

Philipstown Planning Board  
Meeting Minutes  
September 18, 2014

The Philipstown Planning Board held its regular monthly meeting on Thursday, September 18, 2014 at the Butterfield Library in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

- Present: Anthony Merante, Chairman  
Kim Conner  
Joseph Giachinta  
David Hardy  
Neal Zuckerman  
Steve Gaba, Counsel  
Ron Gainer, Engineer
- Absent: Pat Sexton  
Mary Ellen Finger

**Approval of Minutes**

- June 19, 2014

Mr. Giachinta made a motion to adopt the minutes. Mr. Hardy seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Neal Zuckerman	-	In favor
Pat Sexton	-	Absent

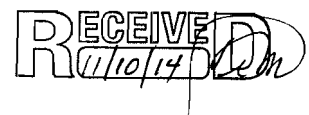
**Correspondence**

- Letter regarding Olspan, LLC Negative Declaration. Mr. Merante said that there was an additional fee of \$250.00 for review of the permit application.

**Public Hearing**

**Auth (Steve and Sandra) – Site plan application – 279 Route 9, Cold Spring: Discussion**

Mr. Delano stated that the plans now incorporate the new alignment discussed at the site visit and everything else had been revised in the plans accordingly. He said that driveway access will come in off of Route 301, which they will need NYSDOT permit for and they have spoken with the permit agent. He said that they have submitted an application, received communication on Monday, responded, and submitted to the DOT today. He referred to the plan and said that the driveway would wind around the bend up the hill at a 14% maximum grade and they'll have stone lined gutters all the way down both sides to handle the drainage. He said that there would be one piece of wall that will not exceed six feet in height. Mr. Delano said that there was a detail on the plan for that and they've submitted the calculations to the Town Engineer. He said that they would be able to get some water from a lap pool proposed behind the building, which would be piped under the building. They'd have a pair of basins to shut some of the water off so they don't inundate Route 301. He said that further down the driveway they have a turnaround



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area, which is required by fire code because of the excessive length of the driveway. Mr. Delano said that the steep slopes are indicated on the map. He said that there is a little steep slope disturbance and pointed it out on the plan, but stated that that disturbance is permitted under the code if it involves the construction of an access from the public highway to the residence on the property. Mr. Delano pointed out the sanitary system. He said that he believed they have responded individually – item by item, to the Board’s engineers’ comments and have not received any additional comments. Mr. Delano said that they did get a draft SEQRA determination and draft Resolution in an email today and had a couple of questions on them.

Mr. Gainer said that the revised plans submitted address issues raised during the site walk and prior technical concerns. He said that it is his understanding it addresses Fire Department desires for fire protection. Mr. Gainer said that they were seeking confirmation of the satisfaction of the fire department with respect to the fire protection facilities shown, and his hope and expectation was that they provide some documentation tonight.

Mr. Delano said that they have not received, to his knowledge, anything in writing. He said that he believed there was a representative from the Fire Company present and did not know if he cared to share with them the satisfaction with the plan, but they’re hopeful that he may be commit to writing it to the Board for the record sometime in the very near future.

Ms. Conner said that her only question had to do with the lighting. She said that since this is fairly high up and knowing that there is a plan to light the house, they would consider it being sort of down-lighted at the pathway.

Mr. Delano said that the lighting proposed is low wattage lighting - it goes in the ground, has a joint on it, which can be tipped up and light up the base of the house, or keep them down and keep the light low around the ground.

The Board opened the hearing to the public.

A neighbor introduced himself (inaudible) and his wife, Martha and stated they only lived there a little over a year. He asked if the proposed well would have any impact on the water table on their property or the property behind them and if there was any precedent for water levels dropping.

Mr. Delano said that the Health Department approved the septic system and the well and the presumption was that a well of residential (inaudible) in nature will not have an adverse impact on any of the surrounding wells. He said that there is no pre-drill testing required to confirm that because it’s a single lot proposal. Mr. Delano said that if this were a multiple lot subdivision – depending on the number of lots, there would be a requirement to drill a certain amount of

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test wells to see if water was available for that project and if there was an impact on any of the adjoining properties.

Mr. Merante asked if there was not a requirement with the distant separation from property line between wells and between septics.

Mr. Delano said that there are separation requirements from the Health Department between septic systems and wells – everybody's. He said that there is no separation requirement between wells. Mr. Delano said that their experience with the Health Department is, if they can move them further apart before they approve, then they ask them to move them further apart.

Mr. John Massick, introduced himself and stated he would be a future neighbor. He said that he, too, was wondering about the lighting also and what the impact might be. Mr. Massick said that it is high up on the hill and doubted they'd be able to see anything through the woods. He said that he was wondering what the setback is from the road and if this is zoned for single-home residential and if it can be subdivided in the future. Mr. Massick asked if there would be any blasting during construction at all.

Mr. Delano said that the house is set back in excess of four hundred feet from the opposite side of Route 9. He said that this is zoned for ten acres – RC (Residential Conservation). Mr. Delano said that they have just over ten acres and the lot cannot be subdivided and is zoned for residential purposes. He said that with regard to blasting, Mr. Auth himself is in the site development business and has a personal inspection of the route along the way and does not anticipate significant amounts of blasting being required to get through this portion of the project.

A gentleman (unidentified), residing at 44 Country Hill Lane, said that they mentioned blasting and the potential for blasting. He said that if there is blasting, they mentioned they would need permits, etc.

Mr. Delano said absolutely – permits are required.

The gentleman asked if there would be any contingency if something were to go wrong with any of the blasting that could potentially affect the surrounding area.

Mr. Delano said that's why God made insurance. He said that all blasters are licensed and required to carry adequate levels of insurance.

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Mr. Auth said that as far as blasting, the house is going to be a ranch house, so there will be no basement and there will be no blasting involved. He said that as far as the driveway, he did not see any blasting required.

Mr. Gainer said that anticipating that the Board may choose to move the project forward, he had given draft Resolutions for SEQRA Declaration as well as draft site plan approval Resolution. The few additional technical items that he did not see resolved on plan, he had identified as conditions of that approval that are listed in Item 2, A. He said with that caveat, he thought the Resolution could be considered by the Board tonight.

Mr. Merante asked for comment from the Fire Department representative.

Mr. Hyatt said that he sent an email to Mr. Merante, the secretary and Chris Rainer, but apparently, they didn't get it yet. He said that he met with the Auths probably at the beginning of August and they sat down and went over the plans. Mr. Hyatt said that he basically told them his requirements for this would be a blacktopped driveway (for safety reasons alone), the pull-off so they could turn the fire truck around midway if they had to, enough room up top, and he wanted at least a 20,000 gallon water tank storage – either a tank or an in-ground pool, which they're going to be doing with a lap pool. So they basically met what he would require for safe fire fighting up there.

Mr. Merante asked if the so-called turnaround was big enough for a truck.

Mr. Hyatt said yeah.

Mr. Delano said that it's in compliance with the State fire code.

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

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Mr. Gainer presented the Negative Declaration.

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Mr. Delano asked the Board to go to the first “WHEREAS”, second line – starts...”Board for site plan approval...”, and insert the word “minor” between “for” and “site”, so it would read “minor site plan approval”.

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

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Mr. Gainer presented the Resolution. He stated that they have standard conditions that the Board typically applies to such conditional approvals and again, the first portion of Item 2 in the approval section on page 2 identifies a few technical concerns that were addressed on the plans prior to the Chair’s endorsement.

Mr. Delano asked the Board to refer to the first page, second “WHEREAS”, second line, reads “Town of Philipstown by Steven and Sandra Auth for site plan approval”. He said that he would like to insert the word “minor” before “site plan approval”. Mr. Delano said, and the list of drawings – the last revision date of the plans that were submitted was actually September 4<sup>th</sup>. He said that on page 2, under item 2A, fourth bullet – “compliance to site plan requirement...”, he said that requirement is discretionary on behalf of the Planning Board and they would ask on behalf of the applicants that they not be required at this point in time to submit any further detail or level of information concerning the home. Mr. Delano said that he was sure they were really not exactly sure what it is that they want to build just yet. He said that they’ve given the Board an idea of the color of the structure at a previous submission, the roof colors that they like, a floor plan layout of the current building and an elevation of the current building in the front.

Mr. Gainer said that at the site walk, the Board does recall it raised issues over visibility and that evidenced itself in the issue over lighting. He said that they also discussed the very issue of building colors and materials, should that become a visibility issue, so that was the reason that condition is inserted in the Resolution.

Mr. Merante asked Mr. Gainer if he said this was discretionary.

Mr. Gainer said that it is – it’s a condition that the Board often applies to such projects and maybe the Board could make it generic enough if it wished it to be included to merely identify

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it as being earth tone, etc., and that allows the Board to move it forward and doesn't overly encumber the applicant and satisfies the Board concern.

Mr. Delano said that previous colors samples had been submitted by Sandra Auth and not Steve Auth, but if the Board feels comfortable, maybe it could include reference to those previously submitted colors and make sure the Building Inspector is guided by those colors in the file.

Mr. Giachinta said that was going to be his suggestion...earth tones – and then when they go in for their building permit, if they want to submit the exact materials that they're using, they can do that.

Mr. Auth said that the colors are going to be all natural. He said that it's a one-story ranch, and the highest peak on the house is 18 feet, so in no way will it be visible.

Ms. Conner said that you will be able to see it from further down from Route 301.

Mr. Gaba said that they are asking an awful lot to have the Building Inspector sift through the Planning Board file and figure it out. He said that he thought if the Board changed the fourth bullet point – to read something along the lines of – “to comply with site plan requirements, a statement shall be provided for the Board's records, which states in general terms the types of materials and colors of exterior finishes to be utilized”, that piece of paper in the file which can be referenced later on would satisfy it.

Mr. Merante asked that Mr. Gainer draw up the Resolution with the changes in it and the Board would go ahead and approve as amended.

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

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

**Regular Meeting**

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**Obert R. Wood III – Site plan application – 316 Old West Point Road, Garrison:  
Resolution**

Mr. Gainer said that on June 29<sup>th</sup>, the Board conducted a site visit on the property. July 22, the Board held and closed the public hearing on the matter. Various issues were identified for the applicant to address and future plan submittals. Mr. Gainer said that he thought the applicant only recently had submitted revised plans. He said that he provided a draft SEQRA Declaration and draft Approving Resolution and the draft Resolution identifies the technical issues he knew were outstanding.

Mr. Delano asked if the Chairman if they would please insert the word “minor” on the site plan – Line 2 at the top.

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

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Mr. Merante asked Mr. Delano about the “minors” in the Resolution.

Mr. Delano asked that they insert the word “minor” in the second “WHEREAS”, second line.

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

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

**Scanga Realty, LLC – Amended site plan (Lot 4) – Lady Blue Devils Lane, Cold Spring:  
Request for extension**

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Ms. Jamie McNiff introduced herself to the Board. She said that back in 2010, they had received site plan approval for Lots three and four, Scanga Realty. Ms. McNiff said that they received an extension for one year to address the Resolution at that time and then submit it for the Chairman's signature, which they did receive in June of 2012. She said that since then, Mr. Scanga has been waiting to start construction and submitted a building permit this Spring. Ms. McNiff said that they received their wetlands disturbance permit and they have coverage for the SWPP under SPEDIES permit. She said that he has not gotten his building permit yet because Mr. Donahue told him his approval expired back in June. So they're looking for an extension so that he can get his building permit issued.

Mr. Gaba said that under the new code, which this particular provision of it would be applicable because they have an existing permit and there's nothing about grandfathering or not being able to utilize the new provision in the new code. He said that they got their site plan signed in June of 2014. Under the new code, they have two years to get their building permits and if they don't get them within two years the site plan will expire. Mr. Gaba said that there is a provision in the new code which says the Board can grant six-month extensions for site plans. He said that this predates new code and predates his being there and has traditionally applied procedure under which if an application for an extension is made within the extension period, the Board would retroactively grant the extension. So, they are applying now instead of in June, the Board gives them a six-month approval, which gives them four more months, which brings it to December.

Mr. Zuckerman asked if any circumstances have changed.

Ms. McNiff said that the applicant is currently under construction. She said that they're ready to go and waiting for the Inspector to issue the building permit.

Mr. Zuckerman made a motion to grant an extension for the amended site plan approval. Ms. Conner seconded the motion. The extension would be six months from June 15th. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

**Burstein – Minor site plan application – 52 Lane Gate Road, Cold Spring: New submission**  
Mr. Delano said that the Bursteins' desire is to build an addition to the existing home on Lane Gate Road. He said that the existing home is just over 2000 square feet and it is in an RC zone,



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which requires ten acres. The lot is only 2.3 acres. Mr. Delano said that the front yard setbacks are substandard for the RC zone – they are preexisting, non-conforming, so they don't believe it's technically an issue. He said that the new additional is also an SPO overlay, which extends 250 feet into the property, so the entire proposal is consumed by the SPO. Mr. Delano presented the plan to the Board and stated that it was a 1277 square foot addition, which puts the total house footprint over 3000 square feet, which requires them to come before the Planning Board for a minor site plan approval because of the zoning district they're in. Mr. Delano pointed out the hundred foot setback (from the wetlands and watercourses). He said that the drainage is proposed to be collected and directed to a vegetative swale, which would act more like a rain garden. Mr. Delano said that the Conservation Board decided to approve a wetland permit in connection with the construction. There were a couple of minor conditions imposed upon that which they need to address in order to activate the permit. Mr. Delano said that there are no disturbances proposed on any regulated steep slopes. He pointed out the only regulated steep slopes on the property to the Board, and said that it was outside of all the proposed construction. Mr. Delano said that he believed they clarified it was a minor application. He said that under SEQRA, there is an intention to possibly list this as an Unlisted Action and they would like to come back and have a conversation about that. Mr. Delano said that the SPO, while not shown on the existing condition plans, is in fact shown on the site plan. With regard to page 3 of the Engineer's memo, he said that it is a brand new septic system less than a year old. By today's standards, it's sized to accommodate three bedrooms. The existing home is two bedrooms. The addition is one bedroom. Mr. Delano said that in looking at the code, it requires them to show the septic and wells within 200 feet of the proposed structure. He said that really only gets them out into...the landfill gets them out into the pond and gets them into Luzurema Lane and the existence or lack of existence of those features was a matter that was address'ed when they got the Board of Health approval to put the septic system in. Mr. Delano said if need be, they could certainly add a note to the plan indicating the absence of those systems within 200 feet of the proposed construction. He said that the extent of site disturbances is noted on the plan and impervious surface area is in the calculation for the sizing of the vegetative swale on the erosion control plan. Mr. Delano distributed pictures of screening around the property. He said that it is highly vegetated and did not see any need to supplement that any further. Mr. Delano said that they submitted floor plans and building elevations, although not quite as detailed as Mr. Gainer would put down in his comment list, but again, both the lighting and detailed building plans are discretionary on the Planning Board's part in accordance with the Code and might be able to be waived. With regard to erosion control, they're looking for some additional silt fence. He said that it is already on their hit list, as it was a comment from the Conservation Board. Mr. Delano said that they would like for the Board to consider this being a Type II Action under SEQRA and not needing any further review. He said that if the Board didn't want that, they would ask the Board do an Uncoordinated Review, declare that there would be no adverse impact on the environment, not schedule a public hearing and grant a condition (tape ended).

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Mr. Gainer said that with respect to the technical concerns that were raised, simply a note on the plan to reference there's no well in existence within 200 feet is an appropriate note to add for clarity of the Board. He said that he raised questions as to lot area and front yard setbacks that he thought Mr. Gaba would respond to with further guidance from Mr. Delano. The idea of providing a construction sequence is always done for an erosion control plan. Mr. Gainer said that the point of it is simply acknowledge the timing of the installation, removal of those things and more importantly, how they'll be maintained and when they'll be cleared out – just for the sake of protecting the pond on the property, etc. Mr. Gainer said that the other thing is whether the Board may want to visit the site. He asked Mr. Delano with regard to the issue of the front yard setback along the town road that's measured from centerline of road.

Mr. Delano said that it's supposed to be measured from the center of the traveled way.

Mr. Gainer said that he would have to confirm.

Mr. Hardy asked if the setback was conforming for the old part of the house.

Mr. Gainer said no.

Mr. Hardy said, it is then for the proposed addition.

Mr. Gainer said if the applicant engineer's reading of the code is correct for the definition of the measurement of the front yard, which they could easily confirm.

Mr. Merante said that he would speak with the secretary and contact everyone with regard to the site visit. He asked Mr. Gainer where this would fall with regard to a Type 2 Action versus Unlisted.

Mr. Gainer said that his reading of SEQRA is that this would be deemed an Unlisted Action. He said that there is a provision for small, commercial structures to be deemed Type 2, but did not believe it applied to residential properties.

Mr. Gaba said that there is a provision in the code that adds Type 2 actions, but he did not look at it because he, too, thought this was an Unlisted Action. He said that he would take a look at it and get back with the Board. Mr. Gaba said that as a practical matter for the time being, if the Board should declare itself Lead Agency under SEQRA, and if as Lead Agency, the Board determines it's a Type 2, no harm, no foul. He said that there is an additional provision in the Town code regarding Type 2 Actions, but the Board can add to that as a municipal Board. Mr. Gaba said that he'd have to go back and check to see if this falls within that, but for tonight he would recommend to declare itself Lead Agency, hold off on typing SEQRA, and thought they

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needed a Conservation Board referral on this. He said that they could schedule a site visit later on.

Mr. Delano stated that the permit was approved and they have it. He said that they have a couple of minor conditions to take care of.

Mr. Giachinta made a motion that the Board declare itself Lead Agency. Mr. Zuckerman seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

**Adjourn**

Mr. Zuckerman made a motion to adjourn the meeting. Mr. Giachinta seconded the motion. The meeting ended at 9:30 p.m. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Joseph Giachinta	-	In favor
David Hardy	-	In favor
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.

Date approved: \_\_\_\_\_