

Philipstown Planning Board
Meeting Minutes
May 16, 2013

The Philipstown Planning Board held its regularly monthly meeting on Thursday, May 16, 2013 at the Butterfield Library, 10 Morris Avenue, Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

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

Approval of Minutes

- April 16, 2013

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

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

Mountain Trace – Subdivision approval – Canopus Hollow/Sprout Brook Road, Town of Philipstown: Resolution for preliminary approval

Ms. Conner recused herself from the application and left the table.

Mr. Gainer said that in front of the Board were draft Resolutions – a SEQRA Negative Declaration and a draft Preliminary Subdivision Approval Resolution. He said that before the meeting began this evening, he passed out an amended copy of the Resolution, in which he inserted a further condition that Mr. Gaba had recommended.

Mr. Meehan asked if the Board needed a Resolution for the waiver on the grade of the driveway.

Mr. Gainer said that it would be good to add a statement in the Resolution to identify that the waiver is being granted as part of the Preliminary Approval and that it's on the basis of the Fire Department having found the grade acceptable. He said that if the Board wished, he would add that and it could be passed as amended.

Mr. Zuckerman said that he would like to find a way to track waivers so that there is some historical record.

Ms. Finger made a motion to adopt the Negative Declaration. Mr. Zuckerman seconded the motion. The vote was as follows:

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

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Mr. Zuckerman made a motion to grant preliminary approval of the subdivision plat as depicted on the plans listed and final approval subject to conditions listed and comments just made regarding the waiver and Mr. Gainer's comments. Ms. Finger seconded the motion. The vote was as follows:

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

Ms. Conner joined the table.

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

Mr. Watson said that they submitted the documents the Board had asked for – the four deeds and lot line adjustment map filed with the Town, which affected the change in the lot line. He said that they held the site visit. Mr. Watson said that he was there tonight to hopefully schedule a public hearing on this matter. He said that at the site visit, he was asked what was going to happen with the Fish mansion and in speaking to the people involved, he could tell the Board there is presently a contract between Open Space Conservancy and the Lostand Foundation, which is the same entity that owns the Garrison Institute. Mr. Watson said that they have no immediate plans right now. He said that Mr. Gainer had asked at the site visit if they would consider additional setback requirement. Mr. Watson said that he talked to his client and they felt that they have already severely restricted the land. He said that his clients would rather do it by way of conservation easement.

Mr. Meehan asked if the Recreation Department had reviewed this.

Mr. Watson said that he did not know.

Mr. Gainer asked if there was any intent to show some delineation of the rear line to the Recreation Center, which is abutting the front yard of the Fish mansion.

Mr. Watson said that they can do that.

Mr. Gainer asked if there was any intent to commit to any continued public access through the (inaudible).

Mr. Watson said yes.

Mr. Merandy said that the Rec Department's only concern was the rear of the property – going toward the west side.

Mr. Watson said that he knew that was a significant amount of discussion as to where that line was. He said that one of the reasons the line is as close to the building as possible is because they wanted to maintain the front lawn and vista and hopefully someday restore the landscape that was there at the Fish mansion. Mr. Watson said that right now, nothing is going to happen.

Mr. Leonard asked if the line was where the half-part fence and the road right there was the line.

Mr. Watson said that he believed it was set thirty feet off of the building, which was the setback requirement at the time.

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Ms. Jainchill asked that they should get more information on the record regarding the historic quality of both the Arnold flight path and the Fish mansion.

Mr. Watson said that he could certainly get some literature on it. He pointed out Arnold's path on the plan and said that nothing that would happen here would really affect that.

Ms. Jainchill asked if Mr. Watson was planning on putting a public easement on it.

Mr. Watson said that he did not know the answer to that, but did know there would be public access there generally.

Ms. Jainchill said that there are two residential lots being planned and according to the code, when subdivisions are made, an effort is to be made to give some public space for the wetlands or some other way of compensating.

Mr. Watson said that they had to keep in mind that twenty-two acres of this was given to the Town. He said that he would expect his client would be a little resistant to recreation fees and probably ask for a waiver of the rec fees on the basis of that donation. He has not spoken with him.

Mr. Zuckerman said that there is something unique and historic about this site that he thought as a community they've done a very poor job of recognizing Benedict Arnold's relation to the community. He said that he wanted to ask Mr. Watson convey to his clients that given this unique nature and the defacto nature that the access is used, he worries that when it changes hands, the access will be curtailed if not eliminated.

Mr. Watson said that he would certainly pass it on. He said that his guess is that they will do that regardless of any requirements.

Ms. Finger said that if the area has been accessible as a trail to the people from the Rec Dept. and public going through it, if it constituted after like two years of use, as an established easement.

Mr. Gaba said that in order to establish a road or path by user, you need not only public use, but you need maintenance of it by the municipality. He said that then you'd be in a position to do that, but he didn't think you would be in this case.

Ms. Jainchill said that it seems within the zoning code, there is a way to break it down to a conservation easement and have more than one (inaudible).

Ms. Watson said that she was talking about a conservation subdivision. He said that he was certain this was going to be sold and if it is sold for residential purposes, it will be limited to single-family dwelling.

Ms. Jainchill asked if there was a way to provide in the subdivision approval that it will only be a single residence and not put up a conservation subdivision.

Mr. Watson said that he doubted they would be willing to do that, but thought that conservation subdivision, the way it's put forth in the zoning law, is pretty much strictly up to the Planning Board's desire – not the owner's desire.

Ms. Conner asked if the Board had said last time that it was twenty acre zoning because it was an IC district and that would just run with the land.

Ms. Jainchill said that she would walk through it as she needed to understand it better.

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Mr. Gainer said that the Board was sent a draft memorandum from him and if accepted, he would issue it formally as a document.

Mr. Leonard said that regard to Lot One, when the Board was out there, they discussed buffer capabilities and he thought also, a potential for recommendations for landscaping.

Mr. Watson said that they have a 200 foot setback. He said that they're in the scenic protection overlay zone, so part of the process of building on the lot is to have a landscaping plan that provides suitable screening.

Mr. Gaba said that he thought the application was ready for a public hearing.

Ms. Conner made a motion that the Board schedule a public hearing on this matter at the next meeting. Ms. Finger seconded the motion. The vote was as follows:

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

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

Mr. Watson said that they submitted a request for a slightly different use. They want to eliminate the apartments that were approved and substitute a seven room hotel. Essentially on the main floor, the restaurant would stay basically the same. The seat count changed a little in order to accommodate the parking required. Mr. Watson said that all the other approvals are in place, so they are seeking a revised resolution.

Ms. Jainchill said that on the original plan, there was an interior space layout and wondered if they could get that for the changes.

Mr. Watson said that he'd be happy to submit that.

Ms. Jainchill asked if the actual space was less.

Mr. Watson said that basically the whole main floor is restaurant except for a reception area.

Ms. Jainchill said that it was 47 and is now 39 and asked how the Town would know that it's going to be that many seats, rather than the larger number of seats. She said that it is a question of parking whether they'll be enough.

Mr. Watson said that it was the parking that drove the reduction in the number of seats.

Mr. Gainer asked if the site plan specified the number of seats. He said that if so, it could be that simple. Mr. Gainer said that he could put maximum seating on there.

Ms. Conner asked if it required any additional approvals, like sprinkler system, etc.

A gentleman (unidentified) said no because there is no third floor.

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Mr. Gaba said that there not really a physical change to the layout or anything along those lines. He said that although they are describing it as a hotel, it's just seven rooms. Mr. Gaba said that when Garrison Station Properties first came in at 2010, Guinan's was a five-bedroom house with a storefront pub in the back and the proposal was to change to all offices. He said that a public hearing was held and there was a large turnout on that with people who were concerned about the site.

Mr. Watson said that the whole public concern was to have the restaurant and bar. He said that with the description of this given by the potential tenants, he thought this would be a little more casual and user-friendly.

Mr. Gaba said, and they completed SEQRA review on that proposal. He said that they came a month before last and said they really wanted to go back to the first proposal. Mr. Gaba said now, they have received this and it's kind of a different use than the Board had seen before. He said that the Board does not have to hold a public hearing on site plan approval, but might want to consider it.

Mr. Gainer asked if it would be processed under the old application.

Mr. Gaba said a new Statement of Use would be sufficient.

Ms. Conner said that she would be in favor of not having a public hearing, as she thought this actually meets what the public wanted.

Ms. Finger said that she concurred with Ms. Conner.

Mr. Leonard asked if the Board also felt that there isn't any significant change.

The Board members said no.

Mr. Watson asked that he thought the Board could make a resolution that SEQRA has been changed...they could just discuss that, come up with the Resolution and have the Resolution be prepared afterwards.

Mr. Gaba said that he thought Mr. Watson was saying that if the Board is so inclined, it can adopt a Resolution reaffirming Negative Declaration under SEQRA and adopt a Resolution granting amended site plan approval and to be subject to submission of formal written Resolutions prepared by the Engineering Consultant.

Mr. Gainer said that he was satisfied and in full agreement.

Mr. Zuckerman made a motion to reaffirm the Neg Dec under SEQRA. Ms. Finger seconded the motion.

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

Mr. Zuckerman made a motion to amend the site plan as stated to include the seat capacity change. Ms. Conner seconded the motion. The vote was as follows:

	Michael Leonard	-	In favor
	Kim Conner	-	In favor
	Mary Ellen Finger	-	In favor

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Kerry Meehan	-	In favor
Anthony Merante	-	Absent
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

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

Mr. Watson said that this is a little bit complicated and unusual. He said that Mr. Fisher owns a double lot on Sky Lane. Mr. Watson said that as the Planning Board was aware, getting to the property is a big problem with regard to grade and the amount of work that has to be done to bring the road up to standards. He said that they actually have two houses in Philipstown that are on the next lot over from Mr. Fisher's property and they take their access on Eleanor Place in Putnam Valley. So Mr. Fisher has applied to the Town of Putnam Valley for a subdivision approval. Mr. Watson said that it would allow a sale of Mr. Albert's property into two lots – one substandard lot, with which Mr. Fisher would buy and build a driveway from Eleanor Drive to Sky Lane and build a private road on Sky Lane up to town standards for a substantially shorter distance. Mr. Watson said that they have made application to Putnam Valley. He said that they seem amenable to entertaining the idea. Mr. Watson said that they need the Planning Board's approval of access to build a private road to the portion of Sky Lane. He said that they represented to the Town of Putnam Valley that the first section would be owned by Mr. Fisher and would be for his sole use.

Ms. Conner asked if the scenic route runs right through the house.

Mr. Watson said right.

Ms. Conner said if you look at the zoning, it can't be on the ridge. It has to be five hundred feet...there's a no-build there.

Mr. Watson said that frankly he thought that was the basis for any variance that might be granted because five hundred feet is off of that property. He said that those designations don't exist. Mr. Watson said that portion of the Zoning Law was changed within two months of the adoption of the Code. He said that Ms. Conner needed to look at Local Law 4 of 2011, which changed that definition.

Ms. Conner said that they have had people come before the Board who basically had none-buildable lots.

Mr. Watson said that he thought that was because they couldn't use the road. He said that if they didn't have this alternate way, he thought they'd be in the same position. Mr. Watson said that they want to take a much more gentle route and get themselves to a public road in a simplified manner.

Ms. Conner asked if this was a deal that hadn't gone through yet.

Mr. Watson said that was correct.

Mr. Meehan asked if he got the (inaudible), he would come back to the Planning Board.

Mr. Watson said that they have to subdivide Mr. Albert's property and spend a substantial amount of money on the piece of property. He said that they could go through that process, and they do require a variance because it's a sub-standard lot...but they're willing to go through that, but if they run them parallel...the variance question was something they had to talk about.

Mr. Leonard said that he thought the Board had to be concerned about that development section on the top part. He said that there had been issues with Ridge Road itself that had come before assessment that some

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houses at the very base (Brookside Drive) have been subjected to severe flooding issues and have blamed that on certain developments on Ridge Road.

Mr. Meehan asked where the fourteen percent was.

Mr. Gainer said that it is right in the beginning.

Mr. Watson said that Putnam Valley lets you go to sixteen.

Ms. Jainchill asked how long the driveway was.

Mr. Watson said 700 feet.

Ms. Conner asked how old the Health Department approval for the septic was.

Mr. Watson said that it was less than a year.

Ms. Jainchill asked who maintains the road.

Mr. Watson said that is usually the problem. He said that it is going to be up to the individual property owner. Mr. Watson said that in their case, they'll be the only ones using that road.

Ms. Conner asked, "What about emergency vehicles".

Mr. Watson said that they're going to gate it, but they would break away gates for just that purpose.

Mr. Leonard said that it would be a Putnam Valley fire response.

Mr. Watson said that he would guess it was Continental Village.

Mr. Leonard said that the response time would be pretty long if it's Continental Village.

Ms. Jainchill said that a logical thing would be to have a fire access between the two roads.

Mr. Watson said that it was a good idea – he said that they'll put a gate there, but make a break-away. He said that they know they have to come back, but if there was a sense of the Board ...or the Board asks Mr. Gainer to write comments down for the Board's consideration, so that when they came back they'd be in a position to move forward. Mr. Watson said that they'd discuss the issue of the variances...so the questions in his mind is to whether or not the variance would be a requirement of the approval.

Mr. Gaba asked if a site plan was being required here.

Mr. Watson said they didn't know. He said that he didn't think so. Mr. Watson said that he would check.

Mr. Gaba said that if they don't need it, it makes it easier. He said that if they do need it, he thought they'd have to showing a building on it.

Mr. Gainer said that he thought it was required. He said that the Board received a technical memorandum from his office. He said that they would normally recommend prior to any more detail processing the application, that the Board considers conducting a site walk.

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Mr. Gaba said that he thought some of the issues are that the approvals that are required should be nailed down. He said that they'd talk with Mr. Gainer and Ms. Jainchill and the applicant to see if they could straighten that out for next month's meeting.

Mr. Gainer said that the Board could send out the referrals – to the County and CAB.

Mr. Gaba said that he thought because it is within 500 feet of a Town border, it should be sent to Putnam Valley.

Ms. Conner asked if at this point, the escrow would be dealt with.

Mr. Watson said that it's an official application for approval of access right now, and he thought escrow was submitted. He said that the Planner in Putnam Valley preferred to do an Uncoordinated Review.

Ms. Finger made a motion to refer the application to the County. Mr. Zuckerman seconded the motion. Mr. Meehan made a motion to refer the application to the CAB.. Mr. Zuckerman seconded the motion. Ms. Finger made a motion to refer the application to Putnam Valley. Ms. Conner seconded the motion.

All three votes were as follows:

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

Mr. Zuckerman made a motion to conduct a site visit on Sunday, June 9, 2013 at 9:30 a.m. Mr.. Meehan seconded the motion. The vote was as follows:

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

Ms. Conner made a motion that the Board declare itself Lead Agency and do an Uncoordinated Review . Mr. Zuckerman seconded the motion. The vote was as follows:

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

**Cold Spring Farm – Site plan application – Route 9/Vineyard Road, Town of Philipstown:
Submission of 3-drawing set (depicting slope analysis, vegetative cover and soil type boundaries)**

Mr. Gainer said that he did not see that there was any action for the Board to take except to acknowledge receipt. He said that there actually were plans that were utilized during the site inspection. Mr. Gainer said that the applicant actually has been charged based on the site inspection comments that were issued and he's doing further site evaluation to understand whether there's going to be some adjustment of the

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development proposal. He said that he has not heard from him since the meeting they had after the site walk.

SNK Farms – Minor site plan amendment and special permit application – 3188 Route 9, Cold Spring: Discussion

Mr. Gainer said that the applicant had originally filed for both site plan and special permit approval. The error on the Resolution was corrected (with the omission) with the latest draft Resolution distributed and before the Board. Mr. Gainer said that it had been reviewed by the Planning Board attorney.

Ms. Conner made a motion to accept and approve the revised Resolution. The motion was seconded by Mr. Meehan. The vote was as follows:

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

Proposed Local Laws

- Law amending the Town Code of the Town of Philipstown to revise Chapter 93 (Wetlands)
- Law amending Chapter 159 of the Town Code to implement the revised Zoning Law and designation of the Conservation Board
- Law amending Chapter 159 of the Town Code to implement the Natural Resource and Open Space Plan
- Law amending Chapter 112 of the Town Code with respect to Open Development Area subdivision
- Law amending the Town Code to make clarifications and technical corrections to Chapter 175
- Law amending the Town Code to prohibit hydraulic fracturing
- Short Environmental Assessment form

Mr. Leonard said that he had been asked to comment on the above, and has prepared and provided some of them. He said that he had some comments from Ms. Finger regarding standard of distance changes. Mr. Leonard asked the Board if they wanted to discuss issues now or provide the comments and he would incorporate them into the comments he already had. He said that everyone would be given a copy of all the comments and then he could submit them to the Town Board.

The Board agreed to submit comments and then have them collected to be sent to the Town Board.

Mr. Leonard asked that the comments be submitted to him within the next week.

Miscellaneous

- **CAB Meeting Schedule**

Mr. Leonard stated that the Conservation Advisory Board would not be meeting in August. He said that he would like the Planning Board members to consider whether the Planning Board should plan to meet or not also in August. He said that barring any real need to meet in August, they could discuss it next month and decide.

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Adjourn

Neal Zuckerman made a motion to adjourn the meeting. Ms. Conner seconded the motion. The meeting ended at 9:05 p.m. The vote was as follows:

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

Respectfully submitted,

Ann M. Gallagher

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

Approved: _____