Unapproved February 1, 2023

A Regular Meeting of the Planning Board was held on Wednesday, February 1, 2023 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 PM

PRESENT: Lauren Smith - Chair

 Earl DeRue

 Charlie Krukowski

 Teresa Winship

 Nicole Sayers

ATTORNEY: Donald Young

TOWN ENGINEER: Mike Simon, LaBella, PC

OTHERS: Town Councilperson, Brent Rosiek; Town Clerk, Michelle Booth.

Minutes were taken by Katrina Allen

Ms. Smith began the meeting at 7:00 PM

**MINUTES**

**MOTION**

Ms. Sayers moved, seconded by Mr. DeRue to approve the minutes of the December 21, 2022 meeting.

**ADOPTED**

Ms. Smith – aye; Mr. DeRue – aye; and Mr. Krukowski – aye; Ms. Sayers – aye; and Ms. Winship– aye

**BATTERSON SUBDIVISION AND BATTLE SITE PLANS PUBLIC HEARING**

Battle Construction, 10 Assembly Drive, Mendon, for a three-lot subdivision and site plans on two of the lots at property located on Taylor Road, Honeoye Falls in the town of Mendon, owned by Scott Batterson, 14 South Avenue, Fairport, NY, Zoned RA-1. Tax account no. 217.03-1-1.12.

Ms. Smith reopened the public hearing.

**PUBLIC COMMENT**

None

**MOTION**

Mr. Krukowski moved, seconded by Ms. Winship to close the public hearing at 7:02 PM.

**ADOPTED**

Ms. Smith – aye; Mr. DeRue – aye; and Mr. Krukowski – aye; Ms. Sayers – aye; and Ms. Winship– aye

Ms. Smith welcomed Mr. Batterson to the table.

Ms. Smith stated the Board is not looking at site plans at this meeting, as the conceptual subdivision needs to be approved.

Mr. Batterson said he thought Mr. Thornton would be at the meeting. He was advised Mr. Thornton was hired by the Battles, and he represents them.

Ms. Smith asked Mr. Batterson what he wants the Board to consider. Mr. Batterson explained the survey has a lot numbers mislabeled.

Mr. Batterson explained where the Battle and Ridgecrest sites are located. He said what he is willing to commit to and everything costs a lot of money. He is not certain what his plans will be.

Mr. Batterson said the request for a private drive and a private road is because he does not want to be boxed in. He said who knows when the potential house development will happen. He is trying to get a return on his investment back and the money from buying the land. He has a small loan on the parent parcel. He receives an agricultural exemption, and he is not in a hurry to subdivide, but who knows? We will see.

Ms. Smith asked Mr. Simon to comment.

Mr. Simon said this is a unique and challenging way to development. The Department of Environmental Conservation (DEC) requirements on stormwater must be followed.

Mr. Simon said a lot of the comments were in a letter dated September 2nd from the Code Enforcement Officer (CEO), Corey Gates, and were not answered by Mr. Batterson. The two items that stand out are the stormwater management and the fire protection. There is a certain level of disturbance there or site development and a post stormwater management must be done, but it must be DEC compliant.

Mr. Simon stated the challenges are the lots are one acre and with the home and driveway and grading, it will be difficult to manage the stormwater, but it can be done. It may be a centralized area for the stormwater, and some are marked on the map, but the stormwater needs to get to those locations. With future development, it needs to be sure it is not detrimental.

Mr. Simon stated five acres is the trigger for stormwater, and the remaining six lots will be close or at that threshold. This is a plan that is unique and challenging and not a typical way to develop. Mr. Simon said he is willing to sit down with whomever Mr. Batterson works with and CEO, Mr. Gates.

Mr. Simon said the challenges will be the septic systems and wells and the minimum requirement of separation. Depending on the perc test, it can be figured where the septic will be located.

Mr. Simon stated the two Battle Site plans and Ridgecrest site plan seem approvable and buildable, but the holdup is with the fire protection. New York State Building Codes has requirements with fire protection, and Mr. Batterson needs to speak with Fire Marshal, CEO, Mr. Gates.

Mr. Simon said there is water 2,000 feet from Mile Square Road. An option is to run the water main, because it takes care of the fire protection as there will be hydrants, and it will make the lots more marketable with public water. Mr. Simon said the other option is wells with the ability to offer fire protection.

Ms. Smith asked Mr. Simon if it is reasonable to request a Stormwater Pollution Protection Plan (SWPPP) on anything past the three proposed site plans. Mr. Simon said the issue is when the trigger gets pulled for the disturbance. Ms. Smith asked if it is better to do it now, and Mr. Simon said yes, it is best to request the SWPPP now.

Ms. Smith said we do not know if the other lots are buildable, and Mr. Simon said, yes, that is correct. The option will be if the other lots are not buildable, they need to be listed to potential buyers, as “Not an Approved Building Lot.”

Mr. Simon said Mr. Batterson can engage an engineer who does individual stormwater on each lot, but this is a unique situation.

Mr. Simon told Mr. Batterson for future development, there will need to be a 10-foot easement in front of each lot for the possibility of sidewalks or utility easements.

Mr. DeRue asked how the electric is run. Mr. Batterson said Mile Square is above grade and then it is subgrade on Taylor to the Clarks’ house.

Mr. DeRue said RG&E requires 10 feet, and Mr. Simon said yes. Mr. DeRue asked if there was gas, and Mr. Batterson said no. It ends at the watermain, and it is propane for the lots.

Ms. Smith stated we need to make sure that 10 feet would encompass both gas and electric with the required separation.

Ms. Winship stated the big picture is the stormwater. It would be helpful if Mr. Batterson showed the proposed grading as opposed to the existing grading. That way he can figure the water runoff and maybe it could cover the fire protection necessity. Ms. Winship said we cannot know without Mr. Batterson’s plan.

Mr. Simon said Ms. Winship has a good point. There could be the possibility of a dry hydrant.

Mr. Krukowski said there should be a dedicated stormwater for certain lots or a big pond. The grading will be the issue.

The Board discussed the grading.

Mr. Simon said the stormwater size may not cover the fire suppression size. He said Mr. Thornton did a good job on the lots he did. Mr. Simon advised Mr. Batterson to have a conversation with Mr. Gates.

Ms. Smith asked Mr. Young for comments.

Mr. Young stated the challenge is working beyond the three lots and looking at all nine lots. The State Environmental Quality Review (SEQR) needs to be completed in order to look at what is available. SEQR says to look at the concept plan and what is available. Mr. Batterson should submit to the Department of Health (DOH) about the water service and have them sign off on water treatment plans.

Mr. Young stated whether there are five lots or nine lots, SEQR will need to be completed.

Mr. Young stated Mr. Batterson still needs to complete Part I of the Environmental Assessment Form (EAF) in order to get moving. Mr. Batterson still needs to address the CEO comments from September and the Engineer comments from August and January.

Mr. Krukowski stated the electric underground is too close, and it needs to be staked out, because the ten-foot easement may not be adequate depending on where they ran it. Mr. Batterson said they ran it along the road within the ten-foot right-of-way. Mr. Batterson said the ten feet is adequate, because what would be under there? He cannot think of anything that would interfere with electric. Maybe water someday. Maybe gas. Sidewalks are above grade, and sidewalks and driveways are done all the time. Mr. Batterson said he does not think anything above ten-feet is necessary, but he applauds the Board.

Mr. DeRue said the Board needs to know exactly where the electric is, because he has never recalled electric being run in the right-of-way. Mr. Batterson said he is not as knowledgeable and should not speak and try to answer, but he is trying to make logical sense.

Mr. Batterson asked what a SWEEP is, and the Board advised it is SWPPP. Mr. Batterson said if you interfere with five acres, a SWEEP is required, but sticking with the formula, he will not be over the five acres. He talked about Perc tests and is it going back into the earth. There are a lot of unanswered questions that maybe Glenn can answer, and he wishes he was there tonight.

Ms. Sayers asked if it was answered how much water can be gotten out of there, and Mr. Simon said that is a great question. The soil may be porous and not hold water. It may need to be lined with clay.

The stormwater was discussed.

Ms. Winship stated typically, the entire plan is reviewed which is why the Board asked for a schematic layout for the entire site.

The EPODs and the required buffer were discussed. Ms. Winship said a road or driveway could not be there. She advised Mr. Batterson for future development, he will need to know this. The federal wetlands have a very strict buffer requirement.

Mr. Batterson said he would keep a buffer, but in the future, it could maybe be a driveway. Ms. Winship said no, he cannot have a driveway there. Ms. Winship showed Mr. Batterson on his concept plan, where the buffer is requirement is where he has a proposed access road that cannot be there.

Mr. Simon said that subdivisions also lead to future subdivision and development of the parent parcel. It would benefit the Board to have site plans for the entire lot.

Mr. Young advised Mr. Batterson between the five lots and nine lots, he needs decide what path he is taking.

Mr. Batterson said who has the money to move a water line? He is not getting any help from Mendon or any municipality. He does not have millions to do this. Mr. Simon stated the Board is not trying to add any expense to his endeavor, but the Board has to follow Town Code, State Code, and the New York State Department of Conservation and their requirements regarding stormwater and fire suppression. These are required protocols that must be adhered to. The Board is willing to work with Mr. Batterson and his engineer, and we need to make sure this a done in a responsible way.

Mr. Batterson said the water runoff is the sticking point. There is a continuous creek, and Mr. Thornton said at the last meeting, the farmland has the most water runoff. There are existing houses there now.

Ms. Smith said this is where the SWPPP comes into place. The Board would know this for sure. We do not have an expert telling us what is permitted.

Mr. DeRue told Mr. Batterson if he gets so far along, and we do not follow protocol, someone can come in a sue him. He would have a law suit on his hands and an injunction with a stop work order could be issued.

Ms. Smith said in order for us to support Mr. Batterson, it has to be by the book.

Mr. Simon said instead of continuing with the stormwater discussion, lets figure out what the disturbance is. Ms. Smith said for the nine lots, and Mr. Simon said yes. If it is under the five acres, we would still need a SWPPP, but it would be an erosion and sediment control plan and not the post stormwater. We need to make an effort to see what is the level of disturbance.

Mr. Simon asked Chairperson, Ms. Smith, if that is agreeable with her, and she said as long as it is done on all the nine lots, that is good.

Mr. Young asked if we are doing the SEQR on the nine lots or the five. Mr. Young and Mr. Simon enquired to Mr. Batterson’s plan.

Mr. Batterson said he has not marketed anything, and he lost money during COVID. He wants to commit, but he does not want to spend all this money on tax IDs.

Mr. Simon said what if one of these buyers wants three acres. Mr. Batterson said he would say no.

Mr. Young told Mr. Batterson the Board needs his SEQR process as he has not done this yet.

Mr. Batterson said he wants to work with Mr. Thornton, but he does not know if he wants to work with him. We will see. We will see who will do the SEQR. There is a possibility one of these developers might back out and then he will, too. He said if he is willing to take on this risk, he will, but at his own pace. He said they are pushing him on a timeline, and they and their land engineer are not here, and it is frustrating.

Ms. Smith said Mr. Thornton is the Battles’ and Ridgecrest engineer, and asked who is Mr. Batterson’s engineer. Mr. Batterson said he worked the contract and they are responsible for the land surveying, engineering for of these three lots. Master parcel stuff he guesses he would be responsible for. The SEQR outside of these three lots and the proposed frontage lots, he said he will be responsible.

Mr. Batterson said he did not get a deposit from the Battles, and if they leave, that would be detrimental. It costs an exorbitant about of money to land engineer, land surveying, and SEQR these lots. He said it is $10,000 a lot. He is not spending $80,000.

Mr. Batterson said he is not selling off the land, because he wants to build here and move the water line to the ninth lot on the map, because he does want to have a well.

Mr. Young said the first item we need is the SEQR. Ms. Allen explained Mr. Thornton did the Short Environmental Assessment Form (EAF) for the sites he submitted. He did not do the long form, because if was not requested yet.

Mr. Young said we need to decide if he is going for the nine lots or not. Then we can see if need the SEQR for the nine lots. He said at a minimum we need additional information in regards to the drainage. Mr. Batterson needs to decide what he is going to do. The EAF are on the three lots and the other two existing, are good, but we need to know what Mr. Batterson is doing. The drainage needs to be addressed.

Mr. Simon said the last letter on January 17th, we do not have a response. The main items he discussed were the stormwater and fire suppression.

Ms. Sayers asked about the septic separation. Mr. Simon said yes, but we need to see if the three lots are good, but the remaining four we not know where the well or the septic is going to go.

Mr. Young said we need additional EAF for the nine lots, and in order to approve anything, we need to know about the easements. These must be shown on the plans. Mr. Simon said we can move forward on the three, but he needs to show it on the remaining lots. Local DOH has reviewed the three already and have done the perc, and that is good. He needs to get info o the drainage. He told Mr. Batterson he needs someone to coordinate with our town engineer.

The subdivision under the Batterson Subdivision and Battle site plans was discussed. This application was for a three-lot subdivision and two site plans. A third site plan for the third lot was submitted under the Ridgecrest Site Plan.

Mr. Batterson asked Mr. Simon if he could represent him. Mr. Simon said that would not be appropriate.

Mr. Batterson asked what not approved meant. Mr. Simon said beyond the three, they are not approved building lots.

Ms. Smith said Mr. Batterson will appear before the Planning Board again once he has the required information.

Mr. Young advised Mr. Batterson he needs to deal with the water runoff, in addition to the CEO and Fire Marshal comments.

Mr. Batterson asked if Ms. Allen would get the information from Mr. Gates and get back to him. Ms. Allen stated Mr. Batterson needs to get an engineer and the comments from Mr. Gates still need to be addressed. She will not schedule him another meeting date until all the requirements are in. He must have them in at least a week prior to the meeting date in order to give the Board time to review the information. Mr. Batterson understood.

**GENERAL DISCUSSION**

The Board discussed their upcoming meetings and the next meeting is March 1, 2023.

**MOTION**

Ms. Sayers moved, seconded by Ms. Winship to close the meeting at 8:25 pm.

**ADOPTED**

Ms. Smith – aye; Mr. DeRue – aye; and Mr. Krukowski – aye; Ms. Sayers – aye; and Ms. Winship– aye.