

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL  
WEDNESDAY, JULY 6, 2011

MEMBERS PRESENT:

Peter Goss, Chairman  
Jeffrey Anagnos  
William Fiederlein  
James Jeffreys  
Lauren Kingman  
George Lawrence  
Joan Wyant

MEMBERS ABSENT:

None

ALSO PRESENT:

Jack Campisi, Town Board

Chairman Goss opened the meeting at 7:00 p.m.

**Public Hearings:**

- **Schmidt Lot Line Adjustment:** Denise Schmidt, applicant, and Marie Welch, Land Surveyor, were present for the public hearing for this lot line adjustment between two properties owned by Denise Schmidt located on Fitzsimmons Road, tax grid numbers 6573-00-117989 and 6573-00-082952. Chairman Goss read the legal notice that was posted in the paper and sent to neighboring landowners. The applicant is proposing to convey 1.5 acres from her 9 acre vacant parcel to her 3 acre residential house parcel. Ms. Welch said she made a few minor changes from the last meeting. The title block has been corrected to read Lot Line Adjustment, she removed the septic systems that were shown to show they would not be affected by the lot line adjustment, where the lot achieves the 300 feet at the building line is shown, the approved driveway location is shown, and she modified the note on the map to reference a previously filed map. The applicant is proposing the lot line adjustment to add more land to her residential parcel to provide a buffer in case she sells the lot next door. The remaining lands of the 9 acre parcel, 7.4 acres, can only be utilized as a single building lot due to the soils which can only support one septic system. Mr. Kingman said the only item he would like to see added is a before and after chart on the map showing the original acreage and the acreage after the lot line adjustment for both lots.

Mr. Jeffreys motioned that the Planning Board declare themselves lead agency for the Schmidt Lot Line Adjustment. Mr. Anagnos seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Aye	George Lawrence	Aye
William Fiederlein	Aye	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 7-0.

Mr. Anagnos motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the Schmidt lot line adjustment application to convey approximately 1.5 acres from tax grid number 6573-00-

117989 to tax grid number 6573-00-082952. Both properties are owned by Denise Schmidt and are located on Fitzsimmons Road in the A3A zoning district; and

WHEREAS, a Short Environmental Assessment Form dated May 19, 2011 was submitted with the application packet on May 19, 2011; and

WHEREAS, an environmental review was conducted in accordance with 6 NYCRR Part 617 which resulted in no identifiable concerns being raised.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board declares a Determination of Non-Significance (Negative Declaration) for the Schmidt Lot Line Adjustment (Minor Subdivision). Mr. Jeffreys seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Aye	George Lawrence	Aye
William Fiederlein	Aye	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 7-0.

Mr. Jeffreys motioned to close the public hearing. Mr. Lawrence seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Aye	George Lawrence	Aye
William Fiederlein	Aye	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 7-0.

Mr. Lawrence motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Town of Milan Planning Board has considered the application from Denise Schmidt for a lot line adjustment (minor subdivision);

WHEREAS, an application packet was submitted to the Planning Office on May 19, 2011 and a site plan prepared by Marie Welsh, L.S. dated May 19, 2011 has been submitted for the requested lot line adjustment between two properties located on Fitzsimmons Road, tax grid number 6573-00-117989 and tax grid number 6573-00-082952 located in the A3A zoning district; and

WHEREAS, the proposed action is a conveyance of approximately 1.5 acres from 117989 (9.032 acres) to 082952 (3.0 acres) to provide a buffer for 082952; and

WHEREAS, 082952 is improved with a single family dwelling, well and septic system and 117989 is vacant; and

WHEREAS, the Town of Milan Highway Superintendent has approved a driveway access for 117989; and

WHEREAS, the applicant has not obtained Board of Health approval for 117989; and

WHEREAS, a public hearing was held on July 6, 2011 with no public comment; and

WHEREAS, the Planning Board declared a Negative Declaration for this action on July 6, 2011.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board grants conditional final approval to the requested lot line adjustment and authorizes the Chairman to sign the mylar once the following conditions are met:

- Add a before and after table to the map
- Dutchess County Board of Health permission to file is obtained
- Owner's consent to file block signed
- Payment of publication fee in the amount of \$86.13 is received

Seconded by Mr. Anagnos.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Aye	George Lawrence	Aye
William Fiederlein	Aye	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 7-0.

Mr. Kingman added for the record that the Planning Board has not reviewed the larger parcel for suitability as a building lot.

Mr. Jeffreys motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the Schmidt lot line adjustment (minor subdivision) application of property located on Fitzsimmons Road and identified as tax parcels 6573-00-117989 and 6573-00-082952; and

WHEREAS, an environmental review was conducted in accordance with 6 NYCRR Part 617 which resulted in no identified concerns and a Determination of Non-Significance (Negative Declaration) was approved by the Planning Board on July 6, 2011; and

WHEREAS, a public hearing was opened and closed on July 6, 2011; and

WHEREAS, the applicant has not obtained Dutchess County Board of Health approval for 117989 and the Planning Board has not approved a site plan showing a house, well, and septic location for 117989 so the Planning Board cannot guarantee that 117989 is a buildable lot according to Town and County standards; and

WHEREAS, this application complies with all of the provisions of the Town of Milan Code Chapters 177 (Subdivision) and 200 (Zoning) for a Lot Line Adjustment; and

WHEREAS, all conditions for Final Approval are detailed in the resolution for Conditional Final Approval which was approved by the Planning Board on July 6, 2011.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board finds that the approval of the Schmidt Lot Line Adjustment (Minor Subdivision) is in compliance with the Town of Milan Subdivision Regulations (Chapter 177).

Mr. Lawrence seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Aye	George Lawrence	Aye
William Fiederlein	Aye	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 7-0.

#### Administrative Items:

- Approval of Minutes: Mr. Lawrence motioned to approve the minutes of June 1, 2011 as amended. Mr. Fiederlein seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Aye	George Lawrence	Aye
William Fiederlein	Aye	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 7-0.

#### Applications:

1. **North Road Treasures Auctions** - Don Johnson was present for his site plan approval application to conduct bi-weekly auctions on property located at 26 North Road, tax grid number 6571-00-957459 in the Hamlet zoning district. Mr. Johnson has been before the ZBA for an interpretation of the use and an area variance for the garage. The ZBA interpreted that the use of an auction falls under “Miscellaneous Retail Store”, a use listed in Table A, Schedule of Use Regulations and the ZBA granted the variance for the garage. Mr. Johnson submitted an updated survey that was done by Marie Welch, L.S. He said he is planning on running the auctions Memorial Day through Labor Day. He said he has insurance on the building. The Board reviewed the Site Plan Checklist, Section 200-67.B.(1) and General Considerations, Section 200-68.A to determine what needs to be added to the survey to create the site plan. Site Plan Checklist: a. Need a signature block and address of applicant; b. ok; c. need area map; d. ok; e. add property owner on the west side of North Rd.; f. show house on next door lot (Don’s parents house) and label private residence; g. n/a; h. n/a; i. n/a; j. need dimensions and height of existing garage and note proposed use is an auction; k and l will be discussed later; m. draw in parking areas including any overflow parking areas (9’x18’ per car), show traffic flow for pedestrians, indicate entrances(s) on building; n and o are n/a; p. show location

of port-o-potties and indicate how many you plan to have, also show pedestrian traffic pattern from building to port-o-potties with adequate lighting; q. n/a – no water supply; r. covered by Fire Department review; s. n/a; t. will be discussed later; u. n/a; v. show all outside lighting and the candle foot of each light; w and x. n/a; y. for the file, submit photos of the building showing all four sides; z. none.

General Considerations: (1) will be discussed later; (2) Has been discussed; (3) will be discussed later; (4, 5, 6, 7, 8) n/a; (9) done under site plan review; (10) done with letter from Fire Department; (11) n/a; (12) existing.

Mr. Kingman said the Board needs to have a plan to mitigate the fact that the site does not achieve the required sight distance as per Glenn Butler, Highway Superintendent. Mr. Kingman said it is the section to the north that is causing the problem; there will need to be some warnings to oncoming traffic. Mr. Anagnos suggested putting up a flashing light on the nights of auctions. Mr. Lawrence said it is the road that does not meet sight distance. Mr. Johnson said when the garage was built, the road was much lower and over the last 10 or 15 years, every time the road was blacktopped, it built it up. Mr. Lawrence asked how does the Board require a landowner to achieve what a Town person can't? Mr. Anagnos said what's there is there but then, how do you give permission for a more extensive use knowing it doesn't meet sight distance requirements. Mr. Butler said the speed limit is 35 and the required sight distance is 300 feet. Mr. Lawrence said this area is supposed to be used as a town center for uses such as this; that is part of the comprehensive plan. Chairman Goss said the sight distance issues need to be mitigated for safety's sake as there will be a concentration of cars coming and going at one time instead of a more steady flow of traffic. Mr. Kingman said the situation is that Mr. Johnson has a Building Permit and a Certificate of Occupancy for the garage and a driveway permit was issued. Because this is a site plan review, our building inspector will not require a new Building Permit but will require a Certificate of Occupancy for the new use. Because a new Building Permit is not required, a new Driveway Permit will not be required. Mr. Butler has stated under the current speed limit, the sight distance requirement is 300 feet and there is currently 220 feet. There has been discussion that over the years, parts of the road have been lifted and changed. In addition, we know that the requirements for sight distance have changed. In our code, a 35 mph speed limit required 250 feet; the requirement could have been less or more at an earlier time, assuming the speed limit has always been 35 mph. Currently, there is not a role for either the Building Inspector or the Town Highway Superintendent to issue an approval on this. What will be issued, assuming it all goes well, is a Certificate of Occupancy. We have been told by the Highway Superintendent that the sight distance does not meet current requirements so it is up to this board to come up with a plan for mitigation for sight distance. We have to come up with the best mitigation plan to minimize safety exposures on this road. Mr. Jeffreys said the applicant does not have to go to Mr. Butler for a driveway permit so are we not accepting additional liability by discussing what is outside our legal requirement. Mr. Anagnos said if he has a driveway permit, then it's there. Mr.

Lawrence said if the roadway itself has a speed limit that exceeds its own sight distance, why can't the speed limit be changed to make the road conforming? Mr. Butler said sight distance is based on general engineering practices and one category is 40 mph and below so changing the speed limit won't change anything. It is 300 feet at 40 mph and below. Also, we don't set speed limits below 30. Mr. Jeffreys said he would just leave the sight distance alone. Mr. Lawrence asked what obligation does the Planning Board have? Mr. Kingman said under General Considerations, (1) Adequacy and arrangement of vehicular traffic access..... Mr. Anagnos suggested Auction in Progress signs with a blinking light. When asked, Mr. Johnson said his planned hours are from 6:30 p.m. to 9:30 p.m. Mr. Lawrence asked Mr. Butler if there was an acceptable alternative to achieving the sight distance and Mr. Butler said no. The Board discussed various sign alternatives and agreed the following: The signs must be a minimum of 300 feet to the north and 300 feet to the south measuring from the center line of the gravel driveway to read "Auction in Progress – Be Prepared To Stop" with a flashing amber light on a safety barrel. Across the center of the gravel driveway, a double sided sign to read "Auction Parking" with an arrow pointing east into the property. All signs must be on private property, out of the Town's right of way. A statement will be required from each property owner stating their agreement to place the sign on their property. The signs need to be in upper and lower case, upper case letters should be 6", lower case letters 4". They will be temporary signs erected one hour prior to the auction and removed one hour after the auction has ended. Mr. Johnson added he was considering a flagger to direct traffic but Mr. Butler said there cannot be any flaggers in the roadway; if Mr. Johnson was to have a flagger to help direct traffic, the person would have to be on Mr. Johnson's property. The mower shop sign that was on the building is gone; Mr. Johnson said he may put a sign on the building; he hasn't decided on that yet. The Board will need to see a rendition of the signs drawn to scale.

Mr. Kingman said he thinks a condition to this site plan approval, if granted, would be once the auction season is concluded, Mr. Johnson would come back before this Board to discuss any problems that may have arisen and any changes that may be necessary to the site plan. Mr. Johnson agreed but said if anyone has any complaints, he would like to see it documented with a picture. Mr. Kingman said all complaints would go to the Zoning Enforcement Officer; he would be the source of input to the Planning Board regarding complaints. As far as additional conditions, Mr. Kingman thought it would be helpful if Mr. Johnson did have a person stationed on his property to make sure no one parks on neighboring properties or the roadway. Mr. Johnson agreed and said he is also talking to his neighbor who owns the adjacent half an acre which is vacant to see if the property owner would agree to let Mr. Johnson use that area for overflow parking. Mr. Kingman said we would need a letter from the property owner agreeing to that. Also, the exact time frames need to be specified for holding the auction, i.e. April through October, every other weekend. That would need to be included in any approvals that are granted. Also, before the auction season starts up in the spring, Mr. Johnson would need to come back before this Board to let us know if anything has changed or if things will move along as

previously. Even if there are no changes, Mr. Johnson would need to come back. Mr. Kingman explained that once site plan approval is granted, Mr. Johnson could sell the property to someone else who would have the same right to hold auctions so the meetings before and after auction season would be a very important part of any approvals that are granted. Mr. Johnson agreed. Mr. Kingman said Mr. Johnson needs to show the parking spaces on the site plan as well as any auxiliary parking and the requirement for a parking space is 9'x18'. Mr. Johnson said he thinks he can fit in about 20 spaces without utilizing any overload parking. Mr. Kingman said there is not a number specified in the code but the Board agreed that 20 spots should be okay. Mr. Kingman added that parking will also be reviewed at the end of season meeting with the Board. The Board agreed to hold a site visit on Saturday afternoon at 1:00.

Mr. Kingman motioned to set the date for the public hearing for the North Road Treasures Auction site plan application for the August 3<sup>rd</sup> Planning Board meeting. Ms. Wyant seconded. All aye. Motion carried 7-0. Mr. Kingman suggested Mr. Johnson bring his survey/site plan into the Planning Office as soon as it is done to give us a chance to review it prior to the public hearing.

#### **Discussion Items:**

1. **Elias Rabadi** – Mr. Rabadi requested a meeting with the Planning Board to discuss property located at 1470 Route 199, tax grid number 6571-00-620245. This property, which used to house Firehouse Productions, is up for sale and Mr. Rabadi is considering purchasing it. He would like to be able to open a car repair shop and a car sales lot. He said years ago, this property was used for car sales. Mr. Rabadi said he currently has the Milan Market site up for sale but he does not anticipate selling it quickly, sales slow down over the winter, and he is looking for another way to generate some income. Mr. Jeffreys asked so you would like to turn the lot that is for sale back to what it was years ago? This site is in the Highway Business district where a motor vehicle service station is a permitted use with site plan approval from the Planning Board. Used car sales, however, is not a permitted use anywhere in the Town. The previous use of car sales predated zoning. Mr. Kingman said there are other problems with this property that would make this proposal difficult. The property is fairly large with the building located close to the road. The right of way of Route 199 extends 25 feet from the center of the road out. The New York State DOT does not allow anything in their right of way. If something is existing, it's okay but anything new would require permission from the DOT. As an example, the owner of The Small House wanted to put a small sign out in front within the DOT's right of way. The process took so long, required so much paperwork, and he would have had to pay a yearly fee so he finally abandoned the idea. Also, the bulk of this property is steep slopes. Although this lot is three acres, the only usable portion is around the building. Another problem is that by definition in the zoning code, this is a corner lot so has two front yards which means two 80 foot setbacks. You would not be able to use the front part of this lot without variances which further

restricts the use. The new use would require many variances before the Planning Board could consider site plan approval. Mr. Jeffreys said also, there is no place in Town under the current code where auto sales is a permitted use so Mr. Rabadi would need to petition the Town Board for a change of code which is expensive and time consuming and the Town does not have the money to change the code so the applicant would have to fund it. Mr. Lawrence said the Comprehensive Plan says this is what we should be doing so the Town Board and the Planning Board should change the zoning to create incentives and support business. Mr. Jeffreys said anything not specifically allowed is prohibited. Mr. Lawrence said this would require the Town Board to change the law. Mr. Kingman said examples of permitted uses would be a convenience store, a repair shop, offices. The Planning Board worked with Bay Horse, who had the same setback problems with regards to Route 199 and a corner lot, and the ZBA to get the necessary variances. Mr. Jeffreys asked if used car sales are prohibited or just not listed. Maybe we could locate a section of the code where car sales would fall under another definition.

Mr. Jeffreys suggested Mr. Rabadi come back to the Planning Board's August 3<sup>rd</sup> meeting to give the Board some time to look through the code to see if there is anywhere his proposal would fit.

2. Case Farm – Mr. Lawrence recused himself from the meeting table to discuss his subdivision application. He said he has received approvals from the Fire Department and Dutchess County Department of Public Works. He needs to do a bit more sight distance work and then should get his written approval. Mr. Lawrence asked the Board, if he did not subdivide, what would he be allowed to do on one single parcel. Would he be allowed to have four separate living units as long as he provides 4.5 acres for each one. He really does not want to subdivide but would like to create a homestead and he would like to put up a barn with an accessory apartment for a caretaker. He would like a house for himself, then split the existing house into two units, and then have the barn with living quarters for a caretaker. Mr. Kingman read the definition of Multiple Dwelling, "A building or structure containing three or more dwelling units, each of which is designed for or occupied by a single household. If Mr. Lawrence were to go that route, everyone would have to be in the same structure. Mr. Kingman said Mr. Lawrence has 62 acres. One suggestion would be to do a three lot subdivision, which is still a minor subdivision, but make it a cluster with part of the property in a conservation easement. That would allow three lots. One of the dwellings could be a two family dwelling if he so desired. The Board agreed that it does not appear that Mr. Lawrence can accomplish what he wants to do without subdividing the property.

Mr. Lawrence returned to the meeting table.

Mr. Anagnos motioned to adjourn the meeting at 8:45 p.m. Mr. Lawrence seconded. All aye. Motion carried 7-0.

The next workshop is scheduled for Thursday, July 28<sup>th</sup> and the next regular meeting is scheduled for Wednesday, August 3<sup>rd</sup>. Both meetings start at 7:00 p.m. and are held at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board