

PHILIPSTOWN PLANNING BOARD

MEETING MINUTES

March 18th, 2021

The Philipstown Planning Board held its regular monthly meeting on Thursday, March 18th, 2021 via Zoom.

Present: Neal Zuckerman- Chairman
Kim Conner
Dennis Gagnon
Peter Lewis
Laura O'Connell
Neal Tomann
Heidi Wendel
Ronald J. Gainer, PE, Town Engineer
Stephen Gaba, Counsel

Absent:

Chairman Zuckerman opened the meeting at 7:30pm, Laura O'Connell lead the Pledge of Allegiance.

Roll call was taken by Ms.Rockett.

Chairman Zuckerman began the meeting stating he had a couple of quick remarks and thinks these are important reminders given that the volume of work the board has. He wanted to state that it's just been in the local papers last week that our Town Supervisor Richard Shea after a long and illustrious career leading this town and this board in many ways is going to be stepping down at the end of this term. He continued to note that Richard Shea appointed everyone on the Planning Board and through his Town Board role helped confirm us all and so he thinks they will owe him a debt of gratitude for what he's done in particular he shepherded the new zoning not so new anymore it's been over a decade now since it's been in place but that was a herculean task of revising the zoning. Chairman Zuckerman thanked Supervisor Shea for his service. Chairman Zuckerman also thanked all the board members for committing an enormous amount of time and stated that very few have professional skills in land use but dedicate time and effort and energy.

Minutes

The minutes of the January 2021 Regular meeting were reviewed. The board then approved the minutes.

The minutes of the February 2021 regular meeting were reviewed. Kim Conner stated that she did send edits directly to Cheryl Rockett. The board then approved the minutes.

Correspondence

Garrison Golf Club PDD/Hudson Valley Shakespeare Festival, 2015 US Route 9 Garrison, NY TM# 60.-1-5-.2 &59.3

Chairman Zuckerman stated that there's a series of letters the board has received that are tied to the Hudson Valley Shakespeare Festival which they will not be covering tonight but they have certainly received them and have all read them and they're part of the thinking process and they thank the public for those.

Mark Conn, 242 Route 403, Garrison, NY 10524 TM#71.-2-10

The board also received a letter related to the Conn property from Max Garfinkle and Mr. Zuckerman stated that will be covered later.

Riverview Industries, 3012 Route 9, Cold Spring, NY TM#27.20-1-12.1

Another piece of correspondence cited is regarding Riverview Industries that Max Garfinkle has submitted that describes that the Conservation Board is satisfied with the changes made to the site plan and the inclusion of a maintenance agreement for the oil separator. Mr. Zuckerman asked Mr. Gainer when Riverview is coming back to the Planning Board.

Mr. Gainer stated that they are expecting to see revised plans to address all the Conservation Board comments. It appears that they've made a submittal to the Conservation Board yet it has to be submitted to the Planning Board for formal review and action. Chairman Zuckerman asked if Mr. Gainer or Mr. Gaba could reach out to Mr. Garfinkle to have him submit those. Mr. Gainer stated that he will do that after tonight's meeting.

Old Business

Garrison Golf Club PDD/Hudson Valley Shakespeare Festival, 2015 US Route 9 Garrison, NY TM# 60.-1-5-.2 &59.3

Chairman Zuckerman stated how the conversation would go at tonight's meeting. He stated that they're going to start with process of where they are for the board's benefit and the public's benefit to understand and that there are a lot of questions from the site visit. He stated that secondly, they're going to talk briefly about the notion of using a firm to help advise the board on this large project in keeping with what they did with the last very large project and then they'll get into it and Dan Hollis will drive the conversation for the applicant. He continued that they are going to dedicate the bulk of tonight's meeting to the HVSF application, they're going to try and get as far as they can in 90 minutes. He added that they have other business they have to attend to. Chairman Zuckerman asked Steve Gaba and Ron Gainer to talk about where they are in the process.

Steve Gaba stated that essentially there are four applications involved in in this project. First is a zoning amendment to allow the change in the proposed uses. Second is a four-lot subdivision, third is site plan approval and lastly there is a special use permit for the scenic protection overlay and the ridge protection overlay district. The last three of those approvals are before this board, the zoning change is before the Town Board but before any of those applications can be acted on SEQRA review has to be completed. This board has established itself as lead agency and SEQRA review. So what the board is going to be doing is both processing the application

and conducting SEQRA review in tandem moving forward with both. It's hoped that all the potential adverse environmental impacts that are identified can be determined to either be non-existent or mitigated to the maximum extent practicable based on a submission of the EAF parts 1 and 3 and part 2 will help the board make that actual determination, that's the board's document in which they'll make their determination but if for whatever reason it can't be then as Ron is going to tell you in a minute when he walks through the SEQRA process the board will be adopting a positive declaration and going through an EIS. Whatever way it comes out, whether it's a negative declaration or an EIS a positive declaration at some point the board will be done with the SEQRA review. As they process both the application and the SEQRA process one process will inform the other, things that the applicant will need to do in regard to mitigation of adverse environmental impacts may affect the site plan. Things that they want to do on the site plan may drive how the SEQRA review turns out but one way or another the board is going to be done with that and when they are done with that they can still to some extent continue processing the site plan subdivision etc. but it really doesn't make sense to get into it any more deeply until the applicant goes to the Town Board and that zoning change local law it's got to be adopted by a local law is considered enacted because if that doesn't go through or if it goes through in some other form that is envisioned it's going to change what it is the Planning Board is able to approve, so the board completes SEQRA, they go to the Town Board for the zoning change then once that's complete they come back for the four lot subdivision, the site plan and the special use permit.

Chairman Zuckerman asked if any board members have any questions of Mr. Gaba.

Laura O'Connell asked if the applicant could potentially put together a timeline for the board to understand all of the steps in order for the board to get there.

Steve Gaba replied that a lot's going to depend on how quickly this board acts and making it SEQRA determination, the SEQRA regs suggest very strongly that the board make the SEQRA determination as soon as possible in the process so if the board starts going through the environmental impacts and in the dialogue with the applicant it appears that they are not going to be able to resolve the environmental impact issues with a completed part 3 EAF the board is better off issuing a positive declaration right out of the box. He continued to say he knows this board's practice has been to not make a SEQRA determination until after the public hearing but on a large application like this there's at least some case law that says they're supposed to do it before the public hearing, they're best off having the exact type of dialogue they're talking about tonight really getting into the issues with the applicant and determining which way they're going to go as soon as possible and that's going to drive the timeline and then after that who knows how long it'll be before the Town Board.

Ron Gainer stated that he is attempting to review for the board exactly the overall process involved in the environmental review that Mr. Gaba has just outlined. The application came in in December after the first discussion with the applicant when they first appeared. The board identified the project as a type 1 action pursuant to SEQRA and that mandated coordinated environmental review with all other outside agencies. The environmental review or the coordinated review was initiated the beginning of January, outside agencies were given 30 days to issue comment or objection to the Planning Board becoming lead agency. Since none were received at this point the board now can formally acknowledge itself to be lead agency. In terms of what the overall process for SEQRA is it starts with the review of the environmental assessment form part 1, that's the applicant's document, identifies basic baseline information on

the action and its environmental setting and it's the board's obligation to review that document for completeness and accuracy and then determine if there's any information that needs to be clarified by the applicant before the board moves forward. The second step in the process is to prepare a part 2 EAF and that clearly is the board's document and that's intended to identify any major categories of impacts and it would identify the potential magnitude of those projects when that form is filled out. The board would then identify matters that may warrant a part 3 elaboration which for example would be a traffic study which they do not have at present but there's logically other things as well. Anything that is marked in the part 2 document as potentially moderate or moderate or potentially large effect do warrant or require additional information for the board to gather the information necessary in order to make a determination of significance. After the review of the part 2 and the board adoption of it the board would typically identify for the applicant matters which require additional information. The applicant then will do or make their best effort to identify mitigation that's appropriate for any of the moderate or potential large impacts identified and once that is received the board would then be in a position to make a determination. If the board believes all those potentially large impacts that have been identified have been properly mitigated to the maximum extent practicable then they'd issue a negative SEQRA declaration and allow the rest of the process that Mr. Gaba describes to move forward. On the alternative, if the board still identifies concerns that the board doesn't believe have been suitably mitigated the board would be obligated to make a positive SEQRA declaration and that would start a formal EIS process which the board has most recently seen in the Horton Road LLC project on Route 9. At this point the board is now lead agency pursuant to SEQRA. In terms of its current status the applicant has provided parts 1 and 2 for the board's consideration and review and the board should review those documents and determine what other supplemental information should be provided by the applicant to permit the board to continue the review of the project and as Steve Gaba has also touched on given the magnitude of the project in the past the board has utilized the services of AKRF an environmental planning firm most recently on the Hudson Highlands Reserve project. Mr. Gainer added that he has made contact with AKRF informally and they've expressed interest in assisting the board or supporting the board and their efforts to address the board's environmental responsibilities so that's a matter the board may wish to discuss tonight. As an overview that's where the board currently stands.

Chairman Zuckerman asked Mr. Gainer if he could compare or relate back to Hudson Highlands Reserve where the board is now in this process relative to that process. That was the only equivalent process and it was sometime after the initial application that the board eventually voted on the environmental review and declared a positive declaration. That was a voluminous number of studies provided environmental and otherwise, fauna, flora, etc. Mr. Zuckerman asked if Mr. Gainer could give a sense of where they are in this relative to that.

Mr. Gainer replied that as Steve Gaba has touched on the SEQRA regulations mandate that the board initiate SEQRA at the earliest opportunity of the board. Relative to Hudson Highlands there was very significant discussion to gain the board's familiarity with the conservation subdivision regulations and the attendant determination of a permitted density for that very large project. That involved a very significant period before the board began hard review of the environmental documents. In in this respect this project doesn't address the residential component to the extent in the Hudson Highlands project so the board is much further along in just a few months beginning to initiate the review of the part 1 and part 2 of the EAF.

Chairman Zuckerman stated that tonight they're going to go through the questions that the applicant kindly went through and answered that the board had identified and the plan would be if they can complete that or get predominantly complete with that this evening at the next meeting he hopes they will go through the EAF parts 1 and 2 sequentially to review where there are gaps in knowledge and go through each box and see where they have sufficient information and where they thought there was insufficient information to make a determination.

Steve Gaba said he thinks that's exactly the way to approach it. In regard to Hudson Highland Reserve, he pointed out that in that matter the board went out of its way trying to avoid having to go through the EIS process it was an expanded part 3, they went through all sorts of studies and at the end of the day it didn't work out and the board had to issue a positive declaration. Mr. Gaba added that he thinks the board is going to be in something of a same boat here in terms of trying to reach a negative declaration but hopefully since it isn't complicated by the conservation subdivision process they'd be able to get to the point to make a determination one way or the other much more quickly than in that application.

Chairman Zuckerman stated that he's inclined to have AKRF's support or someone's support to guide them on the environmental because they were very helpful last time. He stated that he's cognizant that is an additional voice in this work but also cognizant of the magnitude of this project and the many voices in the community about this topic as well as the need. Mr. Zuckerman asked for Mr. Gainer or Mr. Gaba to provide the pros and cons of having their involvement and then hear the board's perspective on that.

Mr. Gainer stated that the process of SEQRA is a very involved and significant process. Typically, we use an environmental or planning consultant to assure the board that they satisfy all statutory requirements. AKRF is a long-standing environmental firm that's done much work in Hudson Valley and the board has used in the past to their benefit to walk through other projects.

Steve Gaba stated that they are the town's planning consultants just like Ron Gainer is the engineering consultant and he is the legal consultant so bringing AKRF in shouldn't present a problem. They usually aren't brought in unless it's a significant project and this he thinks would qualify both from a zoning and from an environmental standpoint is the type of thing where the board might want their advice. He added to keep in mind the board can bring them in for as little or as much participation as they want.

Heidi Wendel noted that she got the proposal from Hudsonia and asked if Hudsonia would be a different role from AKRF or would that be in addition to.

Ron Gainer replied that in his view AKRF would get into many of those environmental concerns. He can't say they would look at it to the depth of Hudsonia but they have wide background. Beyond that they'd get into the issues of traffic and any of the other non-specific environmental concerns that Hudsonia would. He sees AKRF as having a more widespread breath for the board's appreciation.

Chairman Zuckerman asked if Mr. Gainer could provide a sense of the scope of work, the sufficiency of the data provided so far to make a judgment on the completeness of that material

Mr. Gainer replied if the board could think back to Hudson Highlands Reserve AKRF actually got involved in review of the town ordinances to make sure that the conservation regulations were adhered to and the calculations provided were in compliance with the code but they looked

at the wide variety of potential environmental impacts beyond just the hard environmental of the birds and the bees, the fauna of flora they got into involved in traffic project layout and specifics in terms of the sighting of the proposed improvements in the project that's well beyond what he believes Hudsonia would provide to this board.

Kim Conner stated that given that they are familiar, that they've done work for the town already and they are the official consultants for the town it seems to her that they know the zoning so they're the logical choice as far as she's concerned.

Dennis Gagnon stated that he agrees fully with Ms. Conner that they have that relationship and the work that AKRF did on the Hudson Highlands project he thought was fantastic.

Peter Lewis stated that he echoes the last two comments. He thought they did a really thorough and very clean job of it and indeed on the site visit a couple of weeks ago he wished they had them there to give some information about the northern long-eared bat but he thought they were terrific and the other work so they've got his vote.

Chairman Zuckerman stated that it seems like it's the sentiment of the board to have some support and asked Mr. Gainer what the procedure is to get first a scope of work or support and then engaging.

Ron Gainer stated that he's had informal discussions with representatives of that firm on the board's behalf and they're prepared to provide the board with a proposal and fee schedule for their consideration and suspects ultimately it would be a matter that the Planning Board recommends to the Town Board to engage their services but he'll leave that to Mr. Gaba to describe.

Mr. Gaba stated that he was under the impression that they were the appointed as needed planning consultants for the town. He thinks they have a standard fee schedule which they charge for any consulting work for the town. He continued that he will double check on that but that was certainly the case on the Horton Road project and expects it's still the case in 2021. He doesn't think anything needs to be done other than to advise them and the Town Board that they will be utilized on this project unless there's been some change in their fee schedule or if the town's appointed some other planner which he's not aware so he thinks it's still AKRF. He thinks their fees are the same as they've always been but will check on that and get back to the board.

Chairman Zuckerman asked if Mr. Hollis or Mr. Watson would walk the board linearly through the questions and answers on the document giving a sense of each question and then board members can ask questions and clarifications along the way.

Mr. Hollis stated that if AKRF has any questions to get up to speed for clarification of any of the documents they've submitted so far, they'd be more than glad to make any and all of the team available to them for that purpose. He then introduced the members of the team on the call. John Canning, traffic engineer, Davis McCallum the artistic director of the Shakespeare Festival, Katie Liberman the managing director, Chip Alleman from Garrison Properties, Glenn Watson from Badey & Watson, Jan Johannesson from Kellard Sessions our environmental consultant, Leslie Perez from Nelson, Byrd and Woltz our landscape architect.

Mr. Hollis stated that he wanted to make a couple of points to just clear up the record and clear up misconceptions. First of all, the Shakespeare Festival is not a new kid in town they're not just

parachuting in as some big box department store or a large factory or a manufacturing operation. They've been here for 30 years and what they're looking to do really is to relocate about three miles from where they are at Boscobel. The Shakespeare Festival during all those 30 years hasn't been a stranger, they've been a great neighbor they've been a contributor and an employer and they're hopeful that the next 30 years and more will allow them to continue that role. The Planning Board has specifically requested us in The Garrison to contemplate what the next 30 years of growth would look like so the proposed plan encompasses just that, a long time view of the horizon but much of what's proposed is not anticipated to be built for an indeterminate number of years but what the proposal does contemplate however is the, and this is very important and it's lost in a conversation about the nitty-gritty sometimes but the proposal contemplates and will bring into reality the rehabilitation and conservation of 76 acres, 95% of the site plan into open meadows wild flower gardens pedestrian pathways and open lawn space. The use by HVSF will be a significant ecological improvement compared to the current use of golf which uses a great deal of water, results in nitrogen-rich runoff to our waterways and wetlands and where a grass mono culture flattens biodiversity. The reality is that the totality of the built structures will take up 1.39 acres of the total site, a very small percentage. Central to the plans is the conversion of 19 acres of existing golf fairways to parkland, trees and meadows. The proposed conversion will reduce the amount of water required to maintain the site, diminish if not eliminate altogether the need for pesticides and promote a rich ecology and habitat matrix. As the new caretakers of the property, HVSF is committed to maintaining and restoring the existing wetlands on the site. Since the HVSF began its life in Philipstown all those decades ago they've been welcoming their artists into the community. In the beginning those artists stayed in local homes generously donated and hosted by board members and other friends of the Shakespeare Festival. Over the years those artists have been lodged at the Graymoor Monastery, at Mount St. Mary's College in Newburgh and most recently at the hotels at the intersection of Routes 9 and 84. In the non-profit regional theater world it's both the custom and the union requirement that the Shakespeare Festival or whoever the sponsor is provide housing for visiting artists. The zoning for the site currently allows accommodations of up to 40 rooms including the eight that are currently available in the inn and what they are requesting is an increase of just 14 rooms a total of 54 rooms with a maximum occupancy of 98 people to allow the artist to be lodged on site in guest accommodations not residences as he heard that word used quite a bit and inappropriately during the course of the site walk. That use and that housing will reduce the carbon footprint and allow our artists to become a part of the Philipstown community during their stay as a part of the cast and crew. It's important to remember that currently the property is only protected not only in a minimalist sense but it's protected by the zoning ordinance which allows for all the things we've talked about including the 40-room hotel, the spa that was never developed, the event spaces, the restaurant and the golf course. By virtue of the extraordinary gift that Chris Davis is making and will make Mr. Davis will ensure that permanent protection of this property from additional subdivision, residential or commercial development through deed restrictions placed as part of his gift. The transition of this site to the Shakespeare Festival will certainly ensure its permanent protection.

Chairman Zuckerman stated that they are going to go through the February document and will go through each section. He stated that they will start with project approvals and reviews. Mr. Zuckerman began the questions by asking what part of the zoning the applicant needs a variance and or new laws for. He stated that's where he gets a little confused is what are they applying and what are they not yet applying because they need a new law.

Mr. Hollis replied that they wouldn't be variances they would be amendments to the laws and he respectfully submits it would be both because the PDD covers it. It's a particularly created district that's in within the RC zone so it's the macro and micro within it.

Mr. Gaba stated that he agrees with Mr. Hollis and continued that it's a little confusing in that the code itself doesn't seem to have a specific reference to the Garrison Golf Course PDD. The local law, the change in zoning didn't destroy the district he thinks it still exists albeit not specifically referenced as a PDD district. The board could almost think of it as an overlay type of a thing. It's not quite an overlay but it's along those lines and he would expect that there will be a local law enacting specifically the revised Garrison Golf PDD. He's not sure that'll be the name of it but it'll be something like that some land development district and it will include whatever setbacks uses, etc. need to be put into place to allow the proposed development to go forward. If the Town Board doesn't agree that a particular aspect of the development should be allowed to go forward that's not going to be in the local law and so the plans will change and the Planning Board will have to act accordingly but that's what it'll be. It will be another section probably to the use tables and amendment and probably to the section there's at least one that lists the special districts within the town and he expects it would be to those sections of the code.

Mr. Hollis noted that there will be some deletions as some things that are in there now will be deleted.

Mr. Gaba agreed, the things that weren't developed the spa and what not I suppose.

Mr. Watson stated that he believes there is a section in the current zoning law that specifically says that the PDD survives.

Chairman Zuckerman asked for someone to please get us a citation on that. If the PDD supersedes the old zoning and the new zoning by being an island unto itself it gets a little confusing about what then survives in the zoning that they have to apply again it's a little confusing for the board because they don't generally have things that sit outside of the zone.

Steve Gaba stated that it would have been cleaner if the Town Board had kept a separate specific section describing the uses and the setbacks and bulk requirements of the Garrison Golf PDD. Mr. Watson says that there is a specific reference to it and he doesn't doubt that's the case. Mr. Gaba said it's his understanding that it did survive. Once this new local law is enacted he expects there will be a separate specific section of the code addressing all the concerns just raised but that's not something that the Planning Board needs to worry about right now what they need to do is analyze the project as proposed. If the zoning doesn't come to pass later on the project's will either modified or not go forward but it's not something for now that's for down the road.

Ron Gainer stated that if you look at 175 24F in the current code it does address the issue of the PDD, talks about the prior PDD zoning.

Mr. Hollis stated that in a simplistic way the PDD is a district within the RC district so it's a smaller part of the overall RC district.

Chairman Zuckerman move to the section on land use, zoning and layout. He stated that one of the things they've spent an enormous amount of time on Hudson Highlands Reserve which was the number of houses and the number of things that were being built and we spent a lot of time

on calculations. He added that he keeps trying to figure out what is the volume of buildings and facilities that can be on this property and again went to the zoning code because that's what they're told to do when they did this job for reference but he doesn't know where to refer to the volume of buildings and facilities because again they're told that it's not in the RC it's in the PDD but then the PDD needs to be changed. Mr. Zuckerman asked for some guidance about the volume of buildings and facilities that are allowed on this property since the zoning code apparently does not apply in that same sense.

Steve Gaba replied that even if they had a section before them which said whatever the percentage of lot coverage is or the number of residences on the property what the board has to keep in mind is on this project because it's a planned development it's going to be going to the Town Board asking for approval of exactly the number of buildings that they are proposing. If the Town Board approves that then the zoning's not an issue what they need to concentrate on is the environmental impacts of the proposed development, that's the issue before the board and again the planning consultant when you want to bring on maybe of assistance in that. Those are the issues that the board might want to put to them but don't worry about it in terms of what the zoning code allows, worry about the impacts that the proposed development will have.

Mr. Hollis noted that the other day a question came up about the number of buildings and Leslie Perez from Nelson Byrd & Woltz prepared a chart that they'll send in but can we share here.

Mr. Hollis asked Ms. Perez to take the board through the chart. Ms. Perez explained if we're looking at the existing site, they've categorized by use here what is currently on the site so it's predominantly the golf facilities, the restaurant, wedding venue, residences and then some maintenance structures for a total of 10 buildings. The new buildings being proposed largely revolve around theater space back of house space and community space in addition to some hospitality buildings including the guest accommodations and the new residence for Chris Davis. It's a total of 29 new buildings and then this table on the right hand side shows the total number of buildings on the completed site once full build out were to be completed which brings the total to 35 and so because some buildings are being repurposed some buildings are being taken down or relocated they're looking at a total net increase 25 buildings on the site of again at lots of different sizes and scales.

Heidi Wendel stated that this has been a helpful discussion because her understanding was when they considered the environmental impacts they should consider what was already permitted to be built so they should only look at what the assuming you could build whatever was already permitted in the PDD they should only consider the environmental impacts beyond that but what she's understanding from this discussion is that's not what we consider actually what they should consider in the environmental impacts is not what's already been permitted in the PDD but actually they have to look at just what's presently there not what could be built under the PDD by the applicant but actually what will even though in the phased fashion be built ultimately on the site so actually she was under the impression that the environmental impact should just be beyond the PDD actually so that's not the case.

Steve Gaba replied that, no it's both it's both the entire impact of what's there now and what is proposed in addition to that.

Heidi Wendel stated that she doesn't think that's entirely consistent with the idea that they're not supposed to look at just the zoning is outside is sort of beyond us in a way because it's going to

go before the Town Board and what they really need to consider in the environmental impacts is anything that will be added.

Steve Gaba stated that well it's both the impacts of the entire project what's there now and what's proposed to be added both. For example, there's a golf course there now and there are going to be vehicle trips to the golf course as people go and play golf when you consider the environmental impacts, you'll consider both additional vehicle trips from the proposed new construction and new uses and the existing impact of the existing vehicle trips.

Chairman Zuckerman clarified that what Ms. Wendel is asking is do they start from right now and go to the end or do the start at point A and go to C.

Laura O'Connell stated that she agrees but unfortunately thinks the answer is a combination of both. For example, if you have 18 holes and you're reducing yourself to nine there are some plus and minuses so there are some subtractions and then there's some additions and some of those subtractions subtract out of the additions so the net increase is actually less than what they're actually proposing. She doesn't think the applicant has actually provided that it's not actually consolidated all on a single matrix. So, for every net increase there might be a decrease due to what was in the PDD or what was in the existing that is being removed to then wash out whatever the net increases. She thinks the board also has to look at the total number of buildings to then how it relates to the total amount of square footage and those two components are missing and wonders if that's something that can be added just so that it's easier for the board to refer back to.

Jan Johannesson stated that they did provided a table it was entitled comparison table Garrison Golf Club Hudson Valley Shakespeare Festival comparison table and it went through various different parameters and compared the existing condition to the 2005 PDD and the proposed condition and then showed the delta between the 2005 approval and the proposed condition. They tried to hit all the items that have been discussed over the last several meetings and there are some square footages of various buildings. He stated that as a reminder they do have the right to build what was approved in the 2005 PDD, they have site plan approval on that and it was completed under SEQRA so he thinks to follow up its kind of both. We have to analyze and compare columns A and C but also B and C so you can see the delta between what's there now and what's proposed but also what's what was approved and we're allowed to build first what's because they're different.

John Canning stated there's also a little bit more than that. It's goes into more detail for example in the traffic they'll indicate how much traffic would have been generated by the PDD and how much traffic will be generated by the proposed request and he suspects that Glenn Watson will do the same for storm water and stuff like.

Mr. Hollis stated that talks to the point that was raised about you know the comparison what were how the chairman's question about what percentages and whatever we've done it as best we can and we'll continue to expand on that as we go through the EAF with Mr. Gainer and the board and AKRF.

Chairman Zuckerman asked if there are any other comments or questions to this section from any board members. There's a detailed section letter E, specific project issues and asked if people have questions along the way.

Kim Conner stated that her questions are about the cottages. She understands that they're not residences per se in the way that a house is a residence. She noted that she doesn't really understand how they're going to fit into the landscape and not sure if that's the appropriate thing to ask right now because they walked on that road on the site visit on Sunday and it seemed like there'd be an awful lot of cut and fill to fit them in there and she understands that it's architectural fashion of the moment to sort of hark back to the Catskills and little summer camps and things like that and to stay away from suburban development of hotels but it just seems that this is a lot of housing really close together not really environmentally friendly because each one of them has to be heated and cooled individually and she really thinks that it might be better to take a step back and think about how they might be able to carve up that 40 room hotel into different pieces and have less infrastructure with a couple of buildings than you will with 15 buildings.

Mr. Hollis stated that they're open to discussion because what they're interested in is function at the moment. They're not at the design phase quite yet and they will keep pushing on that.

Heidi Wendel asked if the artist residences will be used as Airbnb, that was the impression she got at the site visit which she didn't see in this anywhere in here and may have missed it but it's sort of vaguely Airbnb.

Mr. Hollis stated that it's more like an inn, it's a part of the hotel operation. The hotel operator will have control over how they're rented out and the applicant is willing to limit lengths of stay there so that it won't become an Airbnb type of thing where someone other than an artist will be there for an extended stay.

Chip Alleman stated that the idea would be that right now they use the rooms for not only for weddings but for people who are just coming to the area for hiking so the idea would be that right now they send most of the wedding guests to Fishkill to hotels up there. Most of the weddings take blocks of 20 or 40 rooms and come here by bus and having more rooms here on site would be an advantage to be able to keep to keep people that are visiting The Garrison and staying here. They originally had the 40-room hotel in the PDD is the idea that they would have additional accommodations.

Neal Tomann noted that the having the different separate structures which looks really good on the visuals but what concerns him is when you have that many individual buildings is not just the buildings but the space between them and lack of storage space in these individual cottages. When he's pulling it up to look at how it's going to function he sees the space between the buildings being filled with bicycles and toys and individual garbage cans and recycling bins and it doesn't lend itself towards being a tidy operation whereas if you were to consolidate it's a more efficient way of setting it up and thinks it makes it cleaner. The other thing is there are 39 buildings in the final schedule, is the applicant sticking with 16,000 gallons of water a day with that 39-building schedule ?

Glenn Watson replied that yes all of those buildings were taken into account and he thinks it was 35 that they ended up with, four of them that are replacement buildings but they did count all of the rooms in the inn and the lodging for the artists and they counted all of the buildings for their intended use.

Neal Tomann asked if they are sticking with 15 -16 000 gallons a day.

Glenn Watson replied that he didn't have the number in front of him but it's not changed.

Jan Johannessen stated that he thinks the part 1 EAF will end up getting increased because it didn't account for irrigation so in the table that they provided that was just up the total new proposed is and 32,082, 17,000 domestic use and 15,000 gallons for irrigation

Mr. Tomann stated that he's less concerned with irrigation because he knows that comes out of the ponds and more concerned with domestic use because to him that doesn't add up for that number of buildings and that many people to only be using 17,082 gallons a day so we'll see where that goes.

Chairman Zuckerman asked what planning number should they be using then if not 17,000?

Glenn Watson replied that there is a book called the blue book that contains gallons per day per use. A bedroom is 150 gallons per day and that assumes that there are two people in a bedroom. A bar is 15 gallons per seat per day, so each of the proposed uses can be found in this blue book that is what you have to prove to the health department. You have to use in order to build your demand for water and thus your delivery to the septic system you have to use those charts in order to come up with the gallons per day and that's exactly what they did so also there was a reduction that's been allowed 150 gallons a day a few years ago was 200 gallons a day per bedroom because the water consumption in showers and in toilets has been basically reduced so when we estimated those demands we used that blue book and I'm sure we provided that those calculations.

Neal Tomann asked if there a way to cross-reference this in the process to some other local similar facilities like Graymoor or Walter Hoving home, is there is there a path to cross-reference other local facilities and see if they're in the right ballpark with these numbers for the water consumption.

Ron Gainer replied that they could ask the applicant to analyze other local activities or uses that you might find similar but at the end of the day just as Mr. Watson describes for their purposes, they're obligated to use the New York State standards in order to satisfy the adequacy of their water and sewer systems.

Mr. Hollis stated that there will be 54 rooms 98 people to be lodged on site.

Mr. Johannessen stated that the breakdown of those rooms is included in the table in terms of what's provided in and the artist accommodations

Chairman Zuckerman pointed out in the document that there is an increase of 14 rooms but at the bottom it says additional new inn 20 rooms he's getting a little lost in all the different counts in different places he's sure it's internally consistent but he's trying to answer the question when they go through the EAF part 2 and start seeing major impact it kind of helps to figure out what are they talking about because at some point the land itself, the location would be too small to handle it would have too major of an impact. He stated that he doesn't know what that is, how many rooms and how many people and how many cars and how many buildings become too much but at some point, that is effectively what the board is being asked. How much volume of stuff is having a major impact that can't be practically mitigated. He's struggling to try and to understand the volume of work being done. The building count was very helpful but would like to confirm what exists now, what is approved for and what they're adding because he's trying to

get all the additional rooms and need some guidance and maybe this is something we can get from AKRF how much volume of stuff is occurring.

Mr. Hollis stated there are eight rooms in the current inn plus 20 rooms in the inn plus 26 in the in the additional lodging for a total of 54 rooms and 98 people so how he gets his head around it just think 54 rooms, 98 people.

Laura O'Connell wanted to add with regard to the impact it's not just the rooms it's everything, so at peak assuming there is a production that's happening you have three hundred and some odd people that are there, you have some X amount of people at the restaurant, X amount of people lodging, X amount of folks on the property. One of the things that she's not sure is how many public toilets there are to the theater in addition to and the total. What is the total impact of the total use of water, sewer, storm everything at its peak and then from the peak then understanding what the average is on a day-to-day use?

Mr. Hollis stated that he doesn't know the answer right now but they'll get it.

Laura O'Connell stated that there is a building code where it says you per your population you have to have a fixture count per your population so that should actually be part of the application because that will demand a certain amount of use based upon the amount of fixtures that they're going to have to provide for the total population.

Heidi Wendell asked how the applicant will stage the uses with the public portions of the property like the gardens, how they'll prevent people from just sitting on the lawn enjoying the lovely wildflower gardens etc. How would they actually enforce the suggestion that they would try to limit these interlopers.

Davis McCallum stated that they've been thinking a lot about this in particular thinks that he should start from the fact that they want the property to be open for the same kind of passive uses that community members have enjoyed in its current use as a golf course. People go there to walk their dogs or go for a jog and he wants to assure community members that can continue. They're also exploring ways that they could put a cap on the number of people and there are ways to use technology to do that so there would be a total number of zero cost ticket that a person could buy to come and enjoy the grounds even if they're not going to the play and on days when they have two performances on Saturday say they could just not open the grounds for those kinds of uses. They've been talking to other organizations like arboretums and universities about how they monitor public use of private land. The big takeaway is it's not a public park and at the same time they want people to be able to use it in the way that they've become accustomed to under Chris Davis's ownership.

Chairman Zuckerman stated that he hopes it's obvious to the applicant that the sentiment of this board as they're groping around this project is not that it's not a good project. He's sure every single person on this board feels this is a good project for town that they are big fans of Shakespeare and big fans of Chris Davis. He continued that what they are wrestling with is how much is too much, how much activity can this area handle that is the genesis of every question and that is the direction of what they're trying to get to because as they answer the EAF and vote one way or the other after they accept the EAF which is their document. He thinks they have to have a viewpoint of what is too much and that everything they're asking from the number of people to the number of buildings to the gallons of water to the number of toilets it's

all the same thing. He wanted to state that not just for the applicant but for those members of the public listening that is what we're trying to do here as a group.

Kim Conner stated that she thinks for a lot of this document the applicant will be giving us more information.

Mr. Hollis replied that is correct and that they are working on all of that. What this document is those were questions that Mr. Gainer posed at the first meeting where they started dive into this and the red ink is our response to those questions posed by Mr. Gainer.

Ms. Conner stated that she thinks lot of the board members don't have a lot of questions because they've already read through it and see what the answers are and if they have questions the things that are going to be the answers to our questions are going to come.

Glenn Watson stated that's really the whole point of part 2 of the EAF because they give you specific examples of what might be a large impact or they give some guidance there and they focus on the things that are important to the environment. They were trying in this document to address some of the concerns and let the board know they're looking at them but it was really when we get down to the EAF part 2 that they will focus in on the very specific issues.

Chairman Zuckerman stated that at the next meeting they will toggle through the EAF and see if they have enough to evaluate it and or determine if studies are needed. If they feel like they need data because they don't have it, they will ask for at that point.

Heidi Wendel wanted to get a sense of how dark it would be, like is it actually going to be dark so that some creatures can still roam around a little bit at night. Will it actually be dark the way it is now at night or how much more light. Will it have to be for safety to reduce criminal activity for liability reasons that kind of thing.

Mr. Hollis stated that the public areas are only going to be open till dusk so the lighting after dusk won't be a factor in that regard.

Mr. Johannason stated that the lighting they will have is going to be dark sky compliant, the full cut off fixtures not on angles pointed to the ground. They might have pathway lighting for some of the paths.

Chairman Zuckerman stated that whereas the golf ended when the sun went down this operation is until 11 p.m.

Mr. Hollis replied that on performance nights there will be lighting for safety purposes but on non-event nights there'll be a minimal lighting on site for the reasons they don't want to attract people.

Chairman Zuckerman stated that as he understands it that since this is a full year facility including indoor theater as well there will be very few nights that are not performance nights.

Davis McCallum stated that they think it could run until the end of October or November another several weeks after the tent closes and it could start performances again in the early part of the spring in February say but it wouldn't be as many performances a week and it's a smaller.

Kim Conner asked how it will compare to the kind of lighting that they have at Boscobel, will there be more light, will it be like Boscobel? Sometimes it's very dark walking through the parking lot to get out.

Davis McCallum stated that after the performances they'll be very strategic lighting on those paths to allow audience members and staff members to return from the theater to the parking lot safely but then once the grounds are clear they'll have control over that lighting and they'll turn them off. The idea is to hit the spot where it's safe for people when they're on the site but that it's dark for environmental concerns.

Peter Lewis stated that he was just wondering that a number of these questions like the dark sky compliancy and noise impact he thought were going to be guided by the town code and the number of those things and if they're going to be going over that whose lap does that get thrown into?

Chairman Zuckerman replied that in the SEQRA there are specific sections for those various topics that they are actually being guided to understand whether in fact it is a major impact so to Steve Gaba's point in some ways the zoning code does not apply in some sense because the PDD is the operating language and we have to gauge whether this volume of activity is a major impact that has been as mitigated as possible.

Peter Lewis asked so if it supersedes what the town code allows it's already been dealt with or will be dealt with in the SEQRA?

Mr. Hollis stated that what the site plan that they're proposing where it requires additional leniency so to speak, that would be an amendment to the ordinance to accomplish that because right now for example a theater is not permitted in the PDD so all the uses primary and ancillary to that theater use they have to make the proper accommodations in the law to permit. So that's why there's a contemporaneous review of both SEQRA and the site plan as a very logical and efficient way to look at what they intend to do there and how it can be accomplished by any amendments to the law that might be required or not.

Chairman Zuckerman stated that he thought what Mr. Lewis was trying to get at is something he was describing earlier which is how does how do they make a judgment about the impact for example on noise and whether that's a major impact and whether it should be a positive or negative declaration based upon the magnitude of that impact for noise for example.

Steve Gaba stated that the gauging of the magnitude of the impacts and whether they're significant adverse impacts or not is strictly a SEQRA issue that has nothing to do with the town code it deals with how many people are affected, the degree to which they're affected how widespread it is and so forth okay if the Planning Board determines that there is a major impact, let's use light for example, okay so you determine there's going to be major impact from the lighting of the site and it's determined that they haven't done enough to mitigate that to the maximum extent practical, they haven't done everything they could to mitigate the light impacts. The Town Board is not going to be able to adopt zoning or land use regulations that would allow that particular lighting for the PDD if the SEQRA determination is they haven't mitigated it to the maximum extent practicable. The SEQRA determination is going to inform to a large degree what the Town Board can approve in the zoning, they have to shape their plan now so that there are no significant adverse environmental impacts or if there are, they've been mitigated to maximum extent practical and then after that the Town Board can enact whatever use and bulk

requirements are necessary. He added not to get hung up on the use of bulk requirements or thinking that SEQRA doesn't impact them. SEQRA comes first, look at the impacts of what's being proposed and base the SEQRA review on that and then after the site plan and special use permit, subdivision.

Mr. Lewis replied that he can see that but it seems it seems awfully subjective, how does one decide whether or not it's too much light.

Steve Gaba stated that they're going to get input from experts, they're going to tell you that this is common or isn't common. For example, New York State has standards on water. If traffic was the issue the board would consult traffic experts and they would assist in making the determination. SEQRA regulations themselves set forth as to whether something is considered a significant impact or not and when the time comes, they can go over that in greater detail.

Laura O'Connell stated that she wanted to ask for clarification based upon responses from the applicant. They have said that they have hired consultants to do the following things, to do noise and light pollution studies, so at what point does the board get that information to then inform them to then make decisions? Granted there are certain codes that they can follow which is great but she would think that it would be in the best interest of the applicant to then provide those studies for the board to then make an informed decision. So, the question is when are we getting that and at what point does the board review that to then make the determination to go to SEQRA.

Chairman Zuckerman stated that what they are going to do at the next meeting is go through the EAF in detail page by page, section by section and determine whether they have sufficient data to make a determination and so they will be going page by page, section by section which is why it's not about the zoning code it's about the input that is needed to make the decision from other sources because the zoning code is going to change based upon what the local law is.

Jan Johannessen stated they're hoping to use the part 2 EAF to identify what the board thinks they should be studying in the part 3. There's a lot of evaluation that they still need to do and they haven't completed all the studies. What they're looking for is to determine what studies should be completed so they're hoping by going through the part 2 and going through that framework that they'll develop a list of everything they need to do all the data that they need to provide the board to make that informed decision. He continued that they started doing that and putting together a framework in an outline and called it the expanded part 3 scope outline. It was submitted in February of different things and items that they would expect to study in the part 3 and between going through the part 2 next month and going through that outline they will then be charged with preparing all those reports and studies so that the board can make that decision. They haven't done the lighting study or the photometric plan yet and they haven't completed the noise study so the board is not going to be able to say whether there's an impact there or not but they're trying to figure out what information they need to provide you so they're looking for that guidance.

Chairman Zuckerman stated that is why he thinks the board could benefit by AKRF's input or some other body and thinks that makes sense to use them because they need some guidance. He stated that some of the board members have done this in detail once before but are not experts.

Neal Tomann asked that the applicant use three very similar facilities on Route 9 (CIA, Marist and FDR) when framing their traffic study. He would like the applicant to show how they're going to be similar, bigger, different.

Chairman Zuckerman stated to the board that the homework for the next month is to go through the EAF parts 1 and 2 since they both reflect each other and go through where they think they need more data to come up with a judgment about minor or no impact versus major impact. He continued that this is where he'd like AKRF's help in the interim as well as judging what again he calls data sufficiency whether they have enough input, enough data to make a judgment. He then thanked the applicant and stated that they'll see them at the next meeting on April 15th.

Alice Curtis Desmond & Hamilton Fish Library, 472 Route 403, Garrison, NY
TM# 71.6-1-12&71.6-1-13

Vice Chair Kim Conner stated that since last month's meeting there were some comments from the public and they found that there were some things that needed to be corrected and she asked Steve Gaba to address those.

Mr. Gaba stated that it turns out that there is a section in the code. It's 175-62 and it's under special use permits and what it says is that when a project is a major special permit or special permit is classified as major or a major site plan, a site plan that's been classified as major in addition to mailing notice of the public hearing and publishing notice in the newspaper the applicant is required to post a sign on the property and the sign has to state the date, place and time of the public hearing and it has to be up three days after the public hearing is scheduled and it has to stay up throughout the public hearing and if there is an adjournment of the public hearing the sign has to be modified to indicate what the modified date of the public hearing is and when the public hearing is done and before a decision is rendered the applicant has to submit proof to the Planning Board that in fact the sign was posted. The Desmond Fish Library didn't have a special use aspect to it was just site plans so they weren't required to do that however it has now been pointed out to us that there is a provision under site plan approval 175-66 F1 that incorporates by reference certain special use permit provisions and this is one of them. The public hearing was not properly noticed because of failure to comply with the sign posting requirement. What the board needs to do at this time is re-notice the public hearing, that will require publishing notice of it again, sending out the mailings again and it will require the applicant to within three days of this board approving the new public hearing posting that sign on its property. There really is no choice, the public hearing wasn't properly noticed and any action taken would be subject to a legal challenge. What the board should do at this time, and you can discuss the project further if you want but he would suggest just voting to reschedule the public hearing preferably for next month, the applicant can be noticed the public hearing, the board can hold it next month, take whatever additional comments come if it's appropriate close it and take action at that time.

Ms. Conner asked who provides the sign?

Steve Gaba replied that the code says that the applicant supposed to buy it from the Town Clerk. Going forward the Town Board will decide if they want to sell the signs or if just pieces of paper are sufficient.

Ms. Conner wanted to clarify going forward with these kinds of applications should the board be notifying the applicant that they will need a sign.

Mr. Gaba replied that yes, the board should be telling the applicant that they need to get the sign from the Town Clerk that way all the signs will be uniform there'll be no question if there's sufficient information on it or not.

Ms. Conner asked for a motion to re-notice the public hearing

Heidi Wendel made the motion; Laura O'Connell seconded the motion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye

Kim Conner then asked if there was any further discussion.

Neal Tomann just wanted to clarify that it's section 175-62 F2 not section not F1 that's all just for the record

Ms. Conner asked if there is anything else we have to do about this.

Mr. Gaba replied, no it's scheduled for next month and we'll have a public hearing then and hopefully everything can be wrapped up at that time.

Mark Conn, 242 Route 403, Garrison, NY TM#71.-2-10 (Site Visit March 7, 2021)

Chairman Zuckerman stated that the board did receive a correspondence from Max Garfinkle which Jason Snyder provided that states there are no wetlands or water courses or regulated setbacks as defined by the code which had been a question the board had asked of Mr. Snyder who is representing Badey & Watson. He then asked Ron Gainer if he could give highlights from his report and what is next for this property.

Mr. Gainer replied that he will try to summarize comments that he heard based on the site visit a couple weeks back. The board was very concerned with the issue of tree removals, project visibility and location of the utility systems. That information is either showing on the site plans or subsequently provided by Badey & Watson's office so that's available for review but they do satisfy Department of Health requirements. The board at the site visit did offer no objection to the removal of trees that were identified during the site walk and that since has been accomplished. It's now a matter for the board to make a decision whether to have a public hearing on the matter or move it towards potential action with resolutions for the next meeting. The public hearing is discretionary since it's deemed a minor site plan project.

Steve Gaba stated that normally public hearings are held. He added this is in the scenic protection overlay district so this is particularly the type of thing that the board might want to have public input on before you're under a decision.

Chairman Zuckerman asked Mr. Gagnon how he feels about having a public hearing.

Mr. Gagnon stated that he thinks they've been having public hearings for almost every project it seems and with the scenic overlay they probably should.

Chairman Zuckerman asked if any of the board members had a different viewpoint from Mr. Gagnon or any comments.

Heidi Wendel stated that she thinks they should have a public hearing because a lot of neighbors showed up and it and there was more attendance than the usual site visit and it makes sense to give people a chance to say things.

Chairman Zuckerman asked for a motion to schedule a public hearing. Peter Lewis made the motion and Neal Tomann seconded it. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Neal Zuckerman: Aye

Opposed, abstentions. Being none the motion passes.

Chairman Zuckerman asked Mr. Gaba if there are any additional noticing requirements for this public hearing.

Mr. Gaba stated that this project is a major project and does not require the sign.

Jason Snyder asked if it would be possible that Mr. Gainer could have a resolution prepared for the public hearing.

Mr. Zuckerman stated he thinks they've got to get the public input, that it's a little premature on that.

Jason Snyder noted that the trees were removed in conjunction with the building department before the April 1st deadline for the tree cutting and thanked the board for allowing them to do that.

Chairman Zuckerman asked if any of the board members had any other comments or questions. He then stated that they'll see them next month for the duly noticed public hearing, no sign required.

Magazzino Italian Art Foundation, 2700 Route 9, Cold Spring, NY TM#38.-3-24.1

Chairman Zuckerman turned to Glenn Watson to give the board an update on what's going on.

Mr. Watson stated that they had a subdivision approved by the board and during the course of completing the conditions of approval the seller of the piece of property who was going to sell a portion of his property to Magazzino pulled out of the deal. The applicant withdrew the subdivision application, gave the board notice that they weren't going to complete it because

they couldn't complete the purchase and so then they had the dilemma of part of the site plan was on the larger piece with the additional five acres and they didn't have it to complete the site plan requirements they also have a conditional approval on that. So, they've modified the site plan and are asking the board to modify their resolution. It's essentially the same, the driveways are exactly the same, the proposed building is exactly the same, the parking's the same. The only thing that has changed is they've been to the health department and are in the process of getting a septic approval that has been modified slightly to accommodate the needs and this is unusual but the health department because it's a public water supply it's a water supply that the public gets access to. It's privately owned but the public has access so they have a special set of rules. The health department would not entertain their septic system permit until they drilled the well in the lower portion of the property. That well has been drilled it was just tested. The test material is at the lab. They hope to have that back so they're asking the board to amend the resolution and re-adopt it so that they can move forward with the project.

Chairman Zuckerman asked Mr. Gaba if the board can do what Mr. Watson is asking.

Mr. Gaba asked Mr. Watson if the site plan was signed and filed with the Town Clerk. Mr. Watson replied, no.

Mr. Gaba then stated that yes, the board can do what he's asking. He continued that it's the same thing as a modification to a site plan preapproval. The only thing the board has to ask itself is one, are they willing to do it, and two, do they feel that the change is significant enough that a second public hearing would be required? Aside from that there's no need for a new application they can certainly adopt a resolution approving the modified site plan.

Ron Gainer stated that the board has received a short memorandum from his office. Just to refresh the board's memory on what the original project was, as described by the applicant it's merely an issue where they've lost the additional five-acre piece. The improvements originally proposed all still remain with the exception of the scholar's residence and everything's in the same location as previous. He had merely asked Mr. Gaba to comment on whether the board could immediately act to approve an amendment to that resolution or whether any steps had to be repeated.

Mr. Gaba wanted to clarify that it's ready for action to the extent that Mr. Gainer can prepare another resolution they can't just by voice say hey presto he's got his approval.

Chairman Zuckerman stated that he thinks they'd have to direct Mr. Gainer to prepare those for the next meeting and then they'd vote on it next time but asked if any board members have any questions on procedure or opinions.

Kim Conner asked Mr. Watson if the applicant will want to purpose some other part of the property for the scholar in residence in the future.

Mr. Watson replied that they originally had a site in the northeast corner of this original parcel. He added that he can't tell the board no but there's been no discussion of it and he was directed to take it off but it certainly it's possible and it would fit but right now he has no direction to do that.

Kim Conner noted that because there was a building there and did we approve something to replace that or is it too long since that building was taken down?

Mr. Watson stated that the original site plan approval this parcel has gotten bigger. They bought the piece, the south third of the property was not a part of the original approval that was added there. The original approval did have a second building, a residential single-family residential building on the northeast corner and it all fit on the original parcel. The house that was there has since been taken down but it was going to be replaced by a by a single-family dwelling but right now they've just given up on that idea at least for the present and frankly because they want to get going on this building.

Kim Conner wanted to clarify if the applicant could come back to us and say they already approved this building or would they have to come back and ask for permission.

Mr. Watson stated that the approval had long since expired.

Ms. Conner stated that was all she wanted to know.

Heidi Wendel asked for clarification about what's happened with the wetlands buffer.

Mr. Watson shared a map of the property and pointed out the current property lines and wetlands buffer.

Chairman Zuckerman stated that the only reason why he would feel the need for more investigation is there any way that if a different building was put on the adjacent property that was sold where they were going to put this housing would there be anything that the neighbor could do that would then change the boards considerations of approval?

Mr. Gainer replied that he can't imagine the reduction in area of the parcel being reduced to its original current size. The board could see any issue with the proposal being exactly the same as it was minus that proposed property purchase.

Chairman Zuckerman asked for a motion to direct Mr. Gainer to prepare the revised plans for approval in the next meeting. Kim Conner made the motion and Neal Tomann seconded it. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Neal Zuckerman: Aye

Opposed, abstentions. Being none the motion passes.

Chairman Zuckerman stated that Mr. Gainer has his direction and told Mr. Watson they will approve it formally at the next board meeting.

Jena Girouard & Jesse Husted Wildrick, 28 & 30 River Lane, Garrison, NY TM# 89.7-1-8 & 89.7-1-7 WL#21-333

Jena Girouard Wildrick introduced their project. She stated that they purchased a property, 2 parcels, 28 and 30 on Hudson River Lane right on the water so there's a lot of things that go

with that they are learning and they moved up here full-time post-pandemic. They had a baby and it made sense to have more and want to combine the properties to be able to have one home that sort of straddles the area.

James Hartford stated that the Wildrick's brought him on to help them to design a single home on the combined lot and the two existing lots each have a two-bedroom house, both have been impacted by flooding, one is pretty much uninhabitable right now and the other one is barely above sea level. The idea is that they would address the 500-year floodplain issue as well as also design a passive house so an ideally net zero house that would replace those two structures as one. Combining the two lots to one and combining the two existing houses to one so that they're taking the same footprint and bridging over a boat ramp that's central to the new combined lot. There's actually a natural tiny little bit of natural shoreline essentially that straddles the two plats that they would retain so the house would be covering the same footprints of the two bridging over so they maintain that natural flow and it would be a very low to zero impact home. They would replace the septic systems which are currently basically indeterminate with a new Peat system that would be properly sized for this and would be engineered so that it would meet the Putnam County Health Department's requirements and they're also replacing a sea wall on the number 28 side of the property the north side. That is a gabion wall basket system that's in pretty poor shape and is deteriorating so that would be an improvement. Currently the calculations are essentially that they would have a total increase of impervious material on the site surfaces on the site of .4% and that's attributed to replacing that gabion basket wall which is porous with a gravity precast concrete wall which would consistent with the number 30 seawall so it's essentially a wash in terms of absorption impact on the site but a lot of other improvements. Elimination of two oil burner heating systems including the oil tanks, elimination of propane fired cooktops and generators and going all electric and essentially net zero.

Chairman Zuckerman asked Mr. Gainer to review his list with the board.

Mr. Hartford shared an overview map of the property and explained that this is their zoning conformance chart, their increased lot coverage is .4% percent. The site survey shows the property it includes the entirety of Hudson River Lane in front of their two properties and it includes a significant portion of land under the Hudson. They're working on replacing the current gabion basket wall with something that's more durable this is definitely showing some wear and tear from erosion and they're collecting bids from engineers and contractors to do that replacement. The hard-edge wall of the of the concrete gravity wall here it would be essentially cast-off site and brought in and put in place by equipment so that they're not pouring concrete in within the confines of the river. Here's that boat launch that creates a natural beach area that they would maintain and perhaps even enhance. This is the existing deck and the existing house right here and here on number 30 and here is the existing deck and then the existing house at number 28. The plan in the dark blue is to retain the same side yard setbacks of both houses and basically create a structure that is essentially the same footprint as number 28 and the same footprint of number 30 which there's a current garage here would extend out to that. They're going to eliminate this garage here so that goes away so they're doing the math to balance this out pulling this portion of the house further away from the river and eliminating the deck here so if things get pulled further back and then there's a second story kind of bridge over that first story area so they're giving a little bit more room to the to the river's edge. They are proposing a swimming pool which right now they're collecting bids from biophilic natural organic

systems for this. The packaged septic system will be essentially about this size and would be located about on the site where there's a kind of a gravel blacktop mix that they would restore to grass on the existing septic. They would use that actually for reverse osmosis water system so that the water in the well is compromised by river water so they would use reverse osmosis and then discharge the effluent water back into this existing septic system rather than just released back into the environment first.

Ron Gainer stated that as indicated there's two existing properties. Both structures are going to be demolished. One new structure straddling the property lines obviously it's dependent requirement to merge the process first. Because of the enlargement of a non-conforming building, they're going to have to get the involvement of the Zoning Board of Appeals because they're proposing an enlargement, I believe larger than what's permitted by the non-conforming use ordinance. They're permitted to expand up to 25 percent of floor area, they're a fair bit beyond that so the Zoning Board is going to be involved. One, to grant the variances that are necessary and two, just to grant a special permit that becomes necessary because of the size of the enlargement. So just in summary there's multiple town boards involved. The Zoning Board of Appeals, the Planning Board for site plan approval given the size of the structure, the Conservation Board is going to be involved is to grant a wetlands watercourse permit for the work along the Hudson River, DEC is involved in the repair permit for the bulkhead repairs separate from this board and Army Corps of Engineers will likewise be involved in that work in the river, Putnam County Department of Health is going to be involved for the sanitary disposal systems that are being proposed. So, again this is the very first time the board has seen this project, first time it's been presented. Typically, what the board does is initially classify the project because it's a residential project it's been town policy to always treat those as minor projects and so tonight the board should initially classify the project as a minor project just to satisfy the procedural requirement. Secondly the board should decide if they need to have a site inspection for the property just to understand whether there's any environmental impacts or neighbor issues to consider in the processing of their portion of the application before them. Since there are other agencies involved relative to SEQRA it would represent an unlisted action and normally residential projects are not too concerned in terms of whether it coordinated review is accomplished but in this case with multiple town boards involved Mr. Gainer would suggest they make a coordinated SEQRA review and declare their intent to become lead agency. That's a matter they can do tonight if they're prepared to do so. That'll accomplish various referrals to those other agencies, make them aware of the project and give them an opportunity to provide initial comments to the board. Lastly just because it's on the river there's a statutory requirement to make a referral to the Putnam County Department of Health. Mr. Gainer stated that he has identified in his review various other technical things that he'll work out with the applicant's representatives but those are the majority of issues that the board should be moving on tonight. Classifying the project as a minor project one, classifying it as an unlisted action pursuant to SEQRA and then making a determination whether you want to have a coordinated environmental review which I would recommend.

Steve Gaba stated that since it's residential single-family home he thinks it's a type 2 action.

Kim Conner asked if all single-family homes are type 2.

Ron Gainer noted that they need a special permit for the enlargement of the structures.

Mr. Gaba stated that if it's an area variance it's clearly a type 2 but a special permit or use variance he thinks would be an unlisted action. He stated that he disagrees with Mr. Gainer on coordinated review, if they have a coordinated review just as discussed under the Shakespeare Festival no other board can take action until the Planning Board completes the SEQRA review. And when variances are needed before the board can determine if they're going to go forward with a project they really want to give the Zoning Board a free hand to decide that otherwise they have to hold off until you go through a complete review of the project and if they don't grant those variances the applicant can't go forward with the project or may change it substantially. This is really where you have got to have variances before you go with the other approvals. Mr. Gaba continued that he thinks they're better off with an uncoordinated review otherwise it puts the applicant in a really bad position. He agrees with Mr. Gainer that it is an unlisted action but disagree and thinks the board should do an uncoordinated review.

Chairman Zuckerman asked if the activities and number of variances needed impact minor versus major.

Ron Gainer noted that since the change in zoning in 2011 the whole concept of classifying a project as major or minor came into being. From the very beginning of the adoption of that ordinance it's been the policy of the town which he's been informed by multiple building inspectors that residential projects were always intended to be considered minor and so that's the policy that's been followed.

Neal Tomann asked even when they're buried knee-deep with the section 404 clean water act, he agrees that sort of complicates it.

Ron Gainer stated he agrees but it's not been town policy. He can only go by the precedent that's been set before.

Steve Gaba stated that Ron Gainer is right that's been the policy.

Chairman Zuckerman stated that it seems like so many things that the Zoning Board has to opine upon that would materially impact the Planning Board's viewpoint of the project and the site plan is there no reason why they shouldn't let the Zoning Board take their first crack at this and then come back to the Planning Board. He continued that he feels like they've got to get a variance before the Planning Board can even decide because what is it 5600 square feet starting from a position of being 1800 square feet with all these other things.

Kim Conner noted that she completely agrees with Mr. Zuckerman and doesn't think it's appropriate for them to do anything until they get an answer from the ZBA as to whether or not these non-conformities are acceptable. She continued that one of her questions about this property is when we calculate how much land there is and how much of it the house covers does that include the land that's under water?

Mr. Hartford stated that the calculations are basically apples to apples to the existing structures.

Ms. Conner replied that, no they're larger. This is two non-conforming structures because the current zoning or the town is five acres. These are all very small lots. The proposed house is larger than the two houses that are being removed. She stated she would actually like to know how much of the land that's underwater is counted as part of the calculation.

Mr. Hartford replied that it is part of the area calculation but the map for determining the size of the house is relative to the existing houses.

Ms. Conner stated that it's already over the 25% that's permitted and that she thinks this is something that needs to go to the ZBA.

Chairman Zuckerman stated that the applicant is asking for 5600 sq ft house on a really small wet piece of land and just it feels they need the Zoning Board to weigh and that's sentiment of at least two board members.

Mr. Hartford replied that the combined lot is 6,033 square feet.

Chairman Zuckerman asked for other board members viewpoints.

Dennis Gagnon stated that he thinks it should go to zoning.

Peter Lewis asked if there a Manitou Association or anything like that.

Neal Tomann asked if they are counting the area underneath the water?

Mr. Hartford replied that their deed includes 200 feet of water essentially beyond the seawall.

Heidi Wendel stated that it sounds like it should go to the Zoning Board first.

Laura O'Connell agreed.

Steve Gaba stated that he does not have a problem with that but does agree with Mr. Gainer that the board could do a few things at this point. Declare it unlisted, declare it minor and he thinks a referral to the Conservation Board would be in order as well as a referral to the Zoning Board, and the Zoning Board may want to hear from the Conservation Board on this more than it might want to hear from the Planning Board.

Chairman Zuckerman confirmed they need to declare it as minor, unlisted and referral to not only the ZBA but the Conservation Board.

Steve Gaba added that they would determine to do an uncoordinated SEQRA review but would not move forward with anything until.

Mr. Zuckerman said he's happy to state that and asked what happens if the ZBA wants to be do the coordinated SEQRA review.

Mr. Gaba stated that is their right but doesn't think that they will. The reason that they wouldn't is because although they'll certainly look at all environmental impacts understanding that there's an uncoordinated review, they know that when it comes back to the Planning Board the PB will take a more in-depth look at the environmental impacts and the ZBA really isn't set up for an in-depth look. They don't have consultants like the Planning Board does and so forth and he'd be very surprised if they did anything like that.

Chairman Zuckerman asked for a motion to classify the Wildrick's project as a minor project. Kim Conner made the motion. Neal Tomann seconded the motion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye

Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Neal Zuckerman: Aye

Opposed, abstentions. Being none the motion passes.

Chairman Zuckerman asked for a motion to declare this unlisted action for SEQRA. Peter Lewis made the motion. Neal Tomann seconded the motion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Neal Zuckerman: Aye

Opposed, abstentions. Being none the motion passes.

Chairman Zuckerman asked for a motion to declare this an uncoordinated review for SEQRA purposes. Kim Conner made the motion. Laura O'Connell seconded the motion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Neal Zuckerman: Aye

Opposed, abstentions. Being none the motion passes.

Chairman Zuckerman asked for a motion to refer this to the Zoning Board of Appeals and the Conservation Board. Chairman Zuckerman added that the motion to refer to the ZBA is for their action, not just their awareness. Peter Lewis made the motion. Kim Conner seconded the motion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Neal Zuckerman: Aye

Opposed, abstentions. Being none the motion passes.

Peter Lewis asked if doing a site visit is premature at this point.

Chairman Zuckerman stated that they will let the ZBA handle it at this point.

Chairman Zuckerman then asked for a motion to adjourn. Neal Tomann made a motion to adjourn and Dennis Gagnon seconded it. The vote went as follows:

Kim Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Aye

Laura O'Connell: Aye

Neal Tomann: Aye

Heidi Wendel: Aye

Neal Zuckerman: Aye

The motion passed unanimously and the meeting adjourned at 10:07 pm.

Date approved 4/15/21

Respectfully submitted by,



Cheryl Rockett

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