discussion at the next meeting.

Presently SECTION 705 – LOTS OR PARCELS OF LAND OF RECORD reads as follows – Any single lot or parcel of land which was of record at the time of the adoption of this Local Law, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts or usable open spaces are not less than seventy-five percent (75%) of the minimum required dimensions or areas.

No residential building permit shall be issued unless a legal description for the building lot has been recorded with the County Clerk.

New proposed SECTION 705 – EXISTING UNDEVELOPED UNDERSIZED LOTS OF RECORD

1. Any record lot held in single and separate ownership prior to the adoption of this Local Law and whose area/or width and/or depth are less than the minimum requirements specified herein for the zoning district in which such lot is located may be considered as complying with this Local Law and no variance therefore shall be required, provided that:
 - a. Such lots do not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for the district;
 - b. Provided, that the minimum yard dimensions are met;
 - c. Such undersized non-conforming lots may be used for not more than one single family dwelling if such lot is located in a zoning district in which residential uses are permitted;
 - d. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property or owners' properties.

Presently SECTION 710 – FENCES reads as follows - Fences less than six (6) feet high are permitted in all districts; however, the controls stated in Section 707 of this Local Law must be observed for corner lots. Fences, as envisioned in this Local Law include: man-made walls or barriers to access property; or, hedges or plantings used as a visual screen or access barrier. Fences must be kept in good repair, with the good side (finished side) out.

Any fence over six (6) feet high shall be considered as an accessory structure and the placement of such fence will be controlled by the yard requirements for accessory structures.

Amended SECTION 710 – FENCES to read:

1. Allowed in all Districts, however, the controls stated in Section 707 of this Local Law must be observed for corner lots and the following provisions:
 - a. Maximum height of 6 feet in rear and side yards, 3 feet maximum height in all front yards;
 - b. All fences exceeding 6 feet in height are subject to Planning Board approval;
 - c. Commercial and Industrial uses subject to Planning Board approval.

2. Exceptions:
 - a. Fences for Tennis Courts in all Districts shall have a maximum height of twelve feet;
 - b. Fences utilized for farming purposes such as, but not limited to, containment of livestock, horses, chickens, shall be exempt from the provisions of this Section.

NEW proposed SECTION 820 – ACCESSORY BUILDINGS AND STRUCTURES

1. Detached Accessory Buildings and Structures

Detached accessory buildings and structures, i.e., those not attached to the principal building, may be erected anywhere on the parcel provided that the detached accessory building meets the minimum setback requirements for accessory structures set forth in the Dimensional Requirements Table attached at the end of this Local Law. A detached accessory structure is permitted to be constructed in front of the front building line of the principal structure if the accessory structure meets the front setback requirements for principal structure.

2. Attached Accessory Buildings and Structures

When an accessory building or structure is attached to the principal building, it shall comply in all respects with the requirements of this Local Law applicable to the principal building. To be considered an attached accessory structure, at least 25% of the area of a wall of the accessory building shall be in common with and an integral part of the principal building.

NEW BUSINESS:

1. The Chairman read a letter from the Wyo. Co. Planning Board which informed that Land Separation no longer needs to be referred to them.
2. The Secretary informed the Board that she had submitted her letter of intent to retire to both the Town and Village Boards. Her last day will be October 31, 2017.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 8:55 P.M. upon **motion** by Don Suttell, seconded by Andy Schnitzler and unanimously carried. The next regular meeting of the Planning Board of the Town and Village of Arcade is scheduled for Wednesday, August 9, 2017, at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,
Holly L. Almeter
Secretary