PLANNING BOARD

October 28, 2014

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Tish Brady  A-2 | Carol Brodie  2017 | Frank Broughton  A-1 | Ed  Dinkuhn  2014 | Joe Ostrowski  Chair  2019 | Janice Ross  2018 | Neil  Ross  2016 | Jamey Solecki  2015 | Vacant |
| 1/22 | Absent | Excused | Present | Present | Present | Present | Excused | Present |  |
| 2/25 | Absent | Present | Present | Present | Present | Present | Present | Present |  |
| 3/25 | Absent | Excused | Present | Present | Present | Present | Present | Present |  |
| 4/22 | Absent | Present | Present | Present | Present | Present | Present | Absent |  |
| 5/20 | Absent | Present | Excused | Present | Present | Present | Present | Present |  |
| 6/24 | Absent | Present | Excused | Present | Present | Present | Present | Absent |  |
| 7/22 | Absent | Excused | Excused | Present | Present | Present | Present | Excused |  |
| 8/26 | Absent | Present | Excused | Absent | Present | Present | Present | Present |  |
| 9/23 | Recused | Present | Present | Present | Present | Present | Present | Present |  |
| 10/28 | Excused | Excused | Present | Present | Present | Present | Present | Excused |  |
| Training  Hours | 0 | 0 | 4 1/2 | 0 | 8 | 6 | 4 | 0 | 0 |

Guests: Code Enforcement Officer Gary Brecker, Richard & Nancy Toucha, Paul Cesana, Dr. Rita Andaya

Call to Order: Meeting was called to order by Chairman Ostrowski.

Approval of minutes: The minutes of the September meeting were read by the secretary. A motion was made by Mr. Ross and 2nd by Mr. Broughton to approve the minutes as read. Approved.

The chairman explained that this is an open meeting. Guests are allowed to speak if recognized by the chairman.

Zoning Board of Appeal request for opinion: The Chairman asked CEO Gary Brecker for his comments regarding the fence.

Mr. Brecker read the summary of the letter that he wrote in response to a letter written by Mr. Boismenu. His summary is as follows:

1. In paragraph 2, the access road is described as the only un-encumbered access for emergency and firefighting apparatus. This statement is false. The circle, at the entrance of the 10 foot easement prevents the large fire trucks from making the wide swing needed to enter the 10 foot wide easement.

2. Paragraph 4 stated protocol was not followed for obtaining the permit for the fence. This statement is false. Upon the decision that a permit was needed, Mr. Tosha submitted all the necessary paper work needed to obtain a permit. There was no fee required. The fence construction was monitored by the undersigned from that point to the present.

3. Paragraph 5 quotes the New York State Fire Prevention Building Code Part 1161. The codes placed in front of your board,

1- The New York State Building Code.

2- The New York State Residential Building Code.

3- The New York State Fire Code.

of which, none have a part 1161, nor 1161.2a nor 1161.2b, and reference is made to page 387 which covers fire department and emergency access, which page 387 in all of the above does not address any of the above. There is no such “Part 1160” in the current building codes at my disposal. However, in reviewing the reference provided, the fence in question is in no way violating any provision.

The chairman remarked that the reference to section 1161 is from the Rochester and Monroe County Code Book and not from the Town of Brant or New York State.

4. Fence installations do not require a neighbors approval when installed on ones own private property.

5. The attached letter from the Farnham Fire Chief only recommends moving the fence back 5 feet to accommodate snow plowing. Snow removal is a responsibility of the easement grantors. Moving the fence is an option for the owner. How much land must the owner give up to satisfy neighbors? It is a civil offence to plow snow onto someone’s private property. If this easement was 15 or 20 feet wide, snow removal would still be a critical issue for emergency vehicles. Prior to the new fence, the living fence, meaning the woods along the easement stopped the snow and created drifting. The new fence will prevent that. It in no way will act as a snow fence. Snow fences are designed to be 4 feet tall to function.

6. Chapter 161, Section 161-23 of the Brant Town Code does not regulate fences over 6 feet in height.

Mr. Ross raised a question to paragraph 3 of Mr. Breckers letter “There is a sign at the entrance drive way which states no trespassing. The entrance drive is just that, a driveway for each home. It is not a road, street or thoroughfare”. His question is “If it is not a road, street or thoroughfare, exactly what is it?” Mr. Breckers response, “It’s a driveway, their own private driveway.”

Mr. Dinkuhn raised a question asking if this is a fence problem or a fire code problem and why is it a problem now? Mr. Brecker stated that when this subdivision was create, none of these rules applied.

The CEO informed us that the fence is not in violation of any code and Mr. Toucha has re-opened the end of the fence based on the engineering drawings to increase the radius of the turn. The Fire Chief inspected the new turning radius and was satisfied that emergency vehicles could get through. The CEO then stated that although the turning radius is now acceptable, there is a problem with the circle and the second easement going down past the petitioners homes. The easement is only 10 feet wide and would not permit emergency vehicles to pass each other or turn around. The CEO will ask the Fire Chief to write a new letter stating that this is now passable. He will also ask him to attend the Zoning Board Hearing.

Mr. Toucha commented that he worked with the CEO and the Fire Chief to resolve the safety concerns.

Dr. Andaya stated her concerns were regarding her safety and the safety of her property. She had no issues with the fence as such.

Mr. Cesana commented there was an existing fence that was set back farther from the access. Apparently the fence deteriorated and was removed. He feels the major issue is the safety of the residence and the protection of their property and that the fire trucks and ambulances should have access to this property.

The CEO advised those present about private property, “in the deeds of those grantors of this easement, it states that they must maintain that road”. He stated that “This is your driveway. It states it in the deed and it states that you must maintain that driveway.”

Mrs. Toucha asked the CEO if the circle need to be removed for fire trucks to access the rest of properties? The CEO stated that the Lotus Bay Association owns 1/3 of the circle. He proposed that only a portion of the circle needed to be removed.

She then asked when it would have to be removed. Mr. Brecker stated that they could re-grade the circle so it is level to the road and filled with hard fill so the trucks could make the turn and not sink or remove the circle altogether.

Having no other question, the Chairman made a motion to go to executive session. Mr. Broughton seconded the motion. Carried.

After discussion in Executive Session, a motion was made by The Chairman and seconded by Mr. Ross, that in response to the letter of the Zoning Board of Appeals,

The Planning Board has reviewed all the documentation provided by the Zoning Board, Petitioners and the CEO. In addition, the petitioners, defendants & CEO spoke at our meeting on October 28th and provided additional commentary for the board to consider in formulating their opinion. After extensive review by the board members, it is our opinion that the appeal is without merit. Our decision is based on the following considerations:

1. There is no Town Code regulating the height of the fence.

2. The Zoning Code does not require a building permit for a fence.

3. The CEO reviewed the emergency vehicle access with the Fire Chief after the adjustments had been made to the turning radius of the fence. Both the CEO and Chief agreed that the turning radius would be adequate for emergency vehicle access. The CEO will communicate with the Fire Chief to have his opinion rewritten to state his agreement of the changes.

4. The issue of the access in winter months creates a problem with general municipal laws regarding snow removal on private property. Such snow removal is only permitted in a declared state of emergency. Mr. Tocha, in his generousity, has given up an additional 2 feet of his property along the access road and an additional 20 feet for the turning radius to provide greater access for the emergency vehicles.

5. The petitioners expressed that their only concern was their safety and the safety of their property. This issue has been addressed as stated above.

Based on the above considerations, it is our opinion that the appeal is without merit.

Motion approved.

Next month meeting will be November 18th.

A motion to adjourn the meeting was made by Mr. Broughton and seconded by Mrs. Ross. Approved.

Respectfully submitted,

Lynda Ostrowski  
Secretary