

Philipstown Planning Board
Meeting Minutes
April 16, 2015

The Philipstown Planning Board held its regular monthly meeting on Thursday, April 16, 2015 at the Butterfield Library in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present: Anthony Merante, Chairman

Kim Conner
Mary Ellen Finger
Joseph Giachinta
David Hardy
Peter Lewis
Neal Zuckerman
Steve Gaba, Counsel
Ron Gainer, Engineer

Mr. Merante welcomed newest member of the Planning Board, Peter Lewis.

Approval of Minutes

- February 19, 2015

Ms. Conner made a motion to adopt the minutes. Mr. Giachinta seconded the motion.

The vote was as follows:

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

Gex – Property realignment – 24 Hummingbird Lane, Garrison: Request for extension

Mr. Luke Hilpert stated that in the past two months, they had submitted the plans to the Board of Health. There were comments on them, corrected and sent back. He said that the engineers advised him they were trying to get a status from the reviewer at the Health Department and that he was there to ask for another extension, as they were about to run out.

Mr. Gaba said that the Board could give the applicant a 90-day extension (as of April 6th) if it was so inclined.

Ms. Conner made a motion to approve the extension. Ms. Finger seconded the motion. The vote was as follows:

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

Philipstown Planning Board
Meeting Minutes
April 16, 2015

OWPP LLC (Grasso) – Application for Two Lot Subdivision and Special Use Permit under Section 175-36B(7) – 410 Old West Point Road, Garrison, NY: New submission

Mr. Watson introduced himself and pointed presented the plan to the Board and stated that outlined in red were two lots – both of which preexist zoning and the total approximately 14 acres. He said that the application is to change the lot line by rotating the line (pointed out) clockwise about 90 degrees to make the OWPP lot a lot smaller and make Mr. Grasso’s residential lot larger. Mr. Watson said that it actually takes Mr. Grasso’s preexisting, non-conforming lot and makes it conforming. He said that they have the State Health Department approval for the septic system and well and have located the house as close to the road as possible and the application includes a letter application for the special use permit required to disturb a twenty percent slope. Mr. Watson said that the rationale in his letter...a permit to grade on 20% slope may be granted where the granting of the permit will cause less disturbance and that’s exactly what will happen if they develop the larger lot. He said that they thought it better to keep the house near the road and ask for the permit to do the grading around the house in that area.

Mr. Gainer asked what the basis was for creating the modified lot line and moving the lot line.

Mr. Watson said that basically they kept it as a minimize size lot and took all the extra land (pointed out on plan). He said that it was just cut there to make the lot the minimum legal size.

Ms. Conner said, so the lot has a conservation easement on it and asked if the Land Trust had signed off on the plan.

Mr. Watson said no.

Ms. Conner said that it said on the document the Board received from Mr. Watson that they had to.

Mr. Watson said that has not been attended to.

Ms. Conner asked then if it was o.k. to present it to the Planning Board before Mr. Watson had approval from the holder of the conservation easement.

Mr. Watson said that he thought the two were mutually exclusive. He said that his only other experience with that was a parcel from Putnam Valley where the site plan had to be signed off subject to the Land Trust signing off on it. Mr. Watson said that he did not know but wouldn’t expect there would be a lot of difficulty because they’re talking about a line on a map and not talking about any disturbance.

Ms. Conner referred to page 5 of the conservation easement and read a section aloud...“The grantee shall preserve the screening of any structure...”. She asked if the Planning Board gave the applicant permission to do that, the Land Trust would have to sign off on that as well because it’s part of their conservation easement.

Philipstown Planning Board
Meeting Minutes
April 16, 2015

Mr. Watson said certainly. He said that he hadn't reviewed that and wants to do that, but assumed Ms. Conner was correct.

Mr. Zuckerman asked if more than one house could be created from the lot line (section labeled "formerly Osborne").

Mr. Watson said that he did not think so, but would have to review it. He said that the piece of property will be 9.06 acres in a 5 acre zone, so it couldn't be subdivided. Mr. Watson said that regardless of the status of the conservation easement, a second house could not be built on there because in order to get permission to build a second house under the zoning law, you'd have to be able to subdivide the property.

Mr. Zuckerman asked if the Board did something that violated or contradicted the easement, it would put them in any position against any other state entity that may be in contract with some other agreement.

Mr. Gaba said that regardless of whether the land is further subdivided or lot lines are removed or whatever, if it's subject to a conservation easement or even a private easement, it's going to be subject to a conservation or private easement regardless of whether the lot lines are moved or not. He said that with regard to Mr. Zuckerman's question, the general rule is that zoning and municipal subdivision regulations trump private easements. Mr. Gaba said that he could not say that the same holds true for conservation easements, as he had never researched that. He said that it is. Mr. Gaba said that he would look into if the Board would like, and would get a memo on it. Mr. Gaba said that the practical thing would be to get in touch with the Land Trust.

Mr. Watson said that they would certainly look into that, but the obvious solution is to condition any approval on acknowledgement from the Land Trust that they're aware of the subdivision and that they have no objection. He said that might mean a landscaping plan in the front, or some architectural consideration of the house in the front.

Mr. Chmar said that he welcomed Mr. Watson referring the plans to the Land Trust. He said that they need to have their experts look at it and then they will provide a letter to Mr. Watson, the Board or both as to their assessment of what the plans imply if that house is someday built.

Mr. Merante asked Mr. Gainer for his opinion with regard to scheduling a site visit and the benefit of that.

Mr. Gainer said that the only issue for him would be if the Board might identify any issues with the siding of the house or the proposed access.

Ms. Conner said that given that there's an existing lot on the upper lot, it seemed to her that if they could find some way to have a common driveway, they could disturb far fewer slope by coming in off of that because it looks pretty flat until you hit the lot line.

Philipstown Planning Board
Meeting Minutes
April 16, 2015

The Board decided to schedule the site visit for April 26th at 9:30 p.m.

Mr. Zuckerman made a motion to declare this as a minor subdivision. Mr. Giachinta seconded the motion. The vote was as follows:

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

Ms. Conner made a motion to schedule the public hearing for the next meeting. Mr. Hardy seconded the motion. The vote was as follows:

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

**Griffin Landscaping – Application for amendment of site plan – 3032 Route 9, Cold Spring, NY:
New submission**

Mr. Ed Gemmola introduced himself and stated that he started with an existing plan. He said that it was, he believed, approved in 1989. He said that it was a B-2 zone at the time. Mr. Gemmola said that the survey also from that time and done by Badey & Watson. The owner hired Mr. Watson to update the survey and that's what they submitted. Mr. Gemmola said that they received the memo from Mr. Gainer. He said that reviewed it and there's a lot of work to do. Mr. Gemmola went over a few details of the plan with the Board. Mr. Gemmola said that there was a notice of violation issued on January 22nd. He said that it took a while to get the survey re-done and for him to measure up the buildings and piece it all together.

Mr. Gainer said that back in the day, there was a ten foot side yard requirement and asked Mr. Gemmola to speak to that issue. He asked if the current building was less than ten feet.

Mr. Gemmola said he thought the building was ok.

Mr. Gainer said, so the building remains compliant to the 1989 approval.

Mr. Gemmola said correct.

Mr. Gainer said that there had been additions to the north – that actually extend beyond the property

Philipstown Planning Board
Meeting Minutes
April 16, 2015

line...issues with side yard setback, and that's why he referred it to Mr. Gaba, who will speak to that. Mr. Gainer said that he's also got significant outdoor storage within floodways, which are not permitted. He's got issues with outdoor storage within flood plains, which may be permitted, but has to go through some exercise to satisfy the flood plan regulation and none of that documentation exists today. Mr. Gainer said that the applicant should respond to the issues of the side yard setback and encumbrance on the other property.

Mr. Gaba said that this is a change in use on at least as far as the side yard goes, is legal, non-conforming property. He said that it may just be illegal as far as that goes. Mr. Gaba said that either way you look at it particularly with the materials going over the property line, he thought it was very likely, unless they're going to make major changes to what's there, that it is going to have to go to the Zoning Board before the Planning Board considers site plan approval and a special use permit too. Mr. Gaba said that he did not know if they were ready to go to the Zoning Board yet. He said that he thought they needed to clean up the plan a little and decide what it is they want to do and what they need. Mr. Gaba said that they need to review the plans further, talk with Mr. Watson and maybe come back next month with a recommendation as to what they're going to do on the site and then the Board and its consultants can look at it and then will be in a position to refer the applicant to the Zoning Board.

Ms. Conner asked if it should be referred to the Conservation Board.

Mr. Gaba said that they haven't even done an EAF on it yet. He said there are a lot of things that need to come in first.

Mr. Merante asked if there had been any connection with the owner of the adjacent property – any problems, issue of adverse possession, etc.

Mr. Gemmola said that he could not answer the question, as he did not know.

Mr. Gainer asked if Mr. Gemmola knew how long it had been in place.

The applicant responded (inaudible).

Mr. Gainer asked if that was October of 2014.

The applicant said yes.

Mr. Merante said that there were huge piles of wood on the property and asked if the applicant had any sort of fire suppression. He asked if there had ever been a fire there.

The applicant said that it's not like mulch. He explained to the Board what they do to allow air in and said he will do whatever the Board wants him to do.

Philipstown Planning Board
Meeting Minutes
April 16, 2015

Mr. Merante said that he felt there were significant changes that were discussed and did not know the benefit of going to see it at this point.

The Board agreed.

Mr. Gainer said that he thought Mr. Gaba's guidance was appropriate. He said that the applicant understands the issues before the Board, so let him offer a response and the Board can determine what the next steps would be.

Mr. Gaba said that the applicant should review the comments that they have from Mr. Gainer and the Board, revise the plan and modify it, etc. and then return to the Board for further review.

Hudson Highlands Reserve – Conservation subdivision – East Mountain Road North and Horton Road, Cold Spring: Discussion of comments, technical issues and overall status of project (Memo dated February 10, 2015 from Susan Jainchill and Ron Gainer re: HHR Conservation Subdivision Application)

Mr. Watson said that there was a set of two maps – one of which was old...the original constraints map, which shows the original piece of property. Mr. Watson said that it was suggested at one of the meetings that if the land were bigger, it would change the environment. So Mr. Liceaga and his group took that to heart and entered into a contract to buy an additional 50+ acres to the southwest, all of which would be subject to the conservation easement. Mr. Watson said so they've increased the area. He said that in their view, this also puts the same development on the side of the property instead of in the middle of the property, as some have been suggesting. So again, in their view, it just improves the situation significantly. More steep slopes will be protected, the wetlands shown before haven't yet been flagged, and the stream will also be protected. Mr. Watson said that they have not submitted any new alignment, as they are not ready to do that. He said that he wanted to bring the Board up to date on that and put it on the table. Mr. Watson said that with regard to the conservation analysis that they have submitted a program since the last meeting and received comments from Mr. Gainer and AKRF with criticisms of the program as presented. He said that they had a phone meeting last week. They went over item by item. Mr. Watson said that they revised the proposal and submitted that. He said that hopefully, they will reach a consensus. Mr. Watson said that they also received a copy of the letter from the Conservation Board.

Mr. Gainer asked what the total acreage of the expanded parcel.

Mr. Sunga said that it should be a little under 200 acres.

Mr. Gainer asked if the applicant had a rough calculation as to what the conserved property will (inaudible).

Mr. Sunga said that it will be around 84%.

Philipstown Planning Board
Meeting Minutes
April 16, 2015

Mr. Merante asked for the applicant to repeat what he said about the acreage.

Mr. Sunga said that with the new lot, they should be under 200 acres and with conservation land, they should be around 84%.

Ms. Conner asked if that included the equestrian center.

Mr. Sunga said that it is without the equestrian center.

Mr. Merante said that he sent an email to Mr. Klotzle with regard to the animal life coming out of hibernation at certain times of the year. He said that Mr. Klotzle responded and said that it was not that critical that you get them in at a timely fashion, but the fact that you get them done. Because of the contiguous land unbroken, they have use of the entire site, etc.

Mr. Watson said that he probably had all the records, but it's got to be similar to the wetlands and steep slopes.

Mr. Gainer said that with the discussions they have had, the applicant submitted an initial analysis and they suggested further studies be done.

Mr. Zuckerman said that he wanted to address the equestrian center and whether that is an actual permitted, non-residential use. He said that he was not clear about it and he asked if the Board could get more information on it.

Mr. Watson said that he would address it. He said that perhaps they would be back in July, but was not sure. He said that he'd like to know if the scope is acceptable and the general consensus of the direction they should go.

Mr. Merante asked if the Board had any problems/qualms about it.

The Board members said no.

Adjourn

Mr. Zuckerman made a motion to adjourn the meeting. Ms. Conner seconded the motion. The meeting ended at 9:20 p.m. The vote was as follows:

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

Philipstown Planning Board
Meeting Minutes
April 16, 2015

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: _____