

ZONING BOARD OF APPEALS

January 13, 2014

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Tuesday, January 13, 2014 at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Robert Dee, Chairman, at 7:30 p.m.

PRESENT: Robert Dee	- Chairman
Paula Clair	- Member
Bill Flaherty	- Member
Vincent Cestone-	- Member
Lenny Lim	- Member
Taylor Palmer	- ZBA Council
Tina Andress- Landolfi	- Secretary

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PLEDGE OF ALLEGIANCE WAS SAID

Robert Dee- First on the agenda the application for an area variance for 20 Nazareth Way. The applicant is seeking to sub divide his property in a manor that will create a 9.285 acre parcel where 20 acres is required. The applicant intends to convey the substandard lot to the state of New York which is the adjoining property owner for park purposes. Applicant will accept a condition on the variance that requires conveyance to the state. Before I open the public hearing lets have a discussion amongst ourselves. Did everybody get a chance to review the five factors. Any questions on this or any discussions?

William Flaherty- I have one question. On the application page 2 number 10. Will The proposed action connect to a private or existing public water supply? The answer to that is no.

Robert Dee- Are you talking about the environmental form or the application?

William Flaherty- The application part of the environmental assessment form.

Robert Dee- You are, ok that is what I asked, go ahead.

William Flaherty- It says on page 2 number 10. Will the proposed connect to an existing public or private water supply. And the answer to that was no. If it says no describe method of providing potable water.

Glen Watson- The property that we are talking about is subject to the variance. Let me identify myself. I am Glennon Watson and I am here with Christopher Buck who is the sole member of 20 Nazareth Way, which is the applicant. There is a drinking water well for the building on the larger parcel, none of that is going to change. The piece that we are going to sub divide off is vacant and will remain vacant. We don't anticipate there will be a need or use for potable water.

William Flaherty- There is a well on that property now correct?

Glen Watson- That is correct.

William Flaherty- That well will provide all the necessary water for that building?

Glen Watson- Yes

William Flaherty- The answer to that was if no, then describe a method of potable water. Is it through well?

Glen Watson- Yes for the remaining lot.

Paula Clair- The lot that is requested to be the sub division will be park land right?
It is not going.

Robert Dee- It is going to be conveyed to the state.

Glen Watson- If I could, just give me a minute and I will show you what is happening. (Mr. Watson sets up site plan) This is the situation now, this is the Winter Hill property on the south side of Snake Hill road just opposite Avery rd. Just a few hundred feet in from Route 9D. What you see in red is the property it contains just under 30 acres. It is adjacent from the state park. Winter Hill was a previously approved project. It is institutional non profit tenants in this building. It has a septic field and a well. All that stuff is functional. The building has totally been restored over the past couple of years as many of you probably know.

Mr. Bucks LLC intends to convey, in fact intends to donate 10 acres to the state. What will happen if the variance is granted and the subdivision is approved. This portion outlined in green. The States line will move to the west. It will follow the (inaudible) property. It will go through Winter Hill. This is just a little over 9 acres that will go to the state. There is no intention to ever build on that property. The systems that are in place will still remain in place. We did mention that one of the things the (INAUDIBLE) of this idea was from the state to have a little parking area, so that people wont have to park on Snake Hill Rd and Avery Rd. There is a space where that can happen on this property. That is going to be the states responsibility. What was read in the public notice a moment ago the LLC is willing to take a condition that this can only be conveyed to the owner. There are two points to be made. One is that one of your five points is whether there is another way that is practical for the applicant to pursue. You could make an argument that it is practical for the applicant to pursue that method of making a lot line adjustment and going through that method with the state. I figured it would be much easier to go through the town, and have the 9 acres free and clear to convey to the state without having to get a third sub office of the attorney generals office to do all that stuff first. That is why we chose this method. The second thing is, and I want to point out to you, I mentioned that Buck was going to donate this to the state. Typically that would have a beneficial tax consequence, and he would be able to take the donation off the value of his land

from income tax. When you put this condition on it, that becomes part of his cost and it is no longer a donation. It is a cost, and maybe your attorney can speak to this. Part of his cost to accomplish part of the subdivision. therefore it is not a donation anymore. Mr. Buck and I have spoken more than one time about this and he is more than willing to forego that potential deduction. This is a very altruistic thing he is doing here and we think is practical and will have no physical change whatsoever until the state gets to the point where they feel that they can afford to build a parking lot for very few cars. Eight cars ten cars maybe.

William Flaherty- Has the State expressed interest in taking this property and having it conveyed to them?

Glen Watson- Yes.

William Flaherty- Do you have that in writing?

Glen Watson- I don't

William Flaherty- Is there a verbal from the state that they are interested in acquiring this property?

Glen Watson- Maybe we should be in the public hearing now.

Robert Dee- We will go into the public hearing, lets just go through this first.

Glen Watson- Ok fine.

Christopher Buck- This has been going on for awhile. It is my recollection that Andy Chmar brought this to my attention that the state was interested in providing a parking lot to the redoubt trails up there, and would I be interested in making that happen.

William Flaherty- What was your name please?

Christopher Buck- Christopher Buck

Robert Dee- They are putting a restriction on it, that it can only be conveyed to the state. There is nothing else they can do to it.

William Flaherty- Right.

Robert Dee- Anymore questions?

Paula Clair- Sounds fine to me.

Robert Dee- Bill, do you have anymore questions?

William Flaherty- The whole purpose in you wanting to convey this property I assume is to reduce your current property taxes. Is that correct?

Christopher Buck- That is not the purpose. It is one of the results of it. The purpose is to really create a good parking area to increase the accessibility to the trails.

William Flaherty- That is the designated for office buildings correct?

Glen Watson- For non profits yes. It is an institutional use.

William Flaherty- What is the occupancy rate or availability that is currently occupied?

Christopher Buck- The occupancy rate of?

William Flaherty- Do you have ten offices or 5 of them currently on the lease?

Christopher Buck- In Winter Hill we are 100 percent occupied.

William Flaherty - You are fully occupied?

Christopher Buck- Yes, we have three non profits in there. We have the Hudson Highlands Land Trust, The Garden Conservancy and the Shakespeare Festival. It is filled up.

Robert Dee- Anymore questions?

William Flaherty- The assessed value of that property is over one million dollars.

Christopher Buck- Yes.

William Flaherty- The town taxes on that is almost 15 thousand dollars.

Christopher Buck- I would have to check on that.

William Flaherty- I have it here in front of me. I have not been able to determine what impact this will have on the Garrison School district. I don't know what that tax is at this point in time. In order for me to get a better handle on this to determine what impact this is going to have on town takes, county taxes, and the school taxes.

Glen Watson- I can tell you. I was corrected and looked into this a little bit. This land that will become part of the state park will not be coming off the tax roll. The state pays taxes.

William Flaherty- Are you sure?

Glen Watson- Yes, I am sure of that.

William Flaherty- Absolutely sure?

Glen Watson- Yes, I am sure of that.

William Flaherty- In lieu of taxes?

Glen Watson- No, it is not a pilot. My understanding is that it is not a pilot payment in lieu of taxes. They actually pay taxes. John?

Councilman John Van Tassel- Yes.

William Flaherty- I know the town has been very successful in being able to have state property pay fees in lieu of taxes. I know that we have done that. Your telling me.

Glen Watson- That has changed. They now pay taxes. Councilman Van Tassel can tell you that.

William Flaherty- So there will be no impact on the current taxes that are being paid?

Glen Watson- They might have a lower tax for parkland acreage versus industrial acreage. There might be some reduction in the value. Typically when

you do a subdivision there is an increase in value, because each part gets a unit of develop ability plus the back acreage to come to its total value. In this case I would expect that the parkland has a lower. Parkland is valued slightly lower, because of its limited usability. This land is very steep. It is separate in a geographical sense we are subdividing off (Inaudible) If you look at the topo on the maps that we gave you, you can see it very clearly.

William Flaherty- What you are saying then is that it will have little or no impact on the town taxes?

Glen Watson- Yes, I am saying that.

William Flaherty- How can you be sure of that?

Glen Watson- We could go to the assessor and ask him to value the property.

William Flaherty- The result of the conveyance of this property, your assessed valuation will be reduced as a result of the conveyance of the 10 acres to the state.

Glen Watson- That is correct.

William Flaherty- Therefore your taxes will be reduced accordingly?

Glen Watson- Not by strict proportions of 2 thirds and 1 thirds. And most probably, I did not look at the value, but a good part of that million is in the building. So you have to take that out, then you have to take a third of what is left. I suspect you have a million dollars in building and 500 thousand in land, then if you did lose it, but your not going to. It would reduce his taxes by maybe a third of 500 thousand. (inaudible) f my proportion is right, but that is still coming from the state.

Paula Clair- I would just like to say that I understand that it will reduce his taxes, but that is ok with me if he is going to donate it to the parkland. It is beneficial to the community.

Glen Watson- I would suspect that the value that he is giving away to the state will pay the property taxes for many years.

Paula Clair- I agree.

Robert Dee- Anymore questions? At this time I would like to open the public hearing. Is there anyone here who would want to speak on this issue? No one? I make a motion to close the public hearing.

Paula Clair- I will second

ALL MEMBERS WERE IN FAVOR - PUBLIC HEARING WAS CLOSED.

Robert Dee- At this time I make a motion that the variance be granted with the restriction that the property can only be conveyed to the state.

Paula Clair- I second

Lenny Lim- Do we want to think about how big we restrict that parking lot/

Robert Dee- No it is the states

Lenny Lim- Does the topo only allow 8 to 10 cars.

Robert Dee- It is a state project

Glen Watson- Frankly I never laid it out, and if they valet parked it , then they could probably squeeze more.

Robert Dee- It is good to get people from parking on the street. It would help the safety issue.

(inaudible)

Robert Dee- I don't think the state right now is ready to do much.

Taylor Palmer- If I may Mr. Chairman. You had mentioned in the conditions of approval that this lot could only be conveyed to the state and if it is not then it would be a substandard lot and could not be developed. That is something that you could write a letter to the Planning Board about. It does not have to be a condition of the approval, but a letter could be written to the Planning Board from the Zoning Board that there is some concern that if in fact the state did not purchase or obtain the property that there would not be other development, because it would be a substandard lot.

Robert Dee- Why cant we just make it a condition that they convey it to the state?

Taylor Palmer- That could be a condition or there is the alternate, that being a letter to the Planning Board that there is that concern.

Robert Dee- I feel that we should put a restriction on it. How about everyone else? This way we can control it. They have graciously agreed to it, so I don't think we should pass up that opportunity. I make a motion that we grant the variance with the condition that they can only convey it to the state. Do I have a second?

Paula Clair- Second

Robert Dee- Ok, I am going to do a roll call vote.

ROLL CALL VOTE

William Flaherty- I will vote in favor

Paula Clair- Yes

Vincent Cestone- Yes

Lenny Lim- Im in favor

Robert Dee- I vote yes, so unanimous.

MOTION CARRIED UNANIMOUSLY - VARIANCE GRANTED

Lenny Lim- Than you for the parkland

Robert Dee- Yes, thank you for the parkland. Next issue is going to be under old business. On November 25th meeting two ZBA board members Mr. Cestone and Mr. Lim asked a legal

AT THIS POINT THE RECORDING DEVICE USED RAN OUT OF MEMORY SPACE AND STOPPED RECORDING. THE REST OF THE MINUTES WILL REFLECT NOTES TAKEN BY THE ZBA SECRETARY.

Robert Dee asked Mr. Palmer to address the question on who had the legal authority to call a ZBA meeting and did the Town Board have the legal authority to schedule a meeting. Mr Palmer sited sections of the code stating that the matter had been researched and a memorandum had been sent to the board. Mr. Palmer informed the board that the ZBA Chairman can call a meeting and at such other times as a quorum of the Phillipstown ZBA may determine. He informed the board that a meeting can be called in two ways. The chairperson, or in his absence the Vice Chairman can call the time and place of a meeting. In order for the Zoning Board to call a meeting at such other times, there must be a quorum to hold a meeting at such other times. The ZBA should conduct meetings on a regular basis and conduct the meetings according to the open meetings laws. Mr Palmer said that the TOWN OF PHILIPSTOWN CODE does not provide a section giving a protocol to call a meeting of the ZBA contrary to the procedures described above.

Mr. Dee reminded the board members that a training session will take place on Tuesday January 28th from 2-4 pm. The training would be provided by AKRF.

Mr Palmer asked that the board authorize the ZBA Secretary to notify the Putnam County Planners of the application, because the proposed project takes place within 500 feet of a New York State Rd. The chairman authorized the secretary to contact the county.

Mr. Dee made a motion to adjourn the meeting. Mr. Lim seconded the motion and all board members were in favor.

MEETING WAS CLOSED AT 8PM

NOTE: These minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation, and approval thereupon.

DATE APPROVED: _____

Respectfully Yours,
Tina Andress- Landolfi, ZBA Secretary