

Philipstown Planning Board  
Meeting Minutes  
March 15, 2012

The Philipstown Planning Board held its regular monthly meeting on Thursday, March 15, 2012 at the VFW Hall, Kemble Avenue, Cold Spring, New York. The meeting was opened by the Chairman at 7:30 p.m.

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

**Drake Petroleum – Site plan approval – 1122 Route 9D, Garrison: Request for return of escrow funds**

Mr. Merante made a motion to put together a resolution to return the funds to Drake Petroleum. Mr. Meehan seconded the motion. The vote was as follows:

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

**ESP – Site plan approval and request to re-zone – 3330 Route 9, Cold Spring: New submission**

Ms. Donna Kehr introduced herself and said she was requesting to have the back of their property re-zoned to highway commercial as that would enable them to keep the storage they have now because they're over the percentage rate.

Mr. Leonard asked the applicant if she was looking to do anything besides re-zoning.

The applicant said no.

Mr. Gaba said that he was confused and asked if this wasn't a site plan application.

Mr. Gainer said that it is a site plan application and that the applicants appeared before the Board last summer and had an informal meeting with the zoning administrator. He said that last summer, when they appeared, they had an old site plan that was submitted from a former application with incorrect information. Mr. Gainer said that they have now

provided the Board with a formal site plan application package and a somewhat enhanced plan. He said that they are now seeking a re-zoning of the rear of the property. Mr. Gainer said that the Town Planner had made some initial informal comments, but obviously the Board can't move the application without some resolution of the request for re-zoning.

Ms. Jainchill said that this application is considered a major project since it's a proposed construction of facility and structure for non-residential use, which exceeds the threshold for a minor project. She said that the application isn't complete. The EAF submitted had information from (she assumed) last summer.

Mr. Gaba said it looked like it was from 2004.

Ms. Jainchill said it was 2004. She said that if that wasn't what they were seeking, than the material handed to the Board is different than what the applicant is telling them. She said in order to evaluate, they need a lot more information than that and recommend they have an engineer (did not finish sentence).

Ms. Kehr said that she was using the same engineer she used last time.

Ms. Jainchill said that the engineer would walk them through the process. She said that the Planning Board does not have the ability to do anything about the zoning changes.

Ms. Kehr said that originally she spoke to Bob in the building department and they were going to go for a major change. She asked him if she eliminated adding another building and onto the existing building, it would be a minor and he said yes. Ms. Kehr said that they're not changing anything - they're just asking for the re-zoning of the back property.

Ms. Jainchill said that she understood they had a site plan approved from 1992 and asked if that was correct.

Ms. Kehr said 1990.

Ms. Jainchill said that it would be helpful if they saw a copy of that site plan approval – what was there, what was approved, and what they're looking for approval for now.

Ms. Kehr said that what she submitted was what she was looking for now.

Ms. Jainchill said that the Board needed to see what was approved before and compare that to what the applicant is looking to change.

Mr. Gaba explained that the procedure for this would be simultaneous applications – the applicant should petition the Town Board for the zoning change. He said that he did not know that she needed to draft a formal petition, but rather a letter laying out what it is that the applicant wants with possibly a map showing the lots they want the zoning change for, explaining why they want the zoning change, and then after explaining to the

Town Board, they'd have to push through a local law to amend the zoning. He said that while the applicant is doing that, she could come back to the Planning Board with a revised set of documents more clearly reflecting what it is she wants to do now. Mr. Gaba said that if they don't get the zoning changed, the project couldn't go forward.

Ms. Kehr said that the Board is categorizing this as a major.

Ms. Jainchill said yes, according to the information that the Board's received.

Ms. Kehr asked if with the new form, she would still go under minor.

Mr. Leonard said if she qualified.

Ms. Jainchill explained that there was a list of criteria in the zoning code.

Ms. Kehr asked if it were vacant land she wasn't going to use, it would be considered major.

Ms. Jainchill said that if it's 5000 square foot of structure footprint. She said that she did not know the footprint the applicant was proposing. Ms. Jainchill said that the original site plan was for one parcel, and now they're looking at three parcels.

Mr. Gainer said that it very well might be that they would qualify once they perfect the application and site plan and fall under the criteria for a minor project.

Ms. Jainchill said that also, the applicant would want to put in a letter of intent that would summarize what she's proposing.

**Garrison Properties LLC (Garrison Station Plaza) – Site plan approval – 7  
Garrison Landing, Garrison: Full EAF Parts 1, 2, &3**

Mr. Watson said that they submitted Part 3 of the EAF for the Board's consideration and adoption. He said that he believed they had a set of final requirements with regard to a conditional approval. Mr. Watson said that he did note that Mr. Gainer had gotten a response from the State Parks with regard to the architecture and that was positive from their point of view. He said that as the Board would recall, there was a discussion about Garrison Station Plaza regarding perhaps going back to clapboard siding and making another run at the State Parks with regard to that. Mr. Watson said that he tried to craft that section of the EAF such that if they got the approval, that would be o.k. and if they made another run at them and then they got the approval that would be o.k. So one way or the other the impacts would be covered by having the sign-off from the State Parks.

Mr. Gainer said that because they had finally resolved the issue of the Office of Parks, he'd actually crafted a draft Resolution for the Board's consideration. Mr. Gainer said that the Board had very few issues. The biggest open issue was Office of Parks. They still have obligations to get regulatory agency approvals and the like. Mr. Gainer asked if the CAC reacted to the application.

Mr. Watson said that it was positive.

Mr. Gainer said that the new zoning requires a statement from the zoning administrator as to whether there are any violations on the property. He said that the other open issue from their review was that they had asked from the applicant some documentation because he could not provide onsite parking – to provide some confirmation that the spaces that are shown within Station Road have been committed to the applicant’s use. Mr. Gainer said that he hadn’t seen that.

Mr. Watson said that they haven’t given that to the Board, but would.

Mr. Leonard asked if those spots were going to be for the restaurant.

Mr. Watson said that they would give the Board a letter from that – they would certainly accept a condition on it. He said that they have agreed that they would make the spots that they’ve identified available and that satisfied the parking requirements.

Mr. Gainer said that physically there is no ability to provide outside parking. He said that with respect to the technical issues, they’ve satisfied all but the ones he just described. Mr. Gainer said that they’ve been through the latest submitted EAF and he believed it satisfied the prior issues raised by the Board based on the Part 2 it previously adopted.

Mr. Leonard asked if the Board had any comment.

There were no comments.

Mr. Gainer said that if the Board was so disposed, it had a draft SEQRA resolution and draft site plan resolution for consideration.

Ms. Finger made a motion to adopt the Negative Declaration. Mr. Merante seconded the vote. The vote was as follows:

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

Mr. Gaba suggested the Board move to adopt the approval resolution with the amendment of adding a condition of ...(did not finish sentence).

Mr. Gainer said receipt of a letter from the zoning administrator to determine that there’s no outstanding violations. He said that the second additional condition would be written

documentation from the applicant that the on-street parking shown on the site plan will be permitted for the use of the site.

Mr. Merante referred to the second page of the proposed resolution and said that Mr. Gainer had four conditions.

Mr. Gainer said that was right – they were in addition to what was on there.

Mr. Meehan moved to adopt the Resolution based on the above-stated conditions as amended. Mr. Zuckerman seconded the motion. The vote was as follows:

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

**Viewsave, LLC/Hudson Valley 2009 Trust/Gerald E. Morris – Subdivision plat showing merger and lot line adjustment – Beverly Warren Road, Garrison: Final approval (no submission)**

Mr. Watson said that they didn't submit anything additional and he thought at this point they were ready for a resolution.

Mr. Gainer said that this is one where the Board had draft documents last month and chose not to move it, but he thought the Board was totally satisfied at the conclusion of the public hearing.

Mr. Merante made a motion to adopt a negative declaration. Ms. Finger seconded the motion. The vote was as follows:

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

Ms. Finger made a motion to adopt the resolution for approval. Mr. Zuckerman seconded the motion. The vote was as follows:

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

**Mary Ellen Finger/Entergy – 3 Horsemen’s Trail, Cold Spring: Landscape plan**

**a. Approval of three lot subdivision**

**b. Approval of site plan (Entergy): Full EAF Parts 1, 2 & 3**

Ms. Finger recused herself and left the building.

Mr. Watson said that last month the Board adopted the Part 2 of the EAF and they submitted Part 3 for the Board’s consideration. He said that the engineer submitted a revised landscape plan, which is not reflected on his plan. Mr. Watson said that they did commission a traffic study. It’s part of the EAF. Essentially, it recommends that exiting traffic be directed in the direction they’re going. Mr. Watson said that he recommended signage. That was put on the site plan. He said that it was his hope that this evening the Board would find it appropriate to adopt a negative declaration and schedule a public hearing on the matter. Mr. Watson said that the architects and engineers submitted some additional landscaping, part of which was out in the lawn area in front of the property. Then there was a request to plan more plantings along the base of the building.

Mr. Gainer said that the significant issues were touched on and have been responded to – the landscaping plan and the traffic. He said that it was his understanding that the latest submittal satisfies the Board’s prior request for supplemental data and they’d have no objection to scheduling a public hearing. Mr. Gainer said that if the Board wanted, they’d prepare a negative declaration for the next meeting, as he had nothing prepared for this evening not knowing what direction the Board would take.

Mr. Merante asked if when the Board had the site visit, they had the corners marked off.

Mr. Gainer said yes.

Mr. Merante asked (for a visual comparison) if anyone knew the size of the Scanga Woodworking building.

Mr. Watson said it was probably about the same size.

Mr. Gainer asked Mr. Watson if he knew the size – just the length on the frontage.

Mr. Watson said that he didn’t remember.

Mr. Gainer said that Scanga’s was like 200 plus feet.

Mr. Merante referred to a plan and said that it showed 172 by 116.

Mr. Gainer said that along the frontage, the physical length of the building would seem to be less than the Scanga building right next to it. But in terms of depth, the dimension off the road, it’s much larger. Mr. Gainer said that it’s a dimension that you would not see from the road or adjacent property. He said that the prior technical issues on stormwater and all had previously been addressed.

Mr. Zuckerman asked if the applicant felt like they have minimized the view from the road of this building.

Mr. Watson said that he did not think they necessarily have minimized it. He said that he thought they've softened it and provided landscaping that would enhance the look of the building. Mr. Watson said that it's a commercial industrial area and he thought they'd want to see the building.

Mr. Zuckerman said that it's not a retail business.

Mr. Watson said that he understood, but it's also in a commercial industrial area. He said that he knew there could be debates about the architecture of the building. Mr. Watson said that what they're not seeing (on the plan) are the trees that are down further.

Mr. Leonard said that on the site visit, his concern and some others' was to the south side viewing and that was identified and they agreed to put in more landscaping. He asked if that was correct.

Mr. Watson said yes.

Mr. Zuckerman said that the visual impact should be minimal and was asking if they thought it was minimal.

Mr. Watson said that he couldn't tell them that they've been minimized, but would tell the Board that they look like arborvitae and from personal experience, would say they grow quickly and get tall.

Mr. Merante said that the visibility from the road was showing 240 feet from the inside edge of Horsemen's Trail and asked if Mr. Watson had an idea of the total from this point to Route 9.

Mr. Watson said maybe close to 400 feet.

Mr. Gainer said that maybe for the public hearing, they could physically illustrate a few cross-sections through the property and maybe in from Route 9 to show the change in grade.

Mr. Zuckerman said that for the applicant's benefit he thought they'd want to see an effort on minimizing.

Mr. Watson said that he would speak to his client about that.

Mr. Meehan said to suppose not all the employees are familiar with the area, come down Route 9 and say the place is all covered up in shrubbery.

Mr. Watson said that if it were a full-blown emergency, you'd have to be concerned. He said that it's going to be (inaudible) and they're going to usher their people in and temporary signs can be put up and they'll get the people there.

Mr. Leonard said that he wanted to mention the traffic study.

Mr. Meehan asked what the guy was saying.

Mr. Leonard said that with cars going certain miles per hour, the capabilities of being able to see distance-wise, so that when you pull out, you're not going to force people to slam on their brakes.

Mr. Watson said that in particular, he remembered that if someone were to come out of the driveway and turn right heading south and then tried to turn left onto Route 9, there's inadequate sight distance and it provides a dangerous situation. He said that it's not a correctable situation because of the geometry of the road.

Mr. Zuckerman said that the question is not necessary to this property – making a right out, then making a left from Horsemen's Trail. He said that's a general safety question and they should they have a sign saying, "no left turn from that".

Mr. Watson said that it is actually. He said that the idea is that a facility will create more opportunities to make that (inaudible) turn, and therefore what could they do to mitigate that possibility, to reduce it, so that people will (did not finish sentence).

Mr. Zuckerman asked whose purview it was under.

Mr. Watson said it is the Planning Board.

Mr. Gaba said that it's not just going to be signage to force the right kind of...you're going to put in curbing and arrows.

Mr. Watson said no, there are no curbing and arrows.

Mr. Zuckerman said that they believe it is unsafe for anybody – it doesn't matter if you live on Horsemen's Trail or not.

Mr. Gainer said that in the absence of this application, the Board might suggest the Highway Superintendent on his own, seek to do that.

Mr. Merante asked if there had been any thought given to talking to D.O.T about it.

Mr. Watson said that it is a town road. He said they did discuss it. It's an expense that's not necessary for them to mitigate the impact.



Mr. Merante said that even if they're going in the normal flow, it's still a dangerous road. He said that traffic is flying down south on Route 9, and you're coming from a standing start and going on to Route 9.

Mr. Watson said that there is really good sight distance there. He said that was one of the things the traffic study spoke to – that was not an issue.

Mr. Leonard asked if the Board had any comment.

There were no additional comments.

Mr. Merante made a motion to schedule a public hearing. Mr. Zuckerman seconded the motion. The vote was as follows:

|                   |   |                         |
|-------------------|---|-------------------------|
| Michael Leonard   | - | In favor                |
| Kim Conner        | - | Absent                  |
| Mary Ellen Finger | - | Recused (left building) |
| Kerry Meehan      | - | In favor                |
| Anthony Merante   | - | In favor                |
| Pat Sexton        | - | Absent                  |
| Neal Zuckerman    | - | In favor                |

Mr. Gainer said that he would prepare the negative declaration for the next meeting.

### **Miscellaneous**

- "Work shops and procedures" discussion

Mr. Leonard said that last week, a few Planning Board members, he and Mr. Doherty sat down to discuss in general some procedural issues for them such as when they are able to go into executive session. He said that Mr. Gaba also made comments, which were very helpful to the Board. They discussed workshop sessions and some of the details. Mr. Leonard said that also, participation from the engineer/planner was discussed and getting some guidance as to when they would or need to attend certain meetings.

Mr. Zuckerman said that his concern was if they were going to literally double the number of meetings of the Planning Board and wanted to figure out alternate ways for one to participate with regard to conference calling, etc.

Ms. Jainchill said that she thought the concern for some members was that communication was lacking.

Mr. Zuckerman said that he wanted to make it more convenient to those who would not be able to attend several meetings.

Ms. Montgomery stated that the Board could define it in the Code that the Board has a scheduled workshop on Thursdays, and if nothing is scheduled, they don't meet. She said by doing that, they are following the rules/laws and it's published. Ms. Montgomery asked if the Board felt the need to meet every Thursday.

Mr. Leonard said that he thought the feeling would be that initially, to get a lot of the questions answered, and then depending upon what the Board is facing at the time.

Mr. Gaba did state that for any official meeting the Board would need a quorum. He said that for an unofficial/casual meeting to discuss matters, they could have less than a quorum, but to open the official workshop of the Town Planning Board, then they have to have four people.

Mr. Gainer asked if there was a requirement for minutes for a Board work session.

Mr. Gaba said that the requirement for minutes is if the Board is going to take any votes or have any resolutions, the Board has to record it in the minutes.

Mr. Gainer said that essentially the Board would be using the work sessions to interact with the applicant and understand the proposal, define what it sees to be incomplete and then may not appear at the formal meeting. The Board would use the formal meeting just for action items.

Mr. Gaba said that as Ms. Montgomery suggested, he knew of other municipalities who have workshops only when they need it.

- Training Requirement

Mr. Merante said that the Planning Board is required under state law to get four hours of training per year per person. He said that there are two new members. Mr. Merante addressed Ms. Jainchill and said that he was wondering if initially with regard to procedures, plans, etc., they could use one of those...he said that they had one last year with Mr. Gaba and Mr. Gainer.

Mr. Gaba said that as long as the Town Board approves it, it's fine.

- Conservation Easements

Mr. Chmar said that the new zoning code allows for conservation easements as part of the conservation subdivision. He said that if the Board were ever looking for training, he would be happy to give a tutorial on conservation easements.

- Training

Mr. Leonard said that basically it's the middle of each month beginning next month – April, May, June, July, August, September and October. The middle Saturday, they'd be required to go from 9:00 a.m. to 1:00 p.m. down to Tea Town Reservation in Yorktown. Mr. Leonard said that for those who have been there, it's very worthwhile training and explains a lot about site plans, etc.

**Adjourn**

Mr. Merante made a motion to adjourn the meeting. Mr. Meehan seconded the motion. The meeting ended at 8:30 p.m. The vote was as follows:

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

Respectfully submitted,

Ann M. Gallagher

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

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