

Philipstown Planning Board
Meeting Minutes
May 17, 2012

The Philipstown Planning Board held its regular monthly meeting on Thursday, May 17, 2012 at the VFW Hall on Kemble Avenue 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
Kerry Meehan
Neal Zuckerman (arrived 7:45 p.m.)
Stephen Gaba, Counsel
Ron Gainer, Engineer
Susan Jainchill, Planner

Absent: Anthony Merante
Pat Sexton

Mr. Leonard announced that SNK Farms, Inc. had been taken off the agenda as a pre-application meeting was never held.

Other Business

Ms. Jainchill said that she sent out several emails in the last week and one of those included a new format for the agenda. She stated that it would give a little more background on the agenda for the applicants the Board will be reviewing. Ms. Jainchill passed around copies to the Board and went over the outline. She stated that every month, either she or Mr. Gainer would make the others aware of pre-application meetings as they happen. Ms. Jainchill said that no new application information would be accepted or presented at the Planning Board meeting and that for clarity and review purposes, all materials must be submitted two weeks prior except for something that would actually clarify information already submitted. She said that the Code Enforcement Officer wanted her to remind the Board that all new applications would be using the new fee schedule.

Ms. Jainchill stated that there was a pre-application meeting last week for Philipstown Plaza – the site plan amendment, which took place on May 11th, so the Board should be looking forward to their application being submitted. She asked Mr. Gaba if there was a Resolution with regard to that.

Mr. Gaba said yes, he had sent it out to the Board and that it would be a good idea to adopt it tonight. He said that the issue at this point is that although three Board members were here for the original approval of Philipstown Square, Ms. Finger wasn't and he thought there was an issue as to whether she was going to abstain or not on it. Mr. Gaba said that since there were only four Board members, if she was to abstain, they wouldn't have enough to adopt the Resolution, so the Board may want to put the vote on the matter

off until later in the evening to see if the Board gets a fourth member, unless Ms. Finger felt she was in a position to vote on it.

Ms. Finger said that her understanding was that it was covered in the original approval and just hadn't been spelled out.

Mr. Gainer said that the CEO is asking for further clarification. At the Board's last meeting, he thought the consensus of the Board was that it was fully discussed and did, in fact, feel it was approved, and that was the purpose of the Resolution – to make a referral back to the ZBA with that finding.

Ms. Finger spoke (inaudible).

Mr. Leonard said that he personally did not see a problem either.

Ms. Conner made a motion to adopt the Resolution. Mr. Meehan seconded the motion.

| | | | |
|--------------------------|-------------------|---|----------|
| The vote was as follows: | Michael Leonard | - | In favor |
| | Kim Conner | - | In favor |
| | Mary Ellen Finger | - | In favor |
| | Kerry Meehan | - | In favor |
| | Anthony Merante | - | Absent |
| | Neal Zuckerman | - | In favor |
| | Pat Sexton | - | Absent |

County Line Equities, LLC – Minor site plan amendment application – Route 9 and Travis Corners Road, Garrison: Revised site plan

Ms. Smith said that she fully addressed all of the Board's concerns. She said that everyone was in agreement that the cars should be hidden as much as possible from the road, so they put them against the screening fence. There were concerns that they hadn't screened the residential properties. Ms. Smith said that the topography was such that the rear of the building and the level of the parking area are ten feet below the residential use and they proposed a four-foot screening fence along the east property line and there's a note on the drawing with that proposal. She said that that the west and south property lines were already screened. There are a large number of mature trees along the north and they are proposing to do a stagger pattern with white pines and American holly. Ms. Smith said that the approximate spacing on the white pines would be twenty feet and dispersed with the holly. But because they're mature trees, she could not give an exact location. Ms. Smith said that from what she believed, the Code Enforcement Officer would inspect the site to see that they met the requirement with the approval from the Board. She said that that the last item the potential for leaks from the wrecked cars and the products that she's proposing are used in almost all communities by the HASMAT responders and they put the absorbent materials down to contain the spills. Ms. Smith said if a vehicle is in an accident and there is a spill when the accident occurs, they address that – the HASMAT is called, the spill is contained, and essentially they diaper the care – it doesn't go down the road dripping the fluids. When it's parked, these are

wonderful products – they will absorb the oil and allow rainwater and moisture to evaporate. Ms. Smith presented samples to the Board.

Ms. Jainchill said that she would go over her memo (distributed to the Board) – copy on file at Town Hall. She stated that they were told there was a site plan from 1992, but have not seen that, so the applicant needs to supply that to them. Ms. Jainchill said that she knew Ms. Smith was representing the tenant, but asked if she was doing an application for the owner.

Ms. Smith said no. She said that the tenant doesn't have a lease and the owner told her that if this weren't resolved, he would evict him. Ms. Smith said that she did have a permission letter.

Mr. Gainer asked whom it was from.

Ms. Smith said the owner. She said that there are partners and she's met with three of them and has a signed letter that authorizes her to appear on behalf of the tenant, which was included in her original application. Ms. Smith said that she would submit it to the secretary so that it could be circulated.

Ms. Jainchill said that she thought those were the first two hurdles before the Board could really address the content of the plan. She said that the next hurdle is to understand, according to the Code, how it should be classified – as an automobile service station or a junkyard? Ms. Jainchill read from the Code the definition of each.

Ms. Smith said that they're not unregistered.

Ms. Jainchill said, but they're not in a position to be used.

Ms. Smith said that as soon as they're determined to be junk, they're donated to the Garrison Fire Department.

Mr. Gaba said that he thought the point was that they didn't want to go through a public hearing and then find there's an issue as to whether or not this is a permitted use or it would have to go to the Zoning Board for an interpretation. He said that he thought the best thing would be to submit a brief statement of intended use – what's there now and what they are going to do to show they fall within a repair shop rather than a junk yard.

Ms. Smith said that there is a Statement of Use on the drawings.

Ms. Jainchill said that it's there, but you'd really have to look at what the zoning code says.

Ms. Smith said that she understood, but there's no change in use.

Mr. Gainer said that the use was actually approved in 1992 and there's been no change.

Ms. Smith said yes, and he was operating and had the tow vehicle. She said that the length of the impoundment of these vehicles has changed in the last 20 years when the original approval was given, however, the cars are still owned and considered somebody's property. It is not a junkyard. Ms. Smith said that she would write a statement that says that. She said that he is not permitted to dispose of them until they're considered junk.

Mr. Meehan asked what the definition of an existing repair shop is.

Ms. Jainchill said that they'd have to look at the code to interpret it.

Ms. Smith said that he does do oil changes, so part of the service involves the sale of oil.

Mr. Gainer said that they were not coming to the Board for a change of use and asked what actually precipitated filing an application and if it was a court action.

Ms. Smith said that there was a violation on the property. The property was not in compliance with the approved site plan and the approved site plan had a statement of use, which was an automobile repair shop. However, it had "x" number of parking spaces and the tenant had exceeded that. Ms. Smith said that the new zoning is more favorable to this site plan in that the allowable coverage and she believe the setbacks are every portion of the proposed site plan is in the table and meets the current zoning. So even though she's asking for an amended site plan for something that was approved twenty years ago, she is not in any way, exceeding what they're permitted to do there and in fact, she showed on the table the amount of coverage and included room for the other tenant to have nineteen parking spaces, and she still meets the zone.

Mr. Zuckerman referred to 175-65 and said he thought that was applicable and asked if it was not. He said that it looked less than twenty percent.

Ms. Smith said that she could go over the calculations.

Mr. Zuckerman referred to page 213 with regard to outdoor storage and asked if the Board was ok with that.

Ms. Jainchill said that she did not think they were, but she didn't go that deep into detail simply because she thought they'd have to get over the first hurdles. She said that the Board really needed to see the original site plan to see what can and cannot be grandfathered in. Ms. Jainchill said that the actual words in the text are that the plan has to clearly portray the intentions of the applicant. She said that the change in topography was mentioned, and that also should somehow be shown graphically. Ms. Jainchill said that there should be a list of plant names – common and Latin, and the size they expect to install. Fences, etc. should be clearly shown.

Mr. Gainer said that with regard to Mr. Zuckerman's earlier reference to the Code, if you look at the preceding paragraph, it does specifically exclude areas for parking and registered vehicles.

Ms. Jainchill said that with regard to the setback, Ms. Smith could decide on a different location to store the cars beyond that setback if that's a limiting factor.

Ms. Smith said that most everybody would agree that if you're driving by on Route 9 and have a fence that is hiding the terrible looking vehicles, it's really the best spot because when the gates are open you don't even see the side of it and it's the best screening they can provide for these vehicles. The tenant needs to provide access to these vehicles for investigations, removals, etc. She said that she was not stacking them up like a junkyard and it's very dynamic. Ms. Smith said that there's a requirement that you cannot dispose of these vehicles.

Ms. Jainchill said that there is some language in the chapter on junkyards to allow that use, so they'd have to compare it to that.

Entergy – Approval of site plan – 3 Horsemen's Trail, Cold Spring: Submission of revised plans

Mary Ellen Finger recused herself and left the table.

Mr. Watson said that they submitted a landscaping plan, which they believe responds to specifically to the conversation they had last month. A couple of months ago, they submitted Part 2 of the EAF and were hopeful that the first thing the Board would do is consider a Negative Declaration this evening so that they can move on.

Mr. Leonard asked if the Board had any questions with regard to the submittal.

Ms. Jainchill distributed copies of comments made with regard to the application and said that she normally distributes her comments usually the day off so the applicant has the opportunity to look it over.

Ms. Watson said that it would really help to have them the day before.

Ms. Jainchill went over the comments. She said that the planting plan would really benefit from using a licensed landscape architect. The plant list does not have enough information. Ms. Jainchill said that even if it's not blocking the view of the building, it's going to help with the perception of the building. She talked about the planting plans, limited disturbance line, area to the south along the property line and a second line right next to it, and existing tree chart. Ms. Jainchill said that beyond just those things that are not quite clear, she had recommendations, which she would go over. She suggested using a variety of tree type – even if it's three different types of oak, because when there's a disease that hits one species, at least they'll have eight left instead of all fifteen dying. Again the shrubs, etc. should be shown and recommended using all native – non-invasive species.

Mr. O'Donnell asked if Ms. Jainchill noticed some species that did not qualify.

Ms. Jainchill said no, but it is a very vegetative area and you might as well put in things that they know they're going to like in there, and that the animals know so they can eat the nuts, etc. She mentioned the drainage and said that was basin at the front and they'll be a little (inaudible) in the ground – easily taken care of. Ms. Jainchill said to either to spread out the volume to make it look more like a flowing landscape. She said that also the basin could...she did not know what was being proposed there, if any water would be sitting there or whether it's draining quickly.

Mr. O'Donnell said that the intention is to drain immediately. He said that they're confined with the SSDS basin so there is really a limited area to work with.

Ms. Jainchill said that they might want to put in planting there. She said that with regard to the steep slopes they were showing, they could have a note to show how it would be addressed – if it's seeded, would there be woody ground covers, etc. and what would keep it from falling down in the first year or two. Ms. Jainchill said that it looked like the evergreens were being planted on a pretty steep slope, but it should be recognized that you can't really plant a large tree on it. She asked if they were putting more trees on the parking lot island.

Mr. O'Donnell asked if Ms. Jainchill compared it with the lighting plan.

Ms. Jainchill said that she did not have a lighting plan, but it looked like they had four lights on there.

Mr. O'Donnell said that the lighting plan was coordinated with the tree plan, so they could not put a tree at the same place there was a light.

Ms. Jainchill said that in most parking lots in malls, there are trees and lights.

Mr. O'Donnell said, and they fail.

Ms. Jainchill said not if they're given the right space. She said that they could do shrubs as well.

Mr. O'Donnell presented the lighting plan to Ms. Jainchill and the Board and explained the reason they placed the lights/trees where they did.

Ms. Jainchill made additional suggestions. She said to recognize what's going on on the edge of the property; she sent the Board an aerial.

Mr. O'Donnell said that he did not think there was a visibility issue.

Ms. Jainchill said that there was some concern with visibility.

Mr. Leonard said, yes – on the southern end, but then they added – they agreed to mix it. He said that his concern was that the far southern end...cars could see that especially if they slow down or stops.

Ms. Jainchill said that to the north there is going to be a new driveway and there is a steep slope that's going to be fifteen feet high when you're driving on the road. She said that the Board might want to comment. Ms. Jainchill said that finally, at the last meeting, a couple of people mentioned the scale of the project and the fact that this would be an opportune project to do some green infrastructure. She said that putting solar panels on the rooftops and using pervious asphalt in the parking lot is possible.

Mr. Watson said that they've been over this several different times and since all the water is hitting the parking lot, flowing into a catch basin and filtration chamber, the decision to do that has been more experience with pervious surface. But the water that's in the impervious surface is going into the drainage system and infiltrating under the parking lot. Mr. Watson asked what the possible advantage of the pervious surface was.

Ms. Jainchill said extra filtration through the soil beneath the porous asphalt.

Mr. O'Donnell said that they have one hundred percent. He said that actually, their system is better than that.

Ms. Jainchill said that she thought part of it is to also let the Planning Board know things that can be done – it may not be appropriate to this project, but these are things that can be done.

Mr. Watson said that he understood that, but they discussed that, and stated their reasons and their reasons for not wanting the pervious soil and it seemed to be a satisfactory solution. He said that they are infiltrating all of the storm water through a treatment system before it gets there and now they have a suggestion to consider that. Mr. Watson said that it seems like they're going around.

Ms. Jainchill said that it's a suggestion and he did not have to take the suggestion, but it is in her comments to the Board.

Mr. O'Donnell said if you had pervious pavement, you would not have any oil/water separator across the pavement whatsoever and all those materials from vehicles would go down into the soil and you'd eventually have soil contamination. He said that their system has a pre-filter system, which is a requirement where all that is captured in the first chamber is then extracted and removed.

Ms. Jainchill asked where it goes.

Mr. O'Donnell said it is disposed of properly.

Mr. Leonard stated that he received a letter dated May 3, 2012 regarding exterior lighting approach. He read the letter aloud (copy on file at Town Hall). Mr. Leonard addressed a woman in the audience, said that he was aware she wished to speak and advised her that the public hearing had been closed, but he would make an exception to let her speak.

Ms. Barbara Hobbins of 11 Maggie May Way in Cold Spring and said that she was all for the Entergy project, but really needed to comment about the lighting. She stated that this lighting would be like a football field. The parking area has twenty-foot light poles, whereas in the Code, lighting in parking lots should be on twelve feet maximum height. Ms. Hobbins read another section from the Code with regard to lighting. She presented a map of the area – her home and the direct lighting. Ms. Hobbins said that last year, they had every lamp post in the entire complex was removed and made down lighting because they wanted to be able to see the starts. She said that motion lighting would be fabulous if it was fenced in.

Mr. Leonard said that the one thing Ms. Hobbins commented on with regard to the lighting issue was that they are double the amount at the boundary. He said that's not what they claim. Mr. Leonard said that they're claiming that they will average less than one foot candle at the parking area and that will be minimal light intrusion onto adjacent properties, which means they're saying very low, lower than half.

Mr. Watson said that they'd check the height restriction on the poles.

Mr. O'Donnell said that if twenty feet were an error, they would certainly make it whatever...there is no intention whatsoever to have any higher lighting than what the ordinance requires.

Mr. Gainer asked if the applicant would speak to the issue of whether they could use motion sensors.

Mr. O'Donnell said that after the meeting, Entergy requested they use the standard lighting system as an industrial district – just to leave them on for security reasons.

Mr. Watson said that there's a little bit of a dichotomy between the desire to encourage wild life running across the property and putting motion detectors on the lights. He said that they might find it annoying or less than ideal to have a partially lighted parking lot at night. They might find it even more difficult to have the lights going on and off several times during the night. Mr. Watson said that that's the trade-off. He said that's the argument against a motion detector.

Mr. O'Donnell said that they're using one hundred percent cut off lighting, so there is absolutely no horizontal lighting whatsoever. Everything is down. He said that they represent zero lighting levels, except for a .1 (in one area), all around the property line.

Adjourn

Mr. Zuckerman made a motion to adjourn the meeting. Mr. Meehan seconded the motion. The meeting ended at 9:22 p.m. The vote was as follows:

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

Respectfully submitted,

Ann M. Gallagher

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

Date approved: _____

**Philipstown Planning Board
Meeting Minutes
June 28, 2012**

The Philipstown Planning Board held its regular meeting on June 28, 2012 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman, Mike Leonard.

- Present:** Mike Leonard
Kim Conner
Mary Ellen Finger
Kerry Meehan
Anthony Merante
Neal Zuckerman
Pat Sexton
Stephen Gaba, Counsel
- Absent:** Ron Gainer, Engineer
Susan Jainchill, Planner

Minutes

- April 19, 2012

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

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

Requests for Extension

Wang & Ming H. Wang – Approval of 3-lot subdivision - Jaycox Road, Cold Spring, NY 10516: Third request for 90-day extension final approval

Ms. Conner recused herself and left the table.

Mr. Watson said that they requested an extension because there was a title issue, and that was about to be cleared up.

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

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

Ms. Conner returned to the table.

Gex – Re-alignment of property line - 24 Hummingbird Lane, Garrison, NY 10524: Third request for 90-day extension final approval

Mr. Merante made a motion to grant the extension. Ms. Sexton seconded the motion. The vote was as follows:

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

Entergy – 3 Horsemen’s Trail, Cold Spring, NY 10516: Revised plans - landscape plan, lighting plan

Ms. Finger recused herself and left the table.

Mr. Watson said that he wanted to remind the Board they are actually there for hopefully a pre-Resolution tonight. The one they talked about the least since the application was made is the re-subdivision of the Finger subdivision from the approved five lots in which three lots are already filed to a permanent three-lot subdivision. Mr. Watson said that he wanted everyone to know they were talking about the Finger subdivision as well as the Entergy site plan. He said that they submitted revised plans in response to comments received from the Board’s consultants and from the Board last month. He went over the lighting plan with the Board. Mr. Watson said that all the poles had been removed except for those in the parking lot.

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: _____