

Philipstown Planning Board
Meeting Minutes
June 20, 2013

The Philipstown Planning Board held its regularly monthly meeting on Thursday, June 20, 2013 at the Butterfield Library, 10 Morris Avenue, Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

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

Approval of Minutes

- May 16, 2013

Ms. Finger made a motion to approve the minutes. Mr. Merante seconded the motion. The minutes were approved as submitted. The vote was as follows:

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

Public Hearing

**Open Space Conservancy, Inc. (Glenclyffe) – Approval of subdivision plat – Route 9D, Garrison:
Submission of requested documents/documents**

Mr. Watson said that the property surrounds two other parcels that were originally part of the property – the Town’s recreation center and the Garrison Institute. He said that they were proposing to divide the property - two of which would be sold for residential purposes. Mr. Watson said that each lot is twenty acres. They’ve identified two house sites which are shown on the plan. One house site will be with a new driveway in from Route 9D. He said that to the north, access will be taken from the previously approved private road. Mr. Watson said that the Planning Board raised two specific issues. One was the location and the threat to the Arnold’s Flight...there is a historicalabout a third of the way from the southern border along Route 9D. He said that they have also added it to the (inaudible) to show where it is. Mr. Watson said that they’ve also added a cross section that shows (inaudible) well below the developable portion of the southerly lot. Mr. Watson said that the second issue that was raised was any potential interference or encroachment upon the Town’s athletic fields. He said that the north lot is separated by an existing road. Mr. Watson said that there is a slight rise in elevation from the developable portion of the southerly lot to the athletic field. He said that they are of the opinion that there will be very little chance of somebody encroaching on making regular use of it. Mr. Watson said that they are seeking a waiver and it was part of the application. The previously approved private right-of-way is fifty feet wide and an easement exists to the back lot and it will be thirty feet wide. He said that the road passes two cars and serves as a driveway for the rec center’s new parking lot. That road extends past the recreated building and goes on to the Fish mansion property, which is the back property where it meets an older road that comes through from the Garrison Institute. At that point, where the roads join, they have paving, so they extended the right-of-way to fifty feet wide, where they could make a cul-de-sac with the least amount of disturbance.

Ms. Jainchill asked if with regard to Arnold’s Flight there was any assurance that there is always going to be public access to that.

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Mr. Watson said that it will be in the deed that when the land is sold, public access will be allowed.

Mr. Gainer asked if Mr. Watson would identify that on the plat.

Mr. Watson said that he could.

Mr. Merante asked if there was a problem to the access of the back part of Lot One.

Mr. Watson said that as a practical matter, the people who developed the property probably never go back there.

Mr. Merante said that what he was getting to is to do with a road being created down to the water front.

Mr. Watson said that there would never be a road created down there.

Ms. Sexton asked if it would be subject to no further subdivision.

Mr. Watson said that right now it can't be subdivided because they're twenty-acre zoned. He said it is for conservation purposes and anything that's sold would be sold in such a way that it would be limited development.

Mr. Merante asked what the purpose of the subdivision was.

Mr. Watson said that as he understood it, the owner had determined that in the interest of maintaining the trail system that goes through the back, it has been quite costly to undertake and has become a bit of a burden.

Mr. Leonard referred to the road behind the rec center and said that it would be very close to the fence. He said that it was noted on the site walk that they make sure of where the property lines were and Mr. Watson stated that the road would only be used for emergency access.

Mr. Watson said yes, there are no regular access rights to come through there and it's chained off.

Mr. Gainer said that they submitted some strict, technical issues to be cleaned up on the plan and the Town's standard subdivision notes, which they'll work with Mr. Watson's office to get shown on the plat.

Mr. Gaba said that with regard to the further subdivision issue, he would add the fact that because it's 20-acre zoning, it doesn't mean that there couldn't be further subdivision. He said that they could seek a variance with regard to lots and seek subsequent further subdivision of the property. Mr. Gaba said that usually you'd include a note to get around a SEQRA issue that would arise. He said that he didn't see with these three large lots, they needed that, but would point out that subdivision here is theoretically possible.

Mr. Leonard asked what kind of protections could be placed to preclude a variance.

Mr. Gaba said that the only way they could get around it is if the applicant would agree to a note that would say no further subdivision, but again, he did not know they needed it with this application.

Mr. Leonard opened the hearing up to the public.

Mary Jane Martin asked Mr. Watson to elaborate on the subject of the encroachment on the rec center.

Mr. Watson said that the property is not rec center property. He said that the reason the line is where it is, is because he had not actually seen evidence with the discussion of there having been a historic landscape associated with the Fish mansion and they wanted the ability to create a landscape that would enhance the

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view of the Fish mansion. Mr. Watson said that is the reason why this property was not part of the rec center. He said that this is under contract with Lostand Foundation and in all likelihood at some point in the future, the Lostand Foundation will expand and they'll be very little change on the outside.

Ms. Martin said that the use for the Philipstown Rec Department may diminish.

Mr. Watson said that it may, yes.

Mr. Merandy asked if the traffic could be fairly heavy going in and out if it is extended.

Mr. Watson said that they have their events and retreats. He said that the retreats come in, stay for five days and go out, so you might have two hours of arrival and one hour leaving. Mr. Watson said that it is an issue that can be addressed with traffic management. He said that there is also an alternate route they could take advantage of by going through the Garrison Institute, so there are a number of solutions.

Mr. Merante made a motion to close the public hearing. Ms. Sexton seconded the motion. The public hearing was closed. The vote was as follows:

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

Mr. Watson asked that the Board direct Mr. Gainer to prepare a Resolution of approval for next month.

The vote was as follows:

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

Entergy – Site plan application – 3 Horseman’s Trail, Cold Spring: Request for six-month extension

Mr. Gaba stated that the Board would have to table the application until next month, as it did not have a quorum. He said that the Mr. Gainer and Mr. Leonard could sign the plans.

Arthur Fisher – Approval of access and site plan application for minor project – 19 Sky Lane, Town of Philipstown: Discussion

Mr. Gainer stated that the Board held its site visit and he had summarized the comments and distributed those as well as his memo to the Board. He said that he thought it was just a matter of the Board to endorse the comments for the applicant’s consultant to address. Mr. Gainer said that he thought the significant issue was the point of access, which is going to come through Putnam Valley due to the condition of the private road that services the lot from the Philipstown site and boundary. He said that both Ridge Road and Sky Lane are substandard and would have to be brought up to Code. Mr. Gainer said that the applicant has identified an alternative route into Putnam Valley, which is being proposed by the site plan. He said that at the site walk, it was the desire of the Planning Board to see that the private road that was extended to the end of the existing pavement on Sky Lane so at least there’s an ability for emergency vehicles to have access into the property from either direction. Mr. Gainer said that the other significant issue is that there is a scenic ridgeline that traverses the property and just to acknowledge what that impact might be and relates to permitted height of the building and the desire not to open up the view shed to the west when they develop the property.

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Mr. Watson said that a variance is not required for a couple of specific reasons. He said that they are not really visible from a public place.

Mr. Gainer said that the last issue he recalled being identified on the site walk was an acknowledgement that there are other properties downhill from there and specifically Brookside Road was mentioned, where there is existing problems with drainage and flooding concerns. He said that it's been identified in the memorandum to the applicant to understand. Mr. Gainer said that with regard to access, they are working within the right-of-way of the paper road and they're proposing a private road standard come in at a 14-foot wide driveway. He asked if there was any different standard that should apply within the paper road section or if the private road standard was appropriate and acceptable for access to the single residence. Mr. Gainer said that they are proposing a full 14-foot width, as a private road would require and then they reduce that down to he thought 10 or 12 feet just for the private drive into the site itself, which certainly would be acceptable. He asked if that was of any concern.

Mr. Gaba said that it is a concern, but he did not have an answer to it. He said that he was also concerned about the crash gate and would have to look into that as to whether it's acceptable or not. Mr. Gaba said that the general rule is that all the properties in the subdivision have right of access over a paper road.

Mr. Watson said that he thought they intended to make this part (pointed out on plan) private. He said that it was not part of the paper road.

Mr. Gaba said that maybe it's not an issue then. He asked where the paper road ended.

Mr. Watson said at the Town line.

Mr. Gainer said that there is significant rock outcrops, a stone wall...it will be an effort to get through there.

Mr. Leonard asked if this had been presented to the Putnam Valley Planning Board.

Mr. Watson said that it went to the PV Planning Board and they got a denial, so they're going to seek an area variance for the lot area.

Mr. Leonard said to recap, the three other parties have the ability to use Sky Lane up to the Town line, and that's it, so as far as the Planning Board's obligation goes, that has to be allowed for them. He said so if they were to come before the Planning Board wanting access because of the other situation of the road being what it is, the Philipstown Planning Board does not have any obligation to try to do anything more than that.

Mr. Gainer agreed. He said that Mr. Gaba raised the issue of whether he considers the breakaway gate on essentially the worst side.

Mr. Watson said that they could put a gate at the very end of Sky Lane, but it seemed to him that people would be more annoyed if they get up there only to find they can't go any further.

There was a brief discussion between Mr. Watson and the Board with regard to where the gate would be placed and how many gates they would install.

Mr. Leonard said that it was his personal opinion that he would think they'd have to, as they have the right to use the road even up to there, so he would recommend it.

Ms. Finger asked if there was a legal maintenance agreement.

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Mr. Watson said that he doubted it. He said that he was told that the condition of maintaining the road was placed upon the company who owns the property or tower. Mr. Watson said that it would be in the site plan. He said that anybody who has the right to Sky Lane has the right to improve it to their needs.

Ms. Monica Fisher said that in the lease to the tenants who are living there now, it says that they are to maintain the road for the tenant. She said that James Morall is the owner.

Mr. Gainer said that he thought the applicant had asked the Board whether they would consider waiving a public hearing on the site plan application.

Mr. Leonard said that the Board has to weigh the fact that the other people are up there.

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

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

Garrison Properties (Guinan's) – Site plan application – 7 Garrison Landing, Garrison: Submission of revised plan

Mr. Watson said that the Board approved the project last month. There were some modifications the Board requested. Mr. Watson said that he believed they fulfilled all the conditions.

Mr. Gainer said that he carried forward the conditions of approval acknowledge the request of the property owner to modify/amend the former site plan approval. He said that they've identified the latest site plan that's been presented in support of that and carried the very same conditions.

Mr. Leonard signed the Resolution of approval.

C.F. Diversified – Application for two-lot subdivision – P.O. Box 160, 2700 Route 9, Cold Spring: New submission

Mr. Watson said that they were seeking approval to subdivide a new lot around the Cyberchron building that's presently on a 70+ acre site. He said that the building has been for sale for some time now. Mr. Watson said that it doesn't require a physical change of any sort. He said that questions have been raised as to who owns the road. Mr. Watson said that C.F. Diversified owns the road. He said that they were hoping the Board would schedule a public hearing and move forward with this application.

Ms. Finger said that she was curious about the road.

Mr. Watson said that it goes through the property. There's an easement on the property – the property is one big piece. There are four lots and those four lots have the right to use the road.

Ms. Jainchill asked Mr. Watson to submit a copy of the original subdivision to the Board.

Mr. Watson agreed.

Mr. Gainer said that the Board received a technical memo from his office. He said that statutorily it qualifies as a minor subdivision and is classified as such. Pursuant to SEQRA it's an Unlisted Action. Mr. Gainer suggested the Board conduct a site visit to evaluate any environmental concerns. He said there is a NYS DEC designated wetlands that intrudes into the property and also encumbers a 100 foot control zone. Mr. Gainer said that referrals will include PC Dept. of Planning (239M) and Conservation Board. He said that as the applicants indicated, they're requesting a waiver for a variance requirement. Mr. Gainer said

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that he, too, requested to see the original subdivision plat that created this lot. He said that the Board would want a Coordinated SEQRA Review.

Mr. Gaba said that this is a commercial use and you're creating its own lot. He said that it is technical, but he thought they needed site plan approval for the new lot in addition to the subdivision.

Mr. Watson went through the history of the particular site with the Planning Board (around 1973) and said that it was maybe 400 feet wide and 300 feet deep. He said that when they subdivided the property it was merged into the large lot and they did not need site plan approval then. Mr. Watson said that the same principle applies, but didn't know if the same law applied. He said that if they do need to do it, he'd like to know so they can get that in.

Mr. Merante made a motion that the Board declare the project a minor subdivision. Ms. Sexton seconded the motion.

Ms. Sexon made a motion that the Board make the required referrals. Mr. Merante seconded the motion.

Ms. Finger made a motion to declare itself Lead Agency and conduct a Coordinated Review.

Ms. Sexon made a motion to schedule a public hearing. Mr. Merante seconded the motion. The votes were as follows:

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

The Board agreed to schedule a site visit for Sunday, June 30, 2013 at 9:30 a.m.

Philipstown Square – Amended site plan – Route 9, Cold Spring: Request for six-month extension

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

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

Mr. Gaba said that he would amend the Resolution.

Announcements

- Mr. Leonard said that because the Board is not planning to meet in August, the Board would move the July meeting to July 25, 2013 and the September meeting up to September 12, 2013.

Mr. Merante made a motion to adopt the change. The motion was seconded. The vote was as follows:

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

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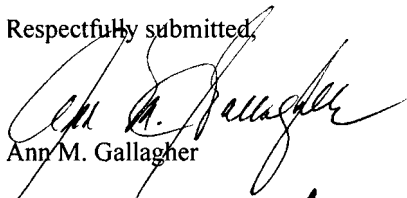
- Mr. Leonard thanked the Board for their comments regarding the new laws that were submitted to the Town Board. He said that the Planning Board Clerk's duties have also been submitted to the Town Board.

Adjourn

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

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


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:

July 25 2013


PHILIPSTOWN PLANNING BOARD
TOWN OF PHILIPSTOWN, NEW YORK

RESOLUTION CONFIRMING EXTENSION OF
SITE PLAN APPROVAL & GRANTING ADDITIONAL EXTENSION

WHEREAS, Lausca, LLC has submitted an application to the Planning Board of the Town of Philipstown ("Planning Board") seeking amended site plan approval for certain real property located on U.S. Route 9 (Tax Map #27.12-I-10); and

WHEREAS, on August 16, 2012, the Planning Board adopted a resolution granting amended site plan approval; and

WHEREAS, under the pre-2011 Town of Philipstown Code §175-38(G), a grant of site plan approval expires in one year unless the property owner obtains a building permit within that time; although the Planning Board is authorized to grant multiple one year extensions; and

WHEREAS Town of Philipstown Code §175-38(G) has been repealed, and under the new Town Zoning Code §175-68(A) a grant of site plan approval expires in six months unless the property owner obtains the signature of the Planning Board Chairman on the site plan within that time; although under Town Code §175-68(E)(1) the Planning Board may grant a one-time 6 month extension upon request and, thereafter, may grant multiple 6 month extensions upon a showing of hardship; and

WHEREAS, the Planning Board's resolution granting site plan approval to Lausca, LLC, erroneously cited the provision of Town of Philipstown Code §175-38(G) and stated that the site plan would not expire for a period of one year; and

WHEREAS, Lausca, LLC, relied in good faith on the statement in the Planning Board's resolution and has now requested an additional 6 month extension of site plan approval;

NOW, THEREFORE, BE IT RESOLVED, that:

1) The language in the Planning Board's August 16, 2012 resolution stating that the site plan approval would not expire for a period of one year is deemed to constitute grant of the one-time six month extension upon request permitted by Town Code §175-68(E)(1); and

2) The Planning Board finds that it would constitute a hardship to deny the request for an additional 6 month extension of site plan approval, and hereby grants the said six month extension to February 26, 2014.

Adopted at a meeting of the Philipstown Planning Board on June 20, 2013.

PHILIPSTOWN PLANNING BOARD

A handwritten signature in cursive script, appearing to read "Michael Leonard", is written over a horizontal line.

Michael Leonard, Chairman.

cc: Richard Shea, Town Supervisor
David Klotzle, Wetlands Inspector
Kevin Donohue, CEO