TOWN OF COEYMANS PLANNING/ZONING BOARD MEETING

April 26, 2023

Attendees

Members Present: Mr. Nolan, Ms. Grogan, Ms. Stanton, Mr. Pietropaoli, Mr. Boomer,

Mr. teRiele (arrived at 6:15), Mr. Collins and Mr. Cinque arrived at 7:00 p.m.

Members Absent:

Also Present: Mr. Keniry, Mr. Chmielewski, Ms. Ziegler

Public Present:

Call to Order/Pledge of Allegiance

Meeting was called to order at 6:00 p.m. There was a quorum; three board members absent. Mr. Nolan led the Pledge of Allegiance.

Approval of Minutes

Mr. Pietropaoli made motion to approve the minutes of April 10, 2023 meeting; seconded by Mr. Boomer; Ms. Grogan and Ms. Stanton abstained - they were not present at that meeting. Approval of minutes was tabled.

Executive Session

At a previous meeting, Ms. Grogan had requested an Executive Session to be held to meet with counsel to discuss the Marebo applications. Ms. Grogan made motion to move to Executive Session; seconded by Ms. Stanton; all in favor. Mr. Boomer made motion to adjourn the regular portion of the meeting for Executive Session; seconded by Ms. Grogan; all in favor. Mr. Nolan was recused. Ms. Grogan, Ms. Stanton, Mr. Boomer, Mr. Pietropaoli, and Mr. teRiele attended Executive Session. Mr. Nolan was recused.

At 7:00 p.m. members who attended Executive Session returned for the regularly scheduled meeting. Mr. Boomer made motion to resume the regularly scheduled meeting; seconded by Mr. Collins; all in favor.

Approval of Minutes

Mr. Pietropaoli made motion to approved the April 10, 2023 minutes; seconded by Mr. Boomer; all in favor with two members abstaining (Ms. Grogan and Ms. Stanton).

New Business:

Interpretation

**Wayne Flach (23-001 INTER)**: An application for an interpretation of the property located at 17-19 Camile Drive, Tax Map #168.13-2-32.31

Mr. Flach and Mr. Don Proper of Proper Engineering were present. They explained that they are in the process of determining what can be done with the property. Discussion included: property is R-1; history of the property was discussed; property had been subdivided into two lots and a special use permit for two duplexes had been approved – the use variance goes with the property. Mr. Keniry suggested that they should determine what the official files exactly reflect and determine what concepts are available to them; R-2 opens more possibilities than R-1.

Mr. Nolan requested some time for the Planning/Zoning Board to review all the information and will get back to Mr. Flach with the answers.

Old Business:

Site Plan Review

**Finke Enterprises LLC (23-001 SPR)**: An application for a Site Plan Review on the property owned by Finke Enterprises, LLC. Property is located at 1597 US Route 9W, Tax Map #144.-1-5.21

Finke Enterprises is not prepared; they will be back on the agenda. The 239 was returned with a few questions; Mr. Chmielewski will send current map to the Albany County Planning Board.

**Marebo LLC (22-002 SPR**): An application for a site plan review located on the property owned by Flach Properties, LLC. Property Is located at US Route 9W, Tax Map #156.-2-1.3 and 156.-2-1.6 AND

Special Use Permit

**Marebo LLC (2300001 SUP)**: An application for a Special Use Permit located on the property owned by Flach Properties, LLC. Property is located at US Route 9W, Tax Map #156.2-l.3 and 156.-2-1.6

Mr. Nolan and Mr. Collins were recused. Ms. Grogan chaired this portion of the meeting.

Ms. Grogan asked applicant if they had any additional information at this time. Mr. Gottlieb stated that they had no more information; the hydrant testing was done; fire safety – no further comments. He feels the record is complete and they have addressed all of the fire safety comments.

Ms. Grogan read into the record the letter received from Jenny Lippmann dated April 25, 2023 in which she stated that MJ Engineering has reviewed all outstanding review comments and documentation provided by the applicant. At this time, it appears that all technical comments have been satisfactorily addressed. In the event that the Planning/Zoning Board elects to approve the application, they recommended the following conditions:

1. Overhead utility will be removed: The Building Permit application should include the proposed pole location to confirm this condition. If overhead lines are to remain, minimum 18-0” vertical clearance must be maintained.
2. References to NFPA 58 in Building Permit drawings/applicant materials shall include the 2017 Edition as adopted by NYS.
3. Building Permit drawings shall include fire extinguisher type and size.
4. Any permits for work within the Village of Ravena limits are obtained.
5. An Albany County Highway Work Permit is obtained for any work within the County right of way.

The Planning/Zoning Board members discussed the Special Use Permit and possible conditions.

Ms. Grogan made motion to approve the special use permit subject to the following condition that tractor trailer tanker deliveries will be prohibited between 6:00-8:00 a.m. and 2:00-5:00 p.m. Monday thru Friday and the special use permit shall remain in effect subject to full compliance with these conditions by the applicant and the property owner; seconded by Mr. Boomer; roll call vote was taken: Boomer – yes; Grogan – yes; Pietropaoli – No; teRiele – No; Stanton – Yes; Cinque – No. Three for and three against

Ms. Grogan made motion to approve the site plan review subject to the same conditions as in the special use permit: seconded by Mr. Boomer; roll call vote was taken: Boomer – Yes; Grogan – Yes; Pietropaoli – No; teRiele – No; Stanton – Yes; Cinque – No. Three for and three against.

Mr. Keniry explained the consequences of the vote. You can’t have a legal site plan without a Special Use Permit. With both votes being tied it is not an approval.

Ms. Grogan explained for the record her reasoning for voting yes. The applicant are in compliance with everything. The members had reviewed the sections of the code for site plan and special use permit. Everything was done to make sure it was going to help them; all raised good questions. She asked if any dissenting voters would be willing to explain their vote; she did not understand their opposition.

Mr. teRiele read his response. Adjoining and nearby landowners such as LaFarge/Holcum and the school district superintendent have written letters of concern regarding this application which, in his opinion, have not been adequately addressed. There are several other sites within the Town that are zoned industrial and in his opinion would be a better location for the placement of fuel storage terminal than the commercially zoned location proposed by the applicant. The Town’s comprehensive and master plan updated on May 2, 2021 specifically states that we as a Town should encourage economic growth and support economic development and new business coming to Coeymans. However, the plan is also very clear throughout its pages that we should promote protection of the environment and public health with the expansion of industrial development within existing industrial areas only. If we allow this application to pass and permit an industrial activity to occur in a commercial zone rather than an available and better suited industrial zone, in his opinion we are not conforming to the comprehensive plan/master plan as updated less than two years ago. For the reasons stated by him in the record he must vote no to this application.

Mr. Gottlieb stated it is a permitted use on the property. He does realize that the Board did not take action this evening. It has 62 days from the close of the public hearing to make a determination.

Mr. Keniry stated that there are a variety of cases but in this instance a tie is not an approval; Unlike some of the other provisions that talk about 162 days and there being a default approval, that is not the case in this instance. In this instance the Board has made a determination – that determination is a tie and is not an approval.

Mt. Gottlieb respectfully disagreed – a tie vote is not a denial. If the Board is not acting in an appellate jurisdiction therefore a tie vote is not a denial. If someone puts a motion on the table to deny the matter and that motion passes, that’s a denial. At the moment there is no action. Mr. Keniry replied that it is a tie, it is not an approval; that’s the official position of the Board. Mr. Gottlieb stated that it is not a denial either; so we are in limbo – this Board has to make a decision.

Mr. Gottlieb stated that they received a formal response to a foil request – they were denied access to a letter that was sent to the Town Board and Planning/Zoning Board from the law offices of Young and Somer on behalf of Chairman Nolan. They will be appealing the Foil denial and will submit it to the Town Board in the coming days. He requested that letter specifically be included in the Planning Board’s record.

Adjournment

Motion was made by Mr. Boomer to adjourn; seconded by Ms. Stanton; all in favor.