

Philipstown Planning Board  
Meeting Minutes  
October 17, 2013

The Philipstown Planning Board held its regular monthly meeting on Thursday, October 17, 2013 at the Butterfield Library in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present: Michael Leonard, Chairman  
Kim Conner  
Mary Ellen Finger  
Anthony Merante  
Pat Sexton  
Neal Zuckerman  
Adam Rod (for Steven Gaba), Counsel  
Ron Gainer, Engineer  
Susan Jainchill, Planner  
Absent: Kerry Meehan

**Approval of Minutes**

- *July 25, 2013*  
Mr. Zuckerman made a motion to adopt the minutes. The motion was seconded by Mr. Merante.
- *September 19, 2013*  
Ms. Conner made a motion to adopt the minutes. Mr. Merante seconded the motion. The votes were as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

**Manitou Properties Co., LLC – Site plan application – 1656 Route 9D, Cold Spring: Submission of revised plans**

Mr. Watson said that had revised the plans in several ways - they added the list of trees that are to be removed including identifying a couple that had not been on the plan. They located the wells that were asked for. Mr. Watson said that they consulted with their traffic engineer with regard to the question of reversing the traffic or making the traffic two-way in and out or leaving it, two-way in and out as it is. He said that the idea of reversing the traffic doesn't really work because you create conflicts when you drop off students and the students when dropped off, would have to cross in front of the van or bus. Mr. Watson said that if you were to have two-way traffic on the main entrance, there's more opportunity for conflicts. He said that they had just received Mr. Gainer's comments that he believed they incorporated everything that was in the original traffic report. They have also added a stop sign, stop bar, and relocated the mail boxes to provide for some clearer access at the exit point. Mr. Watson said that with regard to handicapped access to the playground, they added a handicap-accessible pathway to the play area. He said that they ran into a snag trying to get it to where they had the swing set, so they relocated the swing set further toward the middle of the property. He said that gives them much better handicap access and it also pulls away one of the noise sources a little further from the neighbor's property. Mr. Watson said one of the neighbors spoke to their designer and pointed out a place where there is visual penetration into the site from her property, so they've introduced a fence that would begin at the neighbor's north property

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line and run south to about 40 feet passed what is now the dining area. He said that they have submitted details with regard to the color of the playground equipment and the cut sheets of the make up – one that shows the actual equipment they want to use (brightly colored) and the other shows the actual color (earth tones). Mr. Watson said that they received comments from Mr. Gainer and has reviewed them. He said that he didn't see anything of particular concern except for the comment with regard to the fence...apparently there was a letter from the Cemetery Association, which he didn't see, requesting them to replace the fence along the cemetery line. Mr. Watson said that he agreed it was in bad shape and if that's what it takes, he thought they'd do that provided it's their fence. He said that he did not remember.

Mr. Leonard said that a comment made by a neighbor was a suggestion that the evening class use the main entrance to enter and exit, so that you wouldn't have all the headlights shining into their homes.

Mr. Watson said that it seemed reasonable to them too.

Ms. Conner said that Mr. Watson had talked about a picket fence, but she saw that it was actually a woven wire fence.

Mr. Watson said that he would have to check that – they had a woven wire originally in the front, and he thought they changed that. He said that also, they did submit information regarding internal ada code with regard to the access and fire code and it their intention to meet the code.

Mr. Leonard explained that basically a couple of Board members mentioned the need for a sprinkler and elevator, and Mr. Watson's comments back were clearly that following the code, they are not required under these circumstances.

Mr. Watson said that he just learned this afternoon, that as an alternative to that, each of the classroom and student gathering areas, they will all be equipped with direct access outside.

Ms. Sexton asked if each classroom would have access to the outside.

Mr. Watson said yes – direct access to the outdoors from the classroom.

Ms. Sexton asked if the New York State had any other requirements besides what's on the piece of paper in front of the Board. She said that it still amazes her that you can't have a nursery school with more than ten students if you don't have a sprinkler system. Ms. Sexton asked if the Board had some other kind of letter from the education department that says a school doesn't require a sprinkler system. She said that it is an old wooden horrible building that's ancient. She said that it will go up like a tinder box and it does not seem very safe when you are going to house seventy-five children.

Mr. Watson said that the information he got was from three different sources that came up with the same answer. He said that he thought it was a building department issue and they will meet the code.

Ms. Sexton said that it doesn't seem like the people who are going to build the school have any concern about a fire. She said that is the cost of business. Ms. Sexton said that they're dealing with children here.

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Mr. Zuckerman asked if there were other agencies the Planning Board should have a referral from. He said that it had to do with Ms. Sexton's concern.

Mr. Watson said that he did not think there were any other referrals that were necessary for site plan approval. He said that there are licenses that have to be acquired and building permit issues that have to be addressed.

Mr. Leonard said that a couple of the Planning Board members talked with the Building Inspector regarding the concerns. He said that when you're looking at the fire plan, according to Mr. Donohue you are looking at a lot of things. Mr. Leonard explained that the applicant actually has to meet a criteria and reach a certain level (building, size, students, etc.), so it isn't a matter of sprinklers vs. no sprinklers.

Mr. Merante said that this is a different situation. They are taking what was an existing restaurant, converting it into a private elementary school and putting seventy-five young children in this old wooden building and are asking that they look the other way because of the building or state code requirements. He asked why the application was in front of the Board if they don't have any options. Mr. Merante said that the Planning Board does have a vote on approval of a site plan. He said that he has a real problem with the traffic analysis. Mr. Merante said that he has a real problem with the sprinkler business, as they have seventy-five young children, and if successful, down the road that could increase. He said one spark, and he fears what could happen. Mr. Merante said that he thought there was a calling above and beyond what the Code minimum calls for.

Ms. Sexton asked if the Planning Board was responsible for safety. She said that she had her own house go up on fire in less than three minutes. Ms. Sexton said that some kids might not reach the door in three minutes. She said that she felt very strongly about this and did not understand it. Ms. Sexton said that if they are going to build something like this, then you're going to have to pay for a sprinkler system to make it safe.

Mr. Zuckerman asked Mr. Watson if they had a layout by room which shows the doors in each classroom.

Mr. Watson said that they did not have it at this point, but would give it to the Board.

Ms. Conner asked if they knew what kind of requirements an insurance company is going to have.

Mr. Leonard said yes, in other words, their insurance may be based on that.

Ms. Finger asked how many other agencies were involved in the permitting process for the school.

Mr. Watson said that the Health Department, Building Department, the Fire Marshall (through the Building Department) and the State Education Department will be involved.

Mr. Merante said that he wondered about the electrical inspection. He said that again, this is a larger, older building, with older styled wiring. Mr. Merante said that he was really concerned about some of

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these things that could lead to fire. He asked Mr. Watson if he knew if they would actually have a County Inspector come in and do the electrical.

Mr. Watson said that there is a County Inspector that comes through, but he didn't know the extent of the changes they are planning.

Mr. Gainer said that the Board received a memo from his office. The Board held a site inspection in August and held and closed a public hearing in September. There is a long form environmental assessment form that has been filed by the applicant. A SEQRA determination remains to be made. Mr. Gainer said that there are a few technical issues that they'd like to be sure the applicant's consultant provides – an engineering evaluation to document the adequacy of the existing onsite well and sanitary disposal system. Mr. Gainer said that the Board has on file a letter from the Cold Spring Cemetery Association seeking to have fencing along the southeast common property line replaced. He said that an adjoiner contacted him yesterday and wanted to make known to the Board that they have a right of egress across that gravel road that comes out onto Moffat. Mr. Gainer said that he let Mr. Watson know and said it could be easily acknowledged on the site plan.

Mr. Watson said that he pulled the Zenz deed and it was all part of the same piece of property and he was granted a right to use the road. He said that they respect that and will note that on the plan. Mr. Watson said that there is no issue there.

Ms. Zenz clarified that it was egress and ingress that was on the deed – not just egress.

Ms. Jainchill asked that with regard to installing the pathway as drawn on the plan that they think of a more elegant way of doing the lines and perhaps not needing two different walkways. She said that there was probably a more subtle way of doing the landscaping. Ms. Jainchill said that perhaps they want to take the one out that exists and replace it with planting.

Mr. Rodd said that assuming that the plan is in acceptable shape for approval for next month, they could have SEQRA and site plan resolutions available.

Mr. Watson said that he felt the issues are largely technical, which could be answered and back to the Board by the next deadline.

Mr. Rodd said that they will have draft resolutions for the Board next month.

Mr. Gainer said in summary, the applicant's consultant has committed to providing floor plans to document all classrooms have direct access to the exterior and then the Board has to make some determination/understanding relative to the request to the Cemetery as to how that's going to be resolved.

Mr. Watson said that they will look into that.

**Gex – Property re-alignment – 24/4 Hummingbird Lane, Garrison: Request for 90-day extension**  
Ms. Gex said that they are requesting an extension, as since the last time they were in front of the Board,

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her partner has been battling a serious illness.

Mr. Leonard asked if they have made any progress at all.

Ms. Gex said that he had contacted the builder and they are working on a plan. He also spoke to the engineer who's working with him.

Mr. Leonard asked if the applicant thought they'd be able to accomplish what they needed to if they were granted a 90-day extension.

Ms. Gex said that she thought they would be able to do more – it's that his health got in the way.

Mr. Leonard explained to Ms. Gex that there have been many more extensions on this application than he's ever seen.

Ms. Sexton said that the Board of Health has held this up three times for the applicant.

Mr. Rodd said that a 90-day extension would bring them to February 11, 2014. He said that he thought it would be appropriate to grant the extension at this time. Mr. Rodd said that the code does not have a cut off number.

Ms. Finger made a motion to grant the 90-day extension. The motion was seconded by Ms. Sexton. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

**20 Nazareth Way LLC – Subdivision of Winter Hill Subdivision – Garrison: New application**

Mr. Watson said that he was actually in front of the Board to ask that they turn him down. He said that they are in a twenty acre zone and are trying to create a ten acre lot. Mr. Watson said that they may not do that unless they have a variance from the area. He said that they are poised to make an application to the Zoning Board and hopefully they'll get that variance. Mr. Watson said that they are willing to take the variance subject to its only being conveyed to the State. He said that they've discussed the tax implications that are often associated with that, with the client and is fine with that.

Mr. Gainer said that the primary issue they want to make sure gets discussed is if the applicant would explain why he hasn't attempted to pursue a simple lot line adjustment to avoid the need for a ZBA variance.

Mr. Watson said that by the time he gets the State to agree, do all the paperwork and have it go through the Attorney General's office and Counsel for Parks and Recreation and come back and get them to sign

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an application, he could be through the Zoning Board. He said that he thought it was an easier way to do it.

Mr. Leonard asked if the Board was still going to be Lead Agency.

Mr. Gainer said yes.

Ms. Finger asked if this was being referred to the ZBA because they're creating a non-conforming lot.

Mr. Gainer explained that they are seeking to create a non-conforming lot. He said that the Board cannot approve it in its present condition, so by denying it, it gives them the right to make application with the ZBA.

Mr. Merante made a motion that the Planning Board refer the application to the ZBA. Ms. Finger seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Connor	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

**Proposed Local Law to establish 60-day moratorium on Major Wind Energy Conversion System – Referral from Town Board: Memo from Tina Merando**

Mr. Leonard explained that they are being asked as a Planning Board to review the comments and make comments. He said that he thought they had to establish a date for a meeting to be able to discuss it. Mr. Leonard recommended the Board look over the comments provided by the Town Board in regard to reviewing this. He said they have sixty days, so they can respond in writing to the Town Board by the end of November, which would mean they'd have to meet within the next week or two. Mr. Leonard said that via email they would throw out some dates. The Board agreed to discuss the one piece now, and the other piece at another point.

Ms. Finger said that she wanted to ask Counsel about the exceptions. She said that there is one included in the moratorium where you can for a \$500.00 fee apply to get an exception and then it goes to a public hearing – the whole process of approval with the Town Board. Ms. Finger said that there are exemptions in our current zoning for height restriction and she wondered if those exemptions will stand or would be limited with the moratorium.

Mr. Merante said that he thought somehow or other it has to be determined that the applicant has a vested interest – he may have an application before the Board, and just making an application doesn't mean he's vested, because he then becomes grandfathered.

Mr. Rodd said that his understanding is that there are no applications now for wind turbines. He said that

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there was one application that was granted and he believed it was the one and only wind turbine application for several years. He said that he knew there was some concern about building in some better definitions and requirements because this is a brand new area and the Board recognized that there's always room for improvement.

Mr. Leonard said that the only other exception would be extraordinary hardship.

Ms. Conner said, or things under forty feet high, because if it's under forty feet high, then it doesn't have the height requirement or variance.

Ms. Finger said that there is an agricultural exemption – 175-37E1 – there's no height limits on agricultural structures.

Mr. Rodd said that anything over forty is subject to the moratorium.

Ms. Finger asked if there were any exemptions.

Mr. Rodd said no for wind turbines.

Mr. Zuckerman asked what confidence the Board had that within six or nine months with the extension, they will actually get to a place where they will have an answer to this. He said that would be the rhetorical question he'd raise to the Town Board.

Ms. Finger said that one advantage with the nine months is that there are grants that will cover the work that's going to be done to write up the zoning change and the work on the application to NYSERTA has to be submitted by September 30, 2014.

Ms. Conner said that would be something too, to bring up to the Town Board.

Mr. Rodd said that if the Planning Board is inclined to advise the Town Board that it is in support of the enactment of the moratorium, they could simply take a roll call vote or draft a letter on behalf of the Board.

Mr. Zuckerman asked that the comments be submitted, rather than taking the vote.

Mr. Leonard said that the Planning Board has to say yes or no to the six months. He said that the Planning Board has sixty days to respond back to the Town Board. Mr. Leonard said that the comments will be with the sixty day period. He asked if the Board was in favor of agreeing to the six month moratorium. The Board members voted as follows:

Pat Sexton	-	Agree
Anthony Merante	-	Agree
Michael Leonard	-	Agree
Kim Conner	-	Agree
Neal Zuckerman	-	Agree

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Mary Ellen Finger	-	Agree
Kerry Meehan	-	Absent

**Adjourn**

Ms. Finger made a motion to adjourn the meeting. Mr. Zuckerman seconded the motion. The meeting ended at 8:45 p.m. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
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.

Date approved: \_\_\_\_\_