

## PUBLIC HEARING Perry Subdivision - Major Subdivision Preliminary Plat – West Park Drive

**PRESENT:** Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, J. Myers; Deputy Sup. W. Conrad, Atty. A. Bax; Police Chief Previte; Finance Director J. Agnello, Bldg. Insp. T. Masters, Recreation Director M. Dashineau; Eng. R. Lannon; Water Foreman D. Zahno; WWTP Chief Opt. J. Ritter; 10 residents, 2 press and Clerk D. Garfinkel

**EXCUSED:** Councilman R. Morreale

Supervisor opened the Public Hearing with the Pledge of Allegiance

Clerk read the notice into the record:

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Lewiston will hold a public hearing on Monday, September 27, 2021 at Town Hall, 1375 Ridge Road, Lewiston, New York, at 6:00 P.M. concerning the application of Advanced Design Group, on behalf of Mark and Debra Perry, seeking preliminary plat approval for a major subdivision on their property at 4639 Vrooman Drive, Lewiston, NY. At the public hearing all interested parties who wish to be heard will be heard. A full copy of the application is available for review at the Town of Lewiston Building Inspector's office during normal business hours.

By order of the Lewiston Town Board

Kristin Savard and Jared Johnston - Advanced Design Group, represented Mr. & Mrs. Perry.

Perry's property (home) and driveway has frontage on Vrooman Dr. and frontage on West Park Dr.

The applicant is requesting approval for Preliminary Plat for 11 family homes, extending off of West Park Drive, with a cul-de-sac. This is a 12-lot subdivision because the Perry's home will remain in the subdivision. Hoping to start construction in early to late Spring.

All 11 lots are conforming to Town zoning. All public utilities are being proposed. The first 6 lots are smaller, but meet the minimum building code. Rear lots are larger and will encompass the proposed detention pond.

The detention pond is NYS DEC SPEDES compliant. It will be on private property. It will be owned and maintained by the home owners or a Homeowners Association. It will not be the responsibility of the Town.

The project shows individual lots, with 40' x 60' rectangle boxes, which represent the building footprint for each home. Each home could be 2,400 – 3,600 square feet.

The subdivision is conforming; no variances are needed. All utility designs have been completed and submitted to the Town Engineer. All SEQRA comments and concerns have been addressed.

Arora, Saurahb- West Park Drive – For years Arora has been told he could not put a fence on his property because there is a drainage easement. With the new development being built, he will lose his privacy of the woods. Arora asked if he can now build a fence.

Masters said there is an easement on the north side of Arora's property. Town's current and past practice is no fence is to be built on water easements.

Arora asked what the 20-foot public easement will be used for. Broderick said the goal, from the Town, would be to connect the existing bike path. This would allow those in the neighborhood to not use North 5<sup>th</sup> Street.

Rykaszewski, Irene – Morgan Drive - Rykaszewski is concerned with the drainage on Morgan Drive. There is an existing issue with water.

Savard said before the project is started, there is a storm easement on the south side of the property line, on the property of Arora. The proposed project is calling for an easement, 20-foot right-of-way

on Perry's property. After construction is complete this will be deeded over to the Town as part of the right-a-way, because there is an existing waterline.

Rykaszewski asked how/if the drainage issue on Morgan Dr. will be improved with the new development.

Savard said there is rear yard drainage and an existing ditch, which is where all of Morgan Drive drainage goes. The Perry's do not own this. When the project is in development it will be regraded and lowered. The Town has asked, as part of the construction, to clean the ditch and have it be a smooth transition.

Rykaszewski asked about the many mature trees behind her property. Savard said this is Preliminary Plat, then they go to Final Plat. Prior to construction, the developer will do a PIP, Public Improvement Permit. This is when the contractor discloses how much work there needs to be done to complete the infrastructure. Typically, they see what will be deeded to the Town, come back off those right-a-ways a certain amount of feet and see what needs to be removed.

If there are significant trees that homeowners wish to keep, they could. The development of the lot is up to the individual homeowner.

Rykaszewski asked how traffic will change. Morgan Dr. is full of potholes. Savard said there has been quite a bit of discussion on the timing of this. It was questioned if the Town wanted to pave the street, then have construction start and remove the pavement or wait till the infrastructure is in.

Broderick said it is Trane's intention to pave Morgan Dr. this fall. If construction was to start now, Trane wouldn't pave. Trane will move catch basins out of the street and put them to the side.

Fruscione, Santo – Morgan Drive – Fruscione hopes the development is built soon. Fruscione has lived on Morgan Dr. for 48 years, and the thought of their 50 to 55-year-old home now being graced by a development of this granger, can only increase property values. The increased tax base is also a plus.

Hunt, Shirley – Morgan Drive – Hunt asked if there is only one way in and out, and if there are any plans to have another way so Morgan Dr. doesn't become a thoroughfare. Broderick said no.

Hunt said there will be a lot of traffic in this neighborhood where most people moved with little kids, its safe, kids are outside playing. There will be about 22 more cars. This will significantly change the nature of the neighborhood. Hunt thanked Perry's for the years she has had enjoying their woods.

Is there anything stopping people from building something on the property behind her house. Hunt wonders what she will look at. Masters said any building allowed in an R-1 district can be built.

DeFazio, Dave – Oak Run Drive – DeFazio said there have been sewer backups on West Park Dr. and that area. When there is a lot of rain, people have had their basements flood with sewage. Where are these 11 homes discharging to? Has the sanitary or storm sewers been discussed yet?

Savard said it will be traditional Town sanitary sewer. It will be connected to the existing Morgan Dr. sewer. DeFazio said there will be issues with that, it is already at capacity. Can the pipes handle the additional load of these homes?

Savard said when a house backs up, there are two factors that contribute to this. Either the lateral is having issues or the sewer is having issues. The lateral is the homeowner's responsibility. When it comes to the sewers, yes this is us.

In the Western New York region, there is a program called II Mitigation. It is the II Master and Sewer Capacity Analysis Program. Developers cannot get County or State approvals unless they have studied sanitary sewer. Savard is working on this with the Town.

This has been completed by Advanced Design for this subdivision. The sewers were metered for three months, after a significant water event. Need to create a hydraulic model and downstream

sewer capacity analysis to confirm that between the development and the WWTP there is enough capacity. The Town receives these reports to review. It is then determined if repairs are needed. Savard said if there is anything they need to do to move to Preliminary Plat approval, that would be greatly appreciated.

Broderick said the Board is pretty consistent with Public Hearings. The Board listens to what all have to say and wait. This will be discussed at the October 14<sup>th</sup> Work Session.

Savard asks, to make sure it goes on record, that at this time, there are no known issues or concerns, or anything else to address, that this is purely an administrative tabling. Broderick said okay.

**Geiben MOVED to close the Public Hearing, Seconded by Jacoby and Carried 4 – 0.** (6:40 pm)

Broderick asked for a moment of silence and asked all to keep the Morreale family in their thoughts.

#### AGENDA APPROVAL

Additions: Broderick – Town wide drainage study; Geiben – remove agenda item 5; Jacoby – Grass cutting fee on taxes

#### RESIDENTS STATEMENTS

Glasgow – The Circle Drive – Glasgow shared statistics on Breast Cancer. For women in the United States Breast Cancer rates are higher than any other cancer, except for lung cancer.

In 2021, Breast Cancer is the most commonly diagnosed cancer among American women. It is estimated that 30% of newly diagnosed cancers will be breast cancer. To date, there are over 33-million breast cancer survivors. Many of them live here in Lewiston.

One in eight women or about 13% will develop invasive breast cancer over the course of their lifetime. In 2021, over 281,000 new cases of invasive breast cancer are expected to be diagnosed. 85% of breast cancer happens in women with no family history. In 2021, over 26,000 new cases of breast cancer were diagnosed in men.

Glasgow is here to ask the Board to acknowledge the many Lewiston resident survivors and their families, by proclaiming October as Breast Cancer Awareness Month. Glasgow wrote a draft Resolution, and asking the Board to adopt. Att. Bax reviewed and finds it acceptable.

**Geiben MOVED to amend the agenda to include under Jacoby’s Agenda this Resolution, Seconded by Myers and Carried 4 – 0.**

Tom Harty – Joule – Electric Bills - Was not at the meeting

#### DEPARTMENT HEAD STATEMENTS

Masters told the Board, Clerk Sandy VanUden will be retiring in August. Masters has put in his budget, funding to hire VanUden’s replacement in January or February so they can be trained for Zoning, Planning and Building. Masters is not able to attend his Budget Work Session, so wanted the Board to be aware.

Broderick agrees with VanUden training the new employee. The Town can’t allow 28-years of knowledge to walk out the door, without leaving some of it here.

#### APPROVAL OF MEETING MINUTES

**Jacoby MOVED to approve Town Board meeting minutes of August 23, 2021, Seconded by Myers and Carried 4 – 0.**

**Jacoby MOVED to approve Town Board Work Session meeting minutes of September 13, 2021, Seconded by Myers and Carried 4 – 0.**

AUDIT PAYMENT

**Jacoby MOVED to approve the Regular Abstract of Claims numbered 21-02402 – 21-02546 and recommend payment in the amount of \$252,923.31 plus a Post-Audit of \$12,460.70, Seconded by Geiben and Carried 4 – 0.**

PENDING / OLD BUSINESS

Borrego Solar System – Caldwell – Saunders Settlement Rd

Marc Kenward, PE – Erdman Anthony – At the Public Hearing held on September 13<sup>th</sup>, there was a comment regarding a drainage issue. Superintendent Trane spoke with Kenward after the meeting.

The Site Plan has been updated to have a culvert pipe at the corner, that will discharge through the existing drainage swale. It is not clear as to who is doing what, but if the pipe is not there when Borrego shows up to build, it will be put in, and coordinated with Trane.

It was added to Title Sheet T-1 regarding NYS Dept. of Agriculture and Markets. Also added was the note regarding the tree plantings to occur at the start of construction per Town Zoning Code.

Kenward spoke to Lannon regarding the Town's desire for a berm along the south portion of the west side. This was discussed at the Planning Board Public Hearing, and though not totally opposed to it, just discouraging of it. They are trying to maintain accordance with Ag's & Markets guidelines with this site's natural drainage flow as possible. Looking at the grading plan, the contours are running east to west and naturally seep-full drainage from south to north across the way.

Erdman Anthony representative said, if the berm is put in, this will decrease the likelihood the plants will survive. They will be raised up above where the ground water could potential be. If the berm is required to make this a condition of approval, they will do their best to make it work.

Broderick said the biggest concern from Town residents when they speak, is screening. This is the first solar farm going into where it is in people's backyards that don't own the solar farm. They will have this in their backyard. They need the screening.

Jacoby agrees with Broderick, the screening is the main concern.

Broderick said the Town will learn from the mistakes in the past. The Town is requiring a three (3) foot berm with ten (10) foot trees. Broderick said if this can be incorporated with the drainage issue, and can be done, the approval could come in two (2) weeks. Broderick said the berm on Williams Road is doing fine.

Small Cell Telecommunications Facilities Law

Myers and Bax are working on a fee schedule. Maximums are set by the FCC and other Towns have gone to that.

Myers is hoping to bring it to the October Work Session.

NEW BUSINESS - Residents / Public Correspondence - None

SUPERVISOR BRODERICK

Liaison Report

Water/Sewer Re-Levy – After discussing with Att. Seaman, Broderick would like to table. Laws were enacted under the emergency order, that the Town thought were lifted.

Legal - Nothing to report

Engineering

Curbing is in at Riverfront Park, just needs a bit of grouting done.

Broderick has spoken to Trane, Lannon and a couple Board members regarding a Town Wide Drainage Study. Lannon just authorized to perform this in the Town of Niagara, and completed one for the Town of Wheatfield.

Broderick requested Lannon prepare a proposal and cost for Town Wide Drainage Study and present at the Board meeting.

#### Finance

Presentation of 2022 Tentative Budget – Agnello thanked all Board members and Department Heads for their cooperation in preparing the budget. Department Head Budget meetings will be held on October 7, 2021.

The Water Levy will be addressed in the Preliminary Budget.

Clerk Garfinkel distributed the 2022 Town of Lewiston Tentative Budget. Inside the notebook is the Non-Profit and Department Head budget meeting schedules.

Garfinkel read 2022 Schedule of Salaries: Elected Town Officials: Highway Superintendent - \$74,448; Town Clerk - \$64,878; Supervisor - \$43,583 (Annual salary for the Supervisor position is \$43,583. Supervisor Broderick currently only accepts an annual salary of \$35,000 with a salary waiver equal to \$8,583); Town Justices (2) - \$28,495; Council Members (4) - \$14,410.

2020 Fiscal Stress Score – The Town received their Fiscal Stress Score from the NYS Comptrollers Office, and the Town is again at a 0.0%. The Town has maintained this since 2017. This means the Town has no Fiscal Stress.

#### 2021 Budget Revisions

**Geiben MOVED for approval the following budget revisions: Transfer \$3,750.00 from Police Gasoline/Diesel - B00-3120-0400-3510, to Police Gas/Electric - B00-3120-0400-3500, to cover utility expenses for the remainder of the year; Transfer \$3,880.00 from Highway Brush Contractual - A00-5140-0400-0000, to Highway Superintendent Equipment - A00-5132-0200-0000, to cover a new furnace; Transfer \$1,158.00 from Water Insurance - SW1-1910-0400-0000 to Water Administrative Equipment - SW1-8310-0200-0000 to cover a new water bill printer, Seconded by Jacoby and Carried 4 – 0.**

#### COUNCILMAN GEIBEN

#### Liaison Report

At September's Work Session, the Board approved sending a letter to the Village requesting that the Ice Rink be back at Academy Park. The Village held their meeting and have unanimously agreed to allow the Town to pursue the Ice Rink.

Recreation Director Dashineau requests a few Recreation issues be approved.

**Geiben MOVED to approve job title change for Nicole Short from Recreation Leader to Clerk / Typist P/T at a rate of \$14.43/hour, effective September 28, 2021, Seconded by Jacoby and Carried 4 – 0.**

Short will fill the vacant Clerk /Typist position in the Recreation office and work 15-19 hours per week. Short is a good worker and learner, and will provide excellent service to the community.

With the Ice Rink not being budgeted for due to the pandemic, Dashineau requests budget transfers to cover the cost for setup and operation of the Rink.

**Geiben MOVED to transfer \$20,000 from Recreation Contractual - A00.7310.0400.0000 to Ice Rink Contractual - A00.7310.0403.4403.**

Agnello has examined the accounts and the available balances and these can move forward.

**Seconded by Jacoby and Carried 4 – 0.**

**Geiben MOVED to transfer \$15,000 from Recreation Seasonal Help - A00.7310.0100.0000 to Ice Rink Contractual - A00.7310.0403.4403, Seconded by Jacoby and Carried 4 – 0.**

This will be used for the setup and operation of the Rink, as well as its staffing.

**Geiben MOVED to allow the Recreation Department to immediately begin soliciting sponsorships for use as revenue for the Ice Rink, Seconded by Jacoby and Carried 4 - 0.**

**Geiben MOVED to allow the Recreation Department to advertise for positions of Recreation Aide for Skate Guards and Counter Service, for 2021 at \$12.50 - \$13.50/hour per schedule, with the understanding that after the first of the year, it will need to be adjusted, Seconded by Jacoby and Carried 4 – 0.**

Geiben thanked Dashineau for putting this all together.

Geiben gave an update on the Bicentennial Committee. There have been a couple successful fundraisers. Chivetta's chicken dinner fundraiser will be held at the Town Hall on October 9<sup>th</sup>. There is a series of Bicentennial Coins, Lewiston tickers and baskets for sale.

**COUNCILMAN JACOBY**

No "Earmuff" Congressional District for Western New York

**Jacoby MOVED the following Resolution:**

NO "EARMUFF" CONGRESSIONAL DISTRICT FOR WESTERN NEW YORK  
**WHEREAS**, because of the federal decennial census, New York State must redraw district lines for the United States House of Representatives, and  
**WHEREAS**, the New York State Independent Redistricting Commission is presently accepting public comment on the redrawing of congressional districts in New York State, and  
**WHEREAS**, since 2013, all residents of the Town of Lewiston have lived in the 27<sup>th</sup> Congressional District, and  
**WHEREAS**, the Town of Lewiston's placement within this district has been wholly and entirely proper, given that the Town contains a mix of suburban and rural areas with many shared interests, and  
**WHEREAS**, from 2003 to 2012, the Town of Lewiston was situated within the "Earmuff District," which connected our Town to metropolitan and suburban Rochester nearly 80 miles to the east, and  
**WHEREAS**, the "Earmuff District" stretched from the east side of Buffalo, north through the Town and City of Tonawanda north to Niagara Falls, through Niagara, Lewiston and Porter, then east across the shores of Lake Ontario, through portions of 10 towns in Niagara, Orleans and Monroe counties, including the City of Rochester and additional towns to that city's southeast, and  
**WHEREAS**, inclusion in the "Earmuff District" clearly violated the generally accepted criteria for good-government redistricting, particularly in terms of compactness and preservation of communities of interest, and  
**WHEREAS**, draft maps have recently circulated in various publications which have suggested that – solely for partisan political purposes – the State of New York should re-establish an "Earmuff District" that would reunite the Town of Lewiston, among other Niagara Frontier localities, with the City of Rochester, and  
**WHEREAS**, it is incumbent upon this Town Board to make its voice heard on behalf of town residents as critical decision-making lies ahead in terms of congressional redistricting,  
**NOW, THEREFORE, BE IT RESOLVED**, that in the congressional redistricting process, the Town of Lewiston does hereby discourage any effort to re-establish a so-called "Earmuff District" connecting any portion of the Niagara Frontier to the City of Rochester, and be it further

**RESOLVED**, that this Honorable Body does hereby encourage decision-making authorities, including but not limited to the New York State Independent Redistricting Commission, the New York State Legislative Task Force on Demographic Research and Reapportionment and/or the New York State Legislature to reject all efforts to re-establish a so-called “Earmuff District,” or any district which seeks to similarly connect the Buffalo and Rochester metropolitan areas, and be it finally

**RESOLVED**, that certified copies of this resolution be sent to the New York State Independent Redistricting Commission (250 Broadway, 22<sup>nd</sup> Floor, New York, NY 10007), the New York State Legislative Task Force on Demographic Research and Reapportionment (250 Broadway, Suite 2100, New York, NY 10007), the Speaker of the New York State Assembly and the Majority Leader of the New York State Senate, and to the local offices of the Representatives in Congress in New York’s 26<sup>th</sup> and 27<sup>th</sup> Congressional Districts.

**Seconded by Geiben**

Broderick said this is bipartisan document. It is not good government for this community. It makes no sense to be joined with Rochester. Jacoby said these commissions reached out to local governments; this was not just created. Jacoby feels the Board is morally obligated, it is offense of our own autonomy.

**Carried 4 – 0.**

Jacoby thanked Glasgow for approaching the Board with the Breast Cancer Awareness resolution.

**Jacoby MOVED to approve the following Resolution:**

**WHEREAS**, Breast Cancer is the second leading cause of death among women and;

**WHEREAS**, 1 in 8 women or over 280,000 women will be diagnosed annually with Breast Cancer and;

**WHEREAS**, over 40,000 women each year will die from Breast Cancer and;

**WHEREAS**, over 2,600 men will annually be diagnosed with Breast Cancer and;

**WHEREAS**, every 2 minutes someone will be diagnosed with Breast Cancer and;

**WHEREAS**, every 13 minutes someone will die from Breast Cancer and;

**WHEREAS**, the Town of Lewiston Town Board acknowledges the over 33 million Breast Cancer survivors and;

**WHEREAS**, since many Lewiston residents and families have been affected and/or afflicted by Breast Cancer.

**THEREFOR BE IT RESOLVED** the Town of Lewiston Town Board acknowledges all Lewiston residents and families affected and/or afflicted by Breast Cancer by proclaiming October 1<sup>st</sup> thru the 31<sup>st</sup> as Breast Cancer Awareness Month in the Town of Lewiston.

**Seconded by Geiben and Carried 4 – 0.**

Board received an application for the Planning Board.

**Broderick MOVED to appoint Thomas Lattanzio, Riverwalk Drive, as a member of the Planning Board, Seconded Geiben and Carried 4 – 0.**

**Broderick MOVED appoint William Burg as Chairman of the Planning Board, Seconded by Geiben and Carried 4 – 0.**

Lattanzio will complete the term of the member that expires December 31, 2027.

Grass Cutting fee, as per the grass cutting law, on to the taxes.

**Broderick MOVED to place a total of \$3,838.75, plus a \$100 administration fee per parcel for a total of \$2,300, totaling \$6,138.75 onto those parcels tax bills, Seconded by Geiben and Carried 4 – 0.**

COUNCILMAN MORREALE - Excused

REGULAR TOWN BOARD MEETING

September 27, 2021

6:00 pm

COUNCILMAN MYERS – Nothing to report

RESIDENTS STATEMENTS

Glasgow, Paulette – The Circle Drive – Glasgow thanked the Board for approving the Resolution declaring October Breast Cancer Awareness Month.

On October 12<sup>th</sup>, at the Lewiston Senior Center the Lewiston Senior Club will be hosting Dr. Quinn – Director of the Breast Cancer imagine at Roswell Cancer Hospital and Irene Myers.

**Jacoby MOVED to adjourn, Seconded by Geiben and Carried 4 – 0.** (7:26 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk