

Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

The Philipstown Planning Board held its regularly monthly meeting on Thursday, October 15, 2015 at the Butterfield Library, 10 Morris Avenue, Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present:	Kim Conner, Acting Chair
	Joseph Giachinta
	David Hardy
	Peter Lewis
	Neal Zuckerman
	Steve Gaba, Counsel
	Ron Gainer, Town Engineer
Absent:	Mary Ellen Finger
	Anthony Merante

**Gex – Lot line change – 24 Hummingbird Lane, Garrison, NY: Letter from Luke Hilpert dated September 30, 2015**

Mr. Hilpert said that they were asking for an additional 90-day extension. He said that when they appeared last time, they spoke with the Board and they have provided consistent updates as the Board requested. Mr. Hilpert said that in addition, the Board reached out to the Board of Health Department, who said that they are acting diligently and that it's just taking long on their end. He said that in May of this year, they had been given additional requirements from the Board of Health. Mr. Hilpert stated that a full SSTs was required on the property and they went out on August 4<sup>th</sup>, had the percolation tests, had deep hole tests later in August and it was determined through those tests that it was satisfactory and an expansion system could be provided on the existing lot and the layout plan was provided to the Department of Health last month. He said that they are still reviewing it. Mr. Hilpert said that they reached out to the Health Department to try to get updates and Mr. Paravotti was not in and did not receive a call back from Mr. Buzinski, so at this point he would ask the Board to consider an additional 90-day extension. Mr. Hilpert said that Ms. Gex did pay the arrears on the escrow account and has replenished the account.

Ms. Conner asked Mr. Hilpert what the date was of the last letter he received from the Health Department.

Mr. Hilpert said August 26<sup>th</sup> and that Mr. Gregory, the engineer who appeared last time, has been in touch with them since that.

Mr. Gainer said he thought they addressed the concern the Board had with regard to written correspondence from the Department of Health saying that they believe the applicant has been diligently working on the application.

Mr. Zuckerman made a motion to grant the 90-day extension. The motion was seconded. The vote was as follows:

Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Peter Lewis	-	In favor
Anthony Merante	-	Absent
Neal Zuckerman	-	In favor

**Olspan LLC – Site plan application – 2700 Route 9, Cold Spring: Request for approval of revised plan**

Mr. Watson said that they were there last month and explained that the purpose of the application is to be able to add the storage shed – a shed to house the works for the fire suppression system, storage tank, pump, etc., and put in some propane tanks. He said that they did make some changes in the plan. Mr. Watson said that subsequent to their site plan approval, they acquired an additional piece of property and the plan that was actually submitted is that piece of property. He said that it had to do with the negotiations



Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

with Mr. Fadden. Mr. Watson said that change was the only change in the physical property and the change was made without subdivision approval – it was under the ten percent that's allowed in the subdivision regulations. He said that they did make some changes to the site plan. They took the stabilized construction entrance and moved it closer to the road. Mr. Watson said that they added some drainage to capture the additional water and that's now on the plan.

Ms. Conner said that on the plan the Board had there is screening in front of the shed storage area – bushes, trees, etc.

Mr. Watsons aid that he did not believe there was. He said that it is second growth, but not landscaping.

Mr. Zuckerman asked if it was marked as an accessory building.

Mr. Watson said that he could mark it. He said that it is an accessory building. Mr. Watson said that the only enclosed space is roughly the northeastern third, which has to be closed and heated. He said that there is another place for the lawn equipment, etc., and the rest would be open to the sky.

Mr. Zuckerman asked if it could be marked as for those uses, and not for other uses – e.g., dwellings, etc.

Mr. Gainer said that on the application, it clearly identifies the use of that building and in the lead statements in the drafted Resolutions he drew up, identifies the intended use as storage and fire protection.

Ms. Conner asked how tall the building was.

Mr. Watson said about six feet tall.

Mr. Zuckerman said that Ms. Conner had asked earlier about the screening and he wondered if there was some desire to have some screening of the additional building.

Mr. Watson said that if they looked at the topography, there is a big bank and berm there. He said that the only time they'd get to see that was if they looked right in the driveway.

Mr. Gainer said that he had prepared draft resolutions for the Board's consideration. He said that the SEQRA Declaration is pretty straight forward and the anended site plan approval has some technical issues to be resolved – showing lighting, providing calculations on the storm water facilities, etc.

Mr. Zuckerman made a motion to adopt the SEQRA Resolution. Mr. Giachinta seconded the motion. The vote was as follows:

Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Peter Lewis	-	In favor
Anthony Merante	-	Absent
Neal Zuckerman	-	In favor

Mr. Zuckerman made a motion to adopt the Resolution. Mr. Hardy seconded the motion. The vote was as follows:

Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Peter Lewis	-	In favor
Anthony Merante	-	Absent
Neal Zuckerman	-	In favor



Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

**John and Kimberly Sabatini – Site plan and special use permit – 101 Dicks Castle Road, Garrison, NY: Submission of plans from Badey & Watson & materials from Highlands Architecture**

Mr. Justin Kacur of Highlands Architecture introduced himself and said that he had been in front of the Board in May. He said that they have consulted with Badey & Watson, who had putting together the formal engineering site plans. Mr. Kacur said that they have been coordinating their architectural elevations with Badey & Watson's site planning and engineering. He said that the elevations in front of the Board had been revised to accommodate the new topo around the end of the house (pointed out). The elevations have been revised and have notation about the materials they are using and the Board was provided those copies. Mr. Kacur said that the dimensions are also noted. He said that they have a structural engineer on board who will be helping with any retaining construction over four feet tall and they haven't gotten to site lighting yet because they're looking at the driveway, walkways, etc., before an extensive lighting plan is done. Mr. Kacur said that they'd like to schedule another site walk in the near future as soon as it makes sense. He said that they now have dimensions for the pool. The great room and screened porch totals a little under 1500 square feet. Mr. Kacur said that another request they had was to get the private road maintenance agreement, which he gave to the Board, as well as the map that goes along with the agreement. He said that they sent their plans into the Health Department and they sent a letter back – increased it by one bedroom. Mr. Kacur said that the only thing they had to do was to increase the capacity of the tank and they don't have to do anything with the septic fields. He said that he wanted to make the Board aware because the letter does not state that.

Mr. Watson said that it is a deep site and you can't get a permanent driveway up there. He said that the idea is to have a temporary construction that will go up the site to do the construction and then allow it to eventually be a grass pathway. Mr. Watson said that Mr. Gainer suggested they try to go behind the house and use the existing driveway. He said that they looked at it today. Mr. Watson said that he thought it was a difficult situation to do that – it would require more chipping, blasting, etc., or somehow getting rid of quite a bit more rock and a lot of work, which they think may threaten the integrity of the house. Mr. Watson said that it is not big enough. He said that they are going to be looking at perhaps another route. Mr. Watson said that they went out today to take a look and thought perhaps coming backwards to take advantage of the, more or less, flatter area... He said that they are working on the engineering. They have two issues. Mr. Watson said that depending on how you calculate it, they could have an issue with the maximum impervious surface coverage. Mr. Watson said that depending on how you look at it could take them under and they clearly are seeking to build in excess of twenty percent. He said that they thought the one thing they could ask for is a letter telling them they're ineligible on that basis so that they could take the appeal that they need to take in order to do this.

Mr. Kacur said that the issue with the impervious surface coverage is that a great deal of the site is steeper than twenty percent, so they have to exclude that total area of the site in their calculations.

Mr. Watson said that they have satisfied areas for handling storm water and as the letter from Mr. Jason Snyder indicates, they are using storm water mitigation measures that might not necessarily be required because of the total disturbance that they're proposing. But they think it's prudent and they believe they'll be able to get that done.

Mr. Kacur said that they will also look at the mature trees that have been noted and have highlighted them in a sketch. He said that there are about a dozen that they highlighted in red that would have to be removed and a total of about twenty-two, but the majority of those would be twelve inch diameter or smaller.

Ms. Conner said that there is a lot of activity going on in excess of thirty-five percent slope area.



Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

Someone (inaudible) stated that was not true.

Mr. Conner said that one of the sheets given to the Board shows there's a lot of the dark grey, which indicates it's thirty five.

Mr. Gainer said that one of the comments he made in the memo the Board had received is to give the Board the breakdown of disturbance by those slope categories, so that's something the applicant will provide.

Ms. Conner said that if you look at the area where the pool is and the area where the addition is, it's pretty dark there. She asked if she was correct.

Mr. Watson said yes.

Ms. Conner asked if our code had restrictions on what they can do in a steep slope like that.

Mr. Watson said that is what he was getting at in that they could legitimately find they're not eligible for approval, and if the Board found that and sent them away with that, they could make an appeal.

Ms. Conner asked Mr. Watson if that meant they would go to the ZBA for a variance.

Mr. Watson said yes.

Mr. Zuckerman stated that the last time the Board had this debate was with the Santucci application—they had a long discussion about Chapter 112 and 175. He said that it gives the Board some room to grant special permit allowing disturbances/slopes greater than twenty percent under some conditions. Mr. Zuckerman said that there are normally givebacks. He said that the give back last time was the disturbance would be a lot less if they did the other thing, so the Board felt comfortable if they built fewer homes. Mr. Zuckerman said that he was not sure what the giveback was in this case.

Mr. Hardy said that he looked at that part of the law today, and that seemed to be implicit in granting the ability to go around it. He said that it had to cause less disturbance than doing it another way. Mr. Hardy said that it would be possible that they could perhaps illustrate...(did not finish sentence).

Mr. Watson said that he did not know that they're going to be able to get to that conclusion. He said that if he thought they could, he would ask this or even suggest it. Mr. Watson said that he took that to be a significant thing. He said that he did not see how they could do it without a variance. Mr. Watson said that he tried.

Ms. Conner said that she was more concerned about the disturbance where they're actually going to be doing the construction of the house and the pool. She asked if they had thought about reorienting it to the other side of the house.

Mr. Kacur said that his client does not want to change the location of where he wants to place the addition and the pool or the terraces.

Mr. Watson said that you have a driveway and a garage to contend with.

Ms. Conner said that it looks to her that there is some area there that (did not finish sentence).

Mr. Kacur said that there were other locations mentioned on the site walk too, but they want their privacy and it doesn't make any sense to them to place their pool down there.

Mr. Zuckerman asked if they had any ridge lines issues.



Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

Mr. Conner said that it is visible from other sites. She said that it would be a fair amount of cutting.

Mr. Gaichinta asked if it was a permanent driveway – the one that they're going to put in.

Mr. Watson said no, they can't make it a permanent driveway. He said that it will be a walking path or it will be open. Mr. Watson said that it's too steep for a permanent driveway.

Mr. Gainer said that it is driving a lot of the stone wall construction and re-grading. He said that will always be visible.

Mr. Watson said right. He said that if they could make it work this way (demonstrated on plan), and add the extra length in there to drop it down, it might become something that they would leave permanent.

Ms. Conner asked for the total acreage.

Mr. Kacur said 7.09. He said that the total square footage of the house is a little over 4600 square foot footprint.

Ms. Conner asked how many square feet with the total of the three floors.

Mr. Kacur said that he did not know off the top of his head.

Ms. Conner asked if they were three equal floors and it was 15,000 square feet.

Mr. Kacur said that there are unfinished sections of the basement. There are bedrooms on the basement ground level and there's a main living level and then the second floor is master bedroom. He said that it is much smaller than the other floors.

Ms. Conner asked if it was safe to say about 10,000 square feet.

Mr. Kacur said no, it's less. He said he'd be guessing about eight.

Mr. Hardy said that in the code it gives specific slope restrictions, with exceptions, and then it lists them. He said that they're very specific. Mr. Hardy said that he didn't see domicile there, but then he also didn't see swimming pool. He said that he was trying to understand what the real law says or how much flexibility is built into that.

Mr. Gaba asked if he was talking about the slopes.

Mr. Hardy said that he was talking about the slope restrictions.

Mr. Zuckerman said that he was asking about paragraph 7 of 175-36.

Mr. Gaba said that his understanding is the same as Mr. Watson's – it's that there's a prohibition on building in steep slopes. But, if you can meet those requirements, then you can stay at the Planning Board and get site plan approval even though you're building in a steep slope.

Mr. Hardy said that he was asking how much of the statute was made to prevent people from putting in things except this, this, this and this.

Mr. Gaba said that is the third part of it. He said that the first part is you can't do it at all, the second part is that you can do it if you get a special permit from the Board, and the third part is, if you can't get a special permit from the Board, and you have to construe the code narrowly as far as special permits go. Mr. Gaba



Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

said that if it's not listed, you're going to be hard pressed to read it in. Then you have to go to the Zoning Board of Appeals and get a variance to build in the steep slopes.

Mr. Gainer said that at the end of the day, if he does pursue the ZBA because he has obligations to deal with this prohibition, you're still going to eventually want to understand if there's any development potential that they would consider. He said that when the Board was there originally back in May, the plans were much more conceptually...they couldn't easily visualize those impacts. Mr. Gainer said that they now have better plans and slope analysis. So it's a question for the Board and it was identified by the architect...do they wish to go out again and revisit the site to better understand what may be acceptable development if he's successful in pursuing a ZBA variance. Mr. Gainer said that if he goes to the ZBA, the ZBA is going to come back to the Planning Board for some comment or referral, so the Board may want to have that understanding of what it might perceive to be appropriate.

Ms. Conner asked if that meant the Board refers to the ZBA.

Mr. Gainer said that he would suggest it in any event because of the disturbances.

Mr. Watson said that he guessed that technically, he didn't need a letter. He asked that the Board verify what he was saying and then next month they come back and they'll be clear in what the deficiencies are.

The Board decided to schedule a site visit for Sunday, November 8<sup>th</sup> at 9:30 a.m.

Ms. Conner said that they would refer the application to both the Conservation Board and the Garrison Fire Company.

The Board members agreed.

Mr. Gainer said that there are no County referrals required.

Ms. Conner asked if the Board would have the site walk and then refer to the ZBA.

Mr. Gaba said that the Board could get together any comments it may have and then do a formal referral.

Ms. Conner said that the ZBA referral would be at the November meeting.

Mr. Gainer said right.

Mr. Lewis made a motion that the Board refer the application to the Conservation Board and the Garrison Fire Company. Mr. Hardy seconded the motion. The vote was as follows:

Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Peter Lewis	-	In favor
Anthony Merante	-	Absent
Neal Zuckerman	-	In favor

Mr. Gaba said that he looked over the road maintenance agreement from 1988 and it is fine. He asked if it was recorded though.

Mr. Watson said that he did not know.

Mr. Kacur said that his client said when he bought the house, he was given the agreement and that's all he had and he tracked down the map from the Putnam County website.



Philipstown Planning Board  
Meeting Minutes  
October 15, 2015

Mr. Watson said the subdivision map – which was filed.

Mr. Gaba said the map is filed, but maybe the agreement was referenced on the map.

Mr. Watson said that he did not know, but would find out.

**Adjourn**

Mr. Zuckerman made a motion to adjourn the meeting. Mr. Giachinta seconded the motion. The meeting ended at 8:20 p.m. The vote was as follows:

Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Peter Lewis	-	In favor
Anthony Merante	-	Absent
Neal Zuckerman	-	In favor

Respectfully submitted,

Ann M. Gallagher

Note: These minutes were prepared for the Philipstown Planning Board and are subject to review, comment, emendation and approval thereupon.

Approved: \_\_\_\_\_