

**PHILIPSTOWN PLANNING BOARD
MEETING MINUTES
January 16, 2020**

The Philipstown Planning Board held its regular monthly meeting on Thursday, November 21, 2019 at the Claudio Marzollo Community Center, 107 Glenclyffe Dr., Garrison New York.

Present: Neal Zuckerman, Chair
Neal Tomann
Kim Conner (arrived at 7:32pm)
Peter Lewis
David Hardy
Dennis Gagnon
Ronald J. Gainer, PE, Town Engineer
Stephen Gaba, Counsel

Absent: None

Chair Neal Zuckerman opened the meeting at 7:30 p.m. with the Pledge of Allegiance. Roll call was taken by Mrs. MacIntyre.

A. Minutes

Neal Zuckerman: We don't have any minutes yet, given the interregnum between Tara and Kelly, so we will look for those next month - two sets.

Neal Zuckerman: This is my first meeting as Chair this year. I would prefer to be called Chair, not Chairman; this is a new era. He thanked Anthony Merante for all his years of service. He also thanked Supervisor Richard Shea for the appointment and Bob Flaherty, representative from the Town Board. He also thanked the board for all their support and looks forward to working with them. I want to make clear that we believe in equal treatment. It doesn't matter if someone hand-wrote their application forms, can't afford representation of legal counsel or of engineering support, all the way through to those people who bring legions of lawyers. They will all get equal treatment here and equal support from this board.

Correspondence:

David Orentreich, 855 Route 301 – Referral from Putnam Valley

Neal Zuckerman: Our first correspondence received from Mr. Watson's office related to the Orentreich. Does anyone have comments on said correspondence?

Kim Conner: Can we ask Mr. Watson to tell us about it?

Glen Watson: I can't, I don't know much about it

Kim Conner: You can't? Didn't it come from your office?

Glenn Watson: Yes, it comes from my office but I'm not the only one there, in spite of popular belief.

Kim Conner: It says this concerns a slight modification, that is, replacing an existing Lodge building with a slight larger updated building. Do you know what goes on in this building?

Glenn Watson: No

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Kim Conner: No?

Glenn Watson: No, I really don't know. There is one residence, and there's the Orentreich's. They are medical people who do research, but I don't know what exactly happens there.

Neal Zuckerman: Steve I was going to ask you. We have a referral its been referred to us because it abuts Philipstown - is that the extent?

Glenn Watson: It's across the street, across 301.

Neal Zuckerman: Right, so are there any thoughts for us as to what we should be thinking about, given that it's not part of our jurisdiction explicitly.

Neal Tomann: If I may, and I'm sorry for cutting you off, but I have a question for Steve regarding recusal. I do have dealings with the Orentreich Foundation. I am not their employee. I was wondering at what stage when a recusal is in order or if there is a need for one?

Steve Gaba: If you have a position or relationship with them such that ruling in their favor or making favorable comments might in some way benefit you, you know quid pro quo type of thing, then you should recuse yourself.

Neal Tomann: Then I'm going to recuse myself, thank you.

Steve Gaba: Okay. So, to get back to your question Neal, there is no legal requirement for a site plan to be referred to an adjoining municipality. This is akin to a courtesy referral to a fire company or something along those lines. I think that the thought here, and we don't know because Putnam Valley hasn't written to us, as this is from the consultant, so I mean we're going on a second hand statement that it's been referred. There is not even an official referral at least that we're aware of. If you have some concerns, interests, comments, questions, you might want to pass them on to Putnam Valley to give it a little bit different perspective. But that aside, you have no obligation do anything with this.

Neal Zuckerman: Ley me ask you a slightly related question which is, if this group voted yes to find this of interest and wanted to have more information, could we vote as a board to request Putnam Valley and/or their affiliates to come give us a presentation?

Steve Gaba: You could ask, but what I think what would be more likely would be if you asked the applicant make a presentation or present memo's or a detailed set of plans or something along those lines, so that you'd be in a position to comment. I think that's about all you can do. You have no right to demand anything from them.

Neal Zuckerman: Folks, any thoughts on whether we would like to have some information, because clearly this just states there is a slight modification to what we don't know.

Kim Conner: I don't understand why the consultant is providing this request. If it's a referral from Putnam Valley, why is it a referral from the consultant?

Glenn Watson: I could probably tell you that they were told to do that, because that wouldn't be something that we would normally do.

Neal Zuckerman: And the whom, who's the "by whom"?

Glenn Watson: By the Planning Board, I'm speculating. I'm sure that we must have been asked.

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Neal Zuckerman: Are there questions?

Kim Conner: I don't see how we can comment on it if we don't know what it is

Neal Zuckerman: Let me make a statement, then see if we can get a motion on this. Would we like to make a motion to have correspondence drafted to the Putnam Valley Planning Board, for either themselves or to ask their applicant to make a presentation to us. Any thoughts on that?

Kim Conner: Just ask that for clarification of what's it's about, what the impact is.

Neal Zuckerman: Why they asked Watson's office in the first place, maybe.

Kim Conner: Yes.

Dennis Gagnon: That would be a good one.

Neal Zuckerman: So, can I have a motion to ask for a correspondence to be prepared, Kelly, to draft to the Putnam Valley Planning Board to ask for some clarification as to what this concerns.

Ms. Conner made the motion, and Mr. Lewis seconded the motion. The vote was as follows:

Kim Conner	-	Aye
Dennis Gagnon	-	Aye
David Hardy	-	Aye
Peter Lewis	-	Aye
Neal Tomann	-	Aye
Neal Zuckerman	-	Aye

Neal Zuckerman: Any opposed, abstentions? Being none, motion passes.

Steve Gaba: You want a letter prepared to go from The Board to Putnam Valley, or do you want it to go from Ron or I to Putnam Valley?

Neal Zuckerman: Which would have greater weight, Mr. Gaba?

Steve Gaba: Ron, obviously.

Neal Zuckerman: Well your question was "you" versus, I guess, "us".

Steve Gaba: Yeah, you could either have it come from the board or you can have it come from the consultant.

Neal Zuckerman: I have no preference; do you have a recommendation?

Steve Gaba: Well its quicker if it comes from one of us.

Kim Conner: So, I would like to amend my motion.

Steve Gaba: You can just direct us to do this; you don't need to amend your motion.

Kim Conner: Okay, go ahead.

Neal Zuckerman: So, directed a vote needed to amend the motion.

Steve Gabe: No.

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Neal Zuckerman: Alright. Let's continue then, thank you very much. That was mildly helpful for us to make progress.

OLD BUSINESS

David Marzollo, Lane Gate Road

TM# 49.-3-17.4

Neal Zuckerman: I think we have had our site visit. We should start with the applicant to provide us some additional clarity. I don't know how much more we need to discuss, since we went through it last month.

Glenn Watson: I don't have a lot to add, but the one question that Ron raised at the site visit was the possibility of moving the septic system from here (pointing to the plan) further back away from the road. We looked into that and one of the reasons that it's where it is, is because there's a well on the property and the County Health Department requires that they have what's called a "well protection diagram". This is shown on this print which is the only modification from the plans you already have. Essentially, from the well there is a 100-foot semicircle downhill, and then you have lay a line out about 200 feet uphill. It actually follows the drainage line. Then you connect these two areas; it makes this keyhole sort of shape. We can't put a septic system in this area because of the well, okay? We might be able to move it a couple of feet, but going through that permit process again for what we are going to gain out of that, is in my view not really worth the effort.

Kim Conner: Does it have to be that far from the house? Could it move closer to the house?

Glenn Watson: It could, I mean, yes, because the slopes don't look to bad. But it's not going to get any further from the road, which was the whole point of the concern.

Kim Conner: My thought was to bring it closer to the cleared area. From the site inspection it would seem more like it was a single cleared area; that's my only opinion.

Dennis Gagnon: I have a question regarding that, if it's moved or the potential of it moving. Would that require a new permitting process?

Glenn Watson: Yes.

Dennis Gagnon: New testing from start?

Glenn Watson: Well, I mean we might be able to slide the same design uphill and save a little time that way.

Dennis Gagnon: But test pits are necessary?

Glenn Watson: The process is exactly, to start from zero.

Neal Zuckerman: Other questions? Mr. Gainer, do you want to add anything to the memo you put together?

Ron Gainer: Yes. Specifically, in terms of what the board already understands, the property in the Scenic Protection Overlay (SPO) Zone. That is what's driving this whole consideration of possibly moving the SSTS back further from the roadway. The SPO extends 250 feet into the

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track from the property line, and encompasses from the roadway up to and including almost the entire house location. There are various conditions that are relate to the property being in the SPO. One requirement is that a minimum 50-foot Greenbelt be provided back from the property frontage, where there's no disturbance of existing vegetation of trees permitted. They're just that that limit now, so the comment involved the Board's desire to see that buffer or green belt required be as wide as possible. That's what the genesis of the comment was, so it's a matter for the Board to decide is there any interest to have further soil testing done, to see if it can be brought closer to the house and further back from the road. But their design is currently meeting the minimum requirement of 50 feet.

Glenn Watson: This is relatively thin woods down here; I was out there today. I wanted to see this well myself. It is pretty much brambles and stuff, and this will be allowed to grow back. I mean we won't be able to keep trees on it, but it will be allowed to grow back and the low-story vegetation will certainly regenerate in that area.

Ron Gainer: What assurances can be made that the 50-foot minimum buffer is maintained?

Glenn Watson: Well, we certainly typically we stake out the septic system and it's constructed where it's designed. We will certainly do that. I mean, that's normal. Again, we're not out to change the design once we get it approved.

Ron Gainer: No, understood. The Board just wants to be sure that the contractor that implements your design recognizes the importance of that setback requirement.

Glenn Watson: A) we can a put a note on the plan, and B) we can stake it out, and we can stake it a little more heavily if you like. We can certainly put a note on the plan.

Ron Gainer: A note on the plan, and identifying this buffer requirement in a suggested construction sequence would go a long way to ensure that is achieved.

Glenn Watson: Sure, no problem doing that at all.

Kim Conner: So, another words, what you're saying, Ron, is to access the SSTS area from where the driveway is going to be constructed, and then go out to this area rather than going in directly from the road.

Ron Gainer: Yes, to come in from the house location

Kim Conner: Right, to avoid cutting trees along the road

Ron Gainer: Right.

Glen Watson: Use the driveway as an access way

Ron Gainer: Right.

Glen Watson: I don't see any difficulty with that.

Neal Zuckerman: Kim, does that address your concerns?

Kim Conner: I'd rather see the SSTS go back farther, but you know it's within the requirements.

Neal Zuckerman: Steve, what degree of freedom do we have, as Kim is requesting going further beyond the minimum standard?

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Steve Gaba: If you find that it's necessary, there's no SEQRA involved, so you have no authority under that. It's a SEQRA "type II" action. If you find it necessary to carry out the conditions for site plan approval, then you have authority to impose that.

Kim Conner: What if we ask for more screening, plant more trees at the road?

Neal Zuckerman: I was thinking the same thing. Any thoughts?

Ron Gainer: There's a variety of other conditions beyond this specific 50-foot minimum imposed for the SPO district. You are within your right to request further screening, additional trees along the frontage. There are also a few different requirements that included in the technical memorandum that the board has seen, that identifies those other conditions. But, certainly, it supports your desire to see further buffering where they're doing that clearing near the road.

Neal Zuckerman: Steve is there anything else you want to add?

Steve Gaba: No. I believe it's a "Minor Project" so the board can within its discretion direct that a public hearing be held, or not. It's not required. You have to determine whether you want to hold one, but the Planning Board has traditionally held historically public hearings on applications like this, so I would think that the next step would be to, if you're satisfied with the Plat, that you have to just schedule a public hearing.

Neal Zuckerman: Any thoughts from the Board?

Neal Tomann: I think if they're compliant, and if they meet the setback requirement and they stipulate to additional coverage, I'm okay with the existing plan.

Neal Zuckerman: Peter, David?

Peter Lewis: I agree.

David Hardy: Yes, same here.

Dennis Gagnon: I agree with that.

Neal Zuckerman: Good, Alright then I would like to entertain a motion to schedule a public hearing for our next Planning Board meeting.

Mr. Gagnon made the motion, and Mr. Hardy seconded the motion. The vote was as follows:

Kim Conner	-	Aye
Dennis Gagnon	-	Aye
David Hardy	-	Aye
Peter Lewis	-	Aye
Neal Tomann	-	Aye
Neal Zuckerman	-	Aye

Neal Zuckerman: Any opposed, abstentions? Being none, motion passes.

Neal Zuckerman: Kelly with our applicant's permission have our public hearing at our next meeting, unless that does not work for your schedule.

David Marzollo: Nope, that works.

Neal Zuckerman: Okay anything else on this action?

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Riverview Industries, Route 9

TM#27.20-1-7

Neal Zuckerman: Riverview Industries, that's a Glenn Watson project, right?

Glen Watson: Yes

Neal Zuckerman: Mr. Gainer, do you want to start with a review of your memorandum, or should we start with the applicant's representative?

Ron Gainer: Well, I just remind the board that you've seen a technical memorandum that attempts to summarize all the comments offered at the recent site walk. We've identified a variety of concerns that you were seeking additional technical information on, so that you could understand the areal extent of the planned disturbances on the site. They've highlighted on plan the extent of environmental constraints that exist on the property, from steep slopes to wetlands, wetland buffers and floodplain, all of which impacts areas of the site that are currently being utilized for parking. I think a primary interest would be to see some kind of photo overlay of the existing parking layout on to the proposed parking scheme, so that you might understand out what portion of the site is currently being used, including the various stockpiles of millings and wood pallets. Whatever exists on the property today should be shown. You also had concern over stopping sight distance along Route 9, so that should be clarified. Referrals have been issued to DOT and the Conservation Board; you're awaiting comments from those agencies.

Neal Zuckerman: Mr. Watson, anything you want to add?

Glenn Watson: I have nothing really add. I received Mr. Gainer's comments and got to look at them earlier this evening. I haven't been able to share them with my client because he's away. I have shared them with his attorney. We have to go over them. I didn't see anything that we would object to addressing.

Neal Zuckerman: Fellow board members, are there any observations from the site walk you want to raise at this moment?

Dennis Gagnon: No.

Kim Conner: Not until we know more what the plan is.

Neal Tomann: I'm sure everyone has lots of questions, but I think we need to know a little bit more of their plan, not the least of which is the constructability of the site and the practicality of moving all that equipment. I'd like to hear how they're going to do this. It's a lot going on there, so it's I would ask them to give us as much information as they can.

Peter Lewis: I agree with Neal's comments.

David Hardy: So do I.

Neal Zuckerman: the only comment I'd add is that there was a material amount of material on the site. I think this is something we require and I think I want the applicant take seriously the board's observations, and the weight of those observations in that setting because that was worthy of attention.

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Neal Zuckerman: Mr. Gaba, anything you want to add?

Steve Gaba: I wasn't at the site visit but I read the memo with great interest. The use that's being proposed for this as an "accessory" to the auto body shop across the street and it appears that it's being used as an independent parking or storage area for a number of things, and you know there are two issues that that raises. The first is, of course, when the Planning Board grant's site plan approval it can't do it in a vacuum and ignore the conditions that exist on the site. If there are conditions and terms that need to be imposed to clean it up or make sure that it complies with the site plan that's being requested, those conditions and terms should be addressed in the approval. We look at something like the parking moving out into the kind of wetland area, you know something that can't be overlooked; it's going to have to be addressed. The other thing is the discovery, if you will, the observations that were made at the site walk really bring into question in my mind at least, whether this actually is a true accessory use to the auto body shop. I think it would benefit your client greatly if there could be some sort of a statement provided to the Planning Board saying this is how we propose to use the parking area across the street, to show that it's actually for vehicles or whatever it is that's being used with the auto body shop and it's not just a dodge to use the property as an independent parking storage area. So, a statement of some kind would be, I think, very helpful.

Neal Zuckerman: Steve let me add one more question. Are we allowed to request in a case like this where the environmental issues are fairly heavy, to ask the Conservation Board to come before us and explain what their view is so we have a little more information and insight.

Steve Gaba: You can ask, but you can't make the Conservation Board come. You can ask for a memo from them, and if somebody would be nice or kind enough to appear and speak to the board, you certainly can ask.

Neal Zuckerman: So I think that's at least from the conversation we all had at the site it seems that the environmental questions are very heavy there, and if I have the assent of the board I'd ask Mr. Gainer or Mr. Gaba to help us execute something like that.

Ron Gainer: The Planning Board has already made a referral to the Conservation Board. I've already had informal discussions with Max Garfinkel directly on the matter. I am unaware whether the applicant has appeared before them yet, but a permit will be required from that board. It is also very typical that I'm able to get a written memorandum from that board for anything that's active before the Planning Board. I fully expect to see them issue comments to you for your information, as you process the application.

Glenn Watson: Normally with that memo from the Conservation Board, being lieu of having them coming here to make the presentation, is that your decision?

Ron Gainer: All I'm saying is that I have every expectation that you'll see written comments issued from the CB on the application.

Kim Conner: One of us could go to their meeting.

Neal Zuckerman: Mr. Gainer, are you able to provide us input about that, because I don't want you to go to their meeting and find it's not on the agenda. So maybe we could find out when this will next be on the Conservation Boards agenda. Then we can discuss amongst ourselves who can go.

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Ron Gainer: I'll send a note to Max Garfinkle, the Town NRRO, to confirm that you are seeking comments from the CB as to their evaluation of the applicant's site plans.

Glenn Watson: Normally we advise clients and the board gets upset when any clean-up activity happens on a site while it's in review, and we discourage them from doing that. We're not always successful, but would there be any objection if he were to remove, I'm thinking specifically of that pile of pallets, which is which is the first thing that caught my eye. Is there anything to prevent him from doing that as opposed to starting work on the site plan, which I see as different?

Ron Gainer: You currently have a violation on the property. He can probably work directly with the town CEO if he's trying to accomplish mitigation. I don't anticipate that's going to be an issue but it should go through Greg Wunner's office for this determination as to permitted clean-up operations.

Glenn Watson: Right. I also understand that we have to clear this with others. I know you would object to somebody starting work on a site before receiving approvals, but wondered if you consider removal of some of this material as work on the site plan?

Neal Zuckerman: Kim, do you have an opinion?

Kim Conner: I assume that this would go through Greg's office. It seems to me that this is Greg's job, right?

Ron Gainer: Right.

Dennis Gagnon: We think, regarding any violations, going through Greg's office would be the approach.

Neal Tomann: I agree. It would be good if we had some documentation of the existing conditions before they did anything.

Neal Zuckerman: Did you request that already?

Ron Gainer: Right; that's already in your site inspection memorandum. Let me just be very clear. I think the Board's direction is for the applicant to pursue the town building department to seek their endorsement of any site clean-up being proposed. Once they have come to terms as to what the CEO will permit, that should be evidenced in writing which can be distributed to the applicant and this Board.

Neal Zuckerman: They should not remove any materials that make the condition of the on-site wetlands worse by the very movement of material. My opinion is that my colleagues agree that if Greg thinks it's okay to do, because it won't make the situation worse, then my guess is the group of us are not opposed to that.

Ron Gainer: One last thing is confirm is that there's the significant amount of stockpiles of millings and wood pallets that I think you're addressing. But, there's also the issue of a great number of unregistered vehicles being on the property.

Glenn Watson: Well, that's the thing I'm talking about generally speaking. I mean I'm sure that a lot of that stuff can be removed and I haven't talked with the client, but I want to talk to him about moving forward with that. I don't want to go down to Greg and have him give us a permit

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and put up whatever silt fence Max might want, and then come back to the board and have you say you're in the middle of site plan review and you shouldn't have done anything. That's all I'm trying to get to.

Neal Zuckerman: The sentiment of the Board at least as long as its legal, okay, the group is comfortable with you doing things as long as our CEO is okay with it.

Glenn Watson: Just to be on the record for you, I'm not talking about re-grading the site. I'm not talking about clearing the site. I'm not talking about building the site plan at all.

Ron Gainer: No physical site disturbance other than removal of stockpiles.

Glenn Watson: We would probably have to put in some silt fence during that removal process.

Ron Gainer: Absolutely.

Steve Gaba: It depends on how they plan on removing it, they have big trucks in there you could really tear the thing up. If it is okay with the CEO, it would be okay.

Neal Tomann: I also think it is important to remember that even though we're here in January, for a project of this size both the permitting and the actual execution can take some time. So even through it's January, I think anything we can do to give them the jump on this project I think is a good thing while there's frost in the ground.

Neal Zuckerman: Mr. Gainer, is there anything to add as to these next steps?

Ron Gainer: No, I think we have covered it.

Steve Gaba: We're not prepared to go forward with a public hearing.

Ron Gainer: No, I don't think so. There is a lot of technical information the board seeking, to understand just what the extent of disturbances that have occurred in the past which exist out there today, with respect to the variety of environmental concerns that should be documented before the board thinks about moving forward with a public hearing, just so that the public is properly informed when one is scheduled.

Steve Gaba: Fair enough.

Kim Conner: We would like, as Neal said, a "before" and "after" aerial photo-simulation be provided to document what's there now, so we should request that.

Glenn Watson: We can do that.

Ron Gainer: this is already clearly covered in the Board's site inspection memorandum.

Neal Zuckerman: So, Mr. Watson, I guess your next step, or the applicants next step is to resolve Mr. Gainer's technical comments as well as the commentary about the CEO.

Glenn Watson: It'll be a couple of months before I'm back before the Board.

Neal Zuckerman: Anything else on this? Okay any other new business.

Steve Gaba: The third item on the agenda was removed, the CRS International Site Plan application.

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Mr. Lewis moved to adjourn the meeting and Mr. Hardy seconded the motion. The vote was as follows:

Neal Zuckerman: Aye
Kim Conner: Aye
Dennis Gagnon: Aye
David Hardy: Aye
Peter Lewis: Aye
Neal Tomann: Aye

The motion passed unanimously and the meeting adjourned at 8:01pm.

Date approved _____

Respectfully submitted by,

Kelly MacIntyre

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