

**PRESENT:** Paul Jusko, Chairman  
Zintars Zadins, Secretary  
Tom Edington  
David Stringfellow  
Margaret Andrzejewski, Alternate  
Michael Pohl, Alternate

**EXCUSED:** Patricia Hacker  
Kevin Maxwell

**ABSENT:** J. David Early

**ALSO PRESENT:** Councilman Dennis Mead, Liaison  
Town Attorney Michael Perley  
Town Planner Richard Brox  
Gary Eckis

Chairman Jusko called the meeting to order at 7:31 P.M.

**MINUTES**

Chairman Jusko asked if there were any additions or corrections to the minutes of April 25, 2000. Being none, Mr. Stringfellow made a motion to accept the minutes, second by Mr. Edington. All were in favor.

**CORRESPONDENCE**

Secretary Zadins noted the following correspondence:

- Letter from Town Clerk Shenk regarding rezoning request of Gary Eckis, Boston Hills LLC, at the Rice Road Interchange from RA to M1
- Notification of Workshop on June 7, 2000 – Sponsored by Erie County Department of Environment and Planning at Erie Community College South Campus

Chairman Jusko read letter from Zoning Board of Appeals requesting representative of Planning Board be in attendance at the Public Hearing scheduled for May 25, 2000 on the application of Patrick Higgins. Chairman Jusko stated that he had discussed the matter with Mr. Perley and the sub-division approval and road approval are two different matters. Mr. Perley will represent the Planning Board.

Mr. Perley said he has talked with the Chairman Hice of the ZBA, and told him that he will be in attendance at the Hearing, not as an attorney but as a witness to chronicle from the Town's standpoint the transactions involved with both the Town Board and the Planning Board, so that the ZBA would have sufficient information on which to make a decision.

**LIAISON – COUNCILMAN MEAD**

Councilman Mead said there was nothing from the Town Board meeting of May 17, 2000 to be brought before this Board.

**BOSTON GRILLE**

Chairman Jusko reported that he had received phone calls from the neighbors of Boston Grille with concern over of the possibility that the Grille is black topping the area of the proposed deck site. Mr. Perley stated that he had received a phone call earlier this day from Code Enforcement Officer Kramer asking if a cease and desist order should be issued. Mr. Perley said after talking with Mr. Brox, he will be preparing a cease and desist order to be served on the contractor.

Mr. Zadins asked what type of action could be taken so that the Boston Grille adheres to a cease and desist order. Mr. Perley mentioned several including a TRO; an injunction - a Court order to stop work; we can make them take the black top out; or commence proceedings to enforce the zoning and cite them into this court for violation of Zoning Law and they can be fined. Mr. Perley said there is no reputable contractor that wouldn't pay attention to any of these orders if handed to them.

Chairman Jusko asked if they continue with the blacktop, would they have to follow through with this Board, as they would with the deck. Mr. Perley said it was his opinion that they would need a site plan. This would be a major alteration of traffic patterns, and use of the property. Under the circumstances Mr. Perley felt that the Town is entitled to issue a cease and desist, and if they do not stop work, a Court Injunction. Mr. Brox said that drainage should be mentioned in whatever form of stop work is issued.

Mr. Stringfellow asked if the Zoning could prevent them from using that outdoor area for the original proposed use. Mr. Perley said yes, that is a change of use. Mr. Perley and Mr. Brox had both told Ms. Koestler to have her contractor call either one of them if there were any questions. Neither had heard from anyone having anything to do with the Boston Grille. Mr. Perley read Section 11 of Code: "no building or structure of land shall here and after be used, altered, extended, or enlarged unless in conformity with the use height area and other pertinent regulations." Mr. Perley said this is alteration in the use; this is taking a restaurant that's inside, and making it an outside restaurant. Even with the addition of an emergency exit only, the site plan is changed. The traffic configuration is changed, altering the drainage, and without any guidance from the Town.

**RICE ROAD RE-ZONING REQUEST**

Mr. Eckis had previously submitted survey map and topography map. He displayed and explained an aerial view map.

He said that he has cut down the size of the area, and is looking at only the flat area, as discussed at the last meeting, which leaves 44.9 acres to be rezoned. With the section that was cut off an odd shape of land remains, but saves the integrity of the area and leaves a buffer to residences; the rest of the property slopes downward and is rugged.

Mr. Eckis stated that it is his goal to try to create, in consensus with the Town Board and the Planning Board, a unified effort to put this site on the map and promote it for business use.

Mr. Perley asked what type of business do you want to promote, without any thought to zoning laws in effect today?

Mr. Eckis said that without water, and possibly even with water, you will see low density in terms of employees; but because of the close proximity to 219 Expressway some warehousing, distribution, trucking, possibly gas/service station type of business. If you consider from Boston, north on the thruway from here to Canadian border there are not many gas signs.

Mr. Eckis said he checked the zoning and found research and development under M1, that encompasses those businesses.

Mr. Perley asked, what you're really looking for is a hybrid of M1 and C2? Mr. Eckis said, probably.

**Rice Road Rezoning, con't.**

Discussion followed centering on the M1 and C2 uses. Mr. Perley did say that C2 allows some heavier uses that wouldn't be wanted, but that can be addressed. It is possible it could be rezoned to C2 with restrictions in place.

Mr. Brox said there is another option, in that M1 permits 15% of the gross floor area in principle structure that could be expanded to say no more than 15% of the site area can be used for retail.

Mr. Perley said that it is his goal to define what Mr. Eckis wants, so this Board and the Town Board can vote on what he wants, and then fit what you want into a zoning law.

Mr. Perley said that it is his belief that in a year to a year and a half there would be different commercial zoning in Town. In the interim we have your application, and this Board and the Town Board will have to decide on the merits of that application. Right now we can not, easily, accommodate you in our zoning. Mr. Perley suggested to Mr. Eckis, that he check M1 and C2 and rule out certain businesses, then they could be eliminated from this zoning, and create a conditional zoning application, so that in two years there would be a site plan application for the following uses only.

Mr. Eckis checked the zoning book and verbally gave some possibilities of businesses that could be attracted to that area. Mr. Eckis said that it appears that a combination of the M1 and C2 would be in order. Mr. Brox said he and Mr. Perley had discussed that.

Chairman Jusko asked Mr. Eckis to compose a specific list of proposed business from C1, C2 and M1, and it will be discussed at the next meeting on June 13.

Mr. Stringfellow made a motion to table further discussion pending receipt of this information; second by Mr. Edington. All were in favor.

**JULY AND AUGUST MEETING DATES**

The summer schedule of meeting dates were set for July 25, 2000 at 7:30 p.m., and August 22, 2000 at 7:30 p.m. Town Board Meeting dates are scheduled for July 19 and August 16.

**MASTER PLAN**

Mr. Perley reported that written approval had been received from the County to engage Peter J. Smith & Company, Inc.

Mr. Perley has already met with Mr. Smith detailing goals, and formed a more solid baseline than what was represented at the meeting. It was indicated that the Town wants a concrete recommendation, at least, on commercial zoning.

Mr. Perley has made arrangements to have the Code Book and zoning map sent to Mr. Smith.

The next step is to form a Steering Committee, of about 10 members. This is more heavily a Planning Board function, than Town Board function. There will be members from the Chamber of Commerce, possibly representation from the Senior Citizens group, Town Board, Conservation Advisory Council, possibly Zoning Board of Appeals, 2 or 3 from the Planning Board, and, Mr. Brox and Mr. Perley.

The beginning sessions will be in developing a working knowledge of the Town. There will be surveys, learning the Codes, reviewing the existing Master Plan, reviewing the Zoning Map in order to get an idea of where we are. They will not be comparing existing zoning with the existing uses.

They predict they can do it in seven months, slower if need be, but not any faster.

Mr. Perley said it would probably be July or August before getting started. Mr. Brox added that it would probably take Smith and Co. a couple of months to get base work done.

Chairman Jusko said that anyone from this Board interested in being fully involved with the Steering Committee, should advise him.

Mr. Perley said that the first meeting of the Zoning Review Committee was on May 11, 2000 and the first order of business was to review the Fee Schedule. This in itself is a tedious task but one that certainly needed to be done.

CODE ENFORCEMENT OFFICER KRAMER

No report

Chairman Jusko asked if there was any other business to be brought before this Board.

Being none, Mr. Stingfellow made a motion to adjourn the meeting. Second by Mr. Edington. All were in favor.

Respectfully submitted,



Zintars Zadins  
Secretary

ZZZ: tf