

Town of Washington Planning Board Meeting Minutes

October 2, 2007

The monthly meeting and public hearing of the Town of Washington Planning Board was held on October 2, 2007, at the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Robert Alley, Donald Hanson, Matthew Rochfort, James Shequine, and consultant Neil Wilson. Absent: Chairman, Thomas Beaumont, Richard Steller.

A discussion regarding the Pfisterer/Lahey special permit application took place prior to the meeting being called to order, while waiting for board member Alley. Matthew Pfisterer appeared before the board at the request of consultant Wilson. Consultant Wilson related that this application does not appear on the agenda, but he has been in touch with Jennifer Lahey, Mr. Pfisterer's sister-in-law about this application. The application was discussed at the September 4th meeting that is for the conversion of an existing garage into an accessory apartment. It was realized during the application review that the Town of Washington did not have any record of the building permit for the garage. The Town of Clinton has a record of the building permit for the garage, because they issued the permit. An e-mail exchange between consultant Wilson and Bob Fennell, Town of Clinton Building Inspector, acknowledged that there is a building permit on file. Town of Washington Building Inspector, James Tyger has been out to the site to look at the garage; the Town of Washington assessor is now aware that there is an improvement on that end of the property. The two townships will work that out.

Consultant Wilson said, while in touch with Jennifer Lahey, he has learned that an engineer has been retained to help them work through the questions the planning board had on the water and septic system. At present, regarding the garage, there appears to have been a good faith effort made to comply with the building code to obtain a building permit; the Pfisterer's just went to the wrong town for the permit. The existing garage was built in 1984. The issue for the planning board is that the garage does not meet the rear end side yard setbacks for the Town of Washington. Consultant Wilson assumes that these setbacks were met for the Town of Clinton at the time the building permit was issued. Had the garage been properly permitted by the Town of Washington in 1984, the town was operating under a different set of rules. There was a provision in the old code that allowed for accessory structures to be placed within ten feet of property lines. There was a similar provision in the 1989 code that subsequently was amended. Presently, the existing garage exceeds the six hundred square foot maximum to be able to be placed within ten feet of the property line; it is over 1,400 square feet so the required side yard and rear yard setback standards need to be met. This application is now directed to the Zoning Board of Appeals for area variances relief to legalize the structure. It appears that a mistake was made. Consultant Wilson has talked with Rebecca Valk, VanDeWater and VanDeWater, who was acting town attorney while John Gifford was on vacation. ZBA Chairman, Roeller was also notified of the pending application. Once this application has been legalized, the planning board can continue to process the special permit application.

Mr. Pfisterer said that Michael Gillespie, engineer, is to review the site on October 5th.

Mr. Pfisterer was given a ZBA application package for the November meeting appearance.

The following correction is made to the Mabbettsville Gas Station and Convenience Store (Sebastian Burnett) 3820 Route 44, Mabbettsville, site plan application on September 4, 2007 meeting minutes, page 1, paragraph 6, line 4, (the Board was subsequently advised that the original statement was inaccurate and is to read): since Mr. Burnett has had no control over this discontinued use, the town is allowing Mabbettsville Gas Station & Convenience Store continued operation, the Store is a legal non-conforming use. As a legal non-conforming use, the Store has the right to continue in operation until such time as the use is discontinued, as provided for within Section 391 (5) of the Town of Washington Zoning Law.

The meeting was called to order by acting chairman Donald Hanson at 7:45 P.M. when board member Alley entered the meeting.

The application request of Hurley Site Plan (Mary and Francis Hurley) 54 State Route 343, is for the construction of a 20'x14' deck. A area variance was granted by the ZBA on 9/18/07. The property is zoned RH 1.

Dutchess County Tax Map Grid No.: 6764-01-345684

Francis Hurley appeared before the board.

A brief review of the Zoning Board of Appeals, September 18th meeting minutes and the site plan map followed.

A motion to waive the public hearing, accept the ZBA ruling, and grant site plan approval to the Hurley site plan application was made by board member Hanson, and seconded by board member Shequine. 4 ayes, 2 absent.

The application request of Tina S. Rechner, 170 Jameson Hill Road, is for the construction of a 24'x30' detached garage. Area variances were granted by the ZBA on 9/18/07. The property is zoned RR 10.

Dutchess County Tax Map Grid No.: 6566-00-891818

Tina Rechner, and partner, appeared before the board. Ms. Rechner presented an aerial photo for the board's review. A brief review of the Zoning Board of Appeals, September 18th meeting minutes and the site plan map followed. The proposed garage is two bays, a Salt Box style to

Page 2

match the existing house. The proposed garage is on the driveway side, cannot be located on the other side of the house because there is a 6 ft. bank and a very large Oak tree. The row of bushes

was pointed out on the aerial photo that keeps a nice shield from the road. Two trees will need to be removed to put the garage in place. Six foot high Junipers were also pointed out on the aerial photo.

Acting chairman Hanson questioned if there is a site distance problem with the Junipers? The Junipers are not carried out to the road. Chairman Hanson questioned if there were any public comments when the application was presented to the ZBA? No one appeared from the public.

A motion to waive the public hearing, accept the ZBA ruling, and grant site plan approval to the Rechner site plan application was made by board member Alley, and seconded by board member Rochfort. 4 ayes, 2 absent.

The application of McNulty Subdivision and Site Plan (Barbara A. McNulty) 72 Old Coach Lane, east side of North Mabbettsville Road, 2000' northerly of NYS Route 44 is for subdivision of 65.50 acres into two (2) residential parcels: Lot #1=39.37 acres, Lot #2= 26.13 acres. The property is zoned RR 10. Area Variances were granted by the ZBA on 9/18/07.

Dutchess County Tax Map Grid No.: 6865-00-395568

Harry Bly, L.S., Bly & Houston LLP, and Barbara A. McNulty, owner, appeared before the board.

Mr. Bly related that conceptual approval has been granted by the DOT for the driveway; a copy of the Dutchess County Department of Public Works letter granting conceptual approval for the driveways on CR 89 which will serve each newly created parcel dated September 27, 2007 is on file. Mr. Bly gave a brief review of the application at the request of acting chairman Hanson.

A motion to open the McNulty Subdivision public hearing was made by board member Alley, and seconded by board member Shequine. 4 ayes, 2 absent.

There were no comments from the public.

A motion to close the McNulty Subdivision public hearing was made by board member Alley, and seconded by board member Shequine. 4 ayes, 2 absent.

A motion to declare the McNulty Subdivision a Negative Declaration Finding of No Significant Impact to the Environment was made by board member Shequine, and seconded by board member Rochfort. 4 ayes, 2 absent.

Page 3

A motion to grant the McNulty Subdivision Preliminary Approval was made by board member Shequine, and seconded by board member Rochfort. 4 ayes, 2 absent.

A motion to grant the McNulty Subdivision Final Approval was made by board member Alley, and seconded by board member Shequine. 4 ayes, 2 absent.

Chairman Beaumont will sign the maps and Mylar at a later date. Mr. Bly is to submit two signed copies for the planning board file.

Fee Status: Application Fee	\$500.00
Fee Per New Lot	200.00
Recreation Fee per New Lot	2,000.00
Escrow Fee	300.00
Total Paid	\$3,000.00

The Foxe Special Permit (Thomas Timothy Foxe) 702 Route 343 application request is for special permit approval for the two-car garage and one-room apartment as an accessory residence. The property is zoned RR 10.

Jeffrey A. Giardina, Esq., Millerton Square, Millerton, NY appeared before the board representing the applicant.

At their workshop on September 25th to which Mr. Giardina was present, the board requested that the turnouts to the driveway be shown on the map; Fire Chief Hawks is to review where these turnouts should be located. A copy of the map was given to fire company President, Matthew Rochfort. The 17% driveway grade is to be changed to 12%.

Mr. Giardina presented the revised map showing the finished loop in the lower part of the driveway, so that vehicles can pull off and go around. There is a grassy area in the upper part of the driveway where vehicles can pull off. There are three areas in the upper section where the vehicles can pull off; one is the driveway for the cottage, the grassy area, and the loop before the house. Review of the revision by the board, consultant Wilson, and Mr. Giardina followed. Consultant Wilson questioned Mr. Giardina if these are already in place? Mr. Giardina expressed that the house is not quite finished. The LP tank, the SDS, wells, are all in place. Consultant Wilson questioned if the board is being asked to treat the survey of the property which sets out the existing conditions and improvements as a site plan. Mr. Giardina responded affirmatively.

Board member and fire company president, Matthew Rochfort related that he and fire chief Hawks visited the Site yesterday, and found the driveway to be very, very, steep.

Page 4

Mr. Giardina expressed that this is not a finished driveway and would be re-graded. Board member Hanson said that he also visited the site, and suggested that Rodney Morrison, P.E., town engineer, or Mark Graminski, visit the site to review the driveway conditions, and said that there are a lot of curves, wash outs, descending on the right side of the driveway, heavy erosion

that was one and one-half foot down, and two to three feet wide. There is a great deal of water coming off that, where it is going, he has no idea. It appears from the aerial photo that the driveway is just following the existing logging road. Consultant Wilson questioned if it looked like there was erosion occurring along the length of the driveway? Board member Hanson pointed out the location on the survey map, and on one side of the west side of the driveway. Consultant Wilson asked if that is roughly where it breaks out of the woods and comes out into the open? Board member Hanson questioned Mr. Giardina if he has visited the site? Mr. Giardina said he has been there several times and commented that the driveway is at least 5 ½ years old and at some point needs to be rebuilt. Board member Hanson remarked that it is the board's job to make sure that these are corrected. Mr. Giardina remarked that the driveway is being maintained, is being worked on periodically. Board member Hanson expressed that Mr. Foxe may maintain the running surface, but questions if the driveway on either side is being maintained.

Consultant Wilson expressed that the evaluation of the Millbrook fire department note states that, "in its present condition, we do not believe apparatus can access the driveway" which was evaluated on September 30th. There is an issue which needs to be further examined. Board member Shequine expressed that, ordinarily, the board would expect that an engineer be engaged to get to the required 12 % grade level. Reference was made by board member Hanson to the McTaggart application which had a similar issue. Consultant Wilson said that he and Rodney Morrison will review the driveway, and will telephone Mr. Giardina when this will occur so that he can advise his client. Consultant Wilson expressed that Rodney will come back with recommendations which will probably mirror some of the comments made tonight by board members. Mr. Giardina remarked that there are only a few small areas where the driveway exceeds 12 %. Mr. Giardina remarked except for the lower field the area is heavily wooded. Board member Hanson emphasized that the water is coming from somewhere, creating these heavy duty washouts on the edge of the road. Consultant Wilson requested two copies of the revised maps, one map will be given to town engineer, Rodney Morrison for the site visit.

A motion to open the Foxe special permit public hearing was made by board member Alley, and seconded by board member Shequine. 4 ayes, 2 absent.

Paul H. Schwartz, DVM, 1316 Chestnut Ridge Road, adjoining neighbor, immediately to the east, addressed the board and spoke to the negatives of the application. Dr. Schwartz apologized to the board for the form that this has to be presented. Some might see this as self serving, to a certain extent, it is, some might consider this vengeful, "be assured, it is not." Dr. Schwartz said he finds that the "application of the town code is at best arbitrary, and at worst, capricious." He has dealt with the building department regarding two properties, one being the Mancino property, the other, the Foxe property, and finds that the Code as written is not followed. Letters that have

been written have been responded to with a verbal "you are not in the ballpark." Giving the

Page 5

board a little history, said, when Mr. Mancino, adjoining neighbor, decided to expand his pre-existing, non-conforming project, the house exceeded 25% of the footprint, which Dr. Schwartz said he brought to the attention of the building department in writing. The response by the building department was that the town attorney felt that what was done was appropriate and

acceptable. In the case of the Foxe property, the fact that a building permit was issued; Dr. Schwartz said he similarly addressed the building department and said, 1) a permit should not be issued for an accessory structure, a secondary structure, until there have been planning board approval 2) that the driveway exceeded the permitted grade, therefore even though his complaint many years prior about the driveway being accessibly steep, was ignored, was now being ignored again 3) Dr. Schwartz' biggest issue is that ever since there has been construction on the Foxe property all of the water that the board is wondering about ends up, ends up on his property. Dr. Schwartz has lived there for eleven years, prior to any alterations on the Foxe property, he never had water issues. Ever since Mr. Foxe started altering the property, there is water running onto Dr. Schwartz' property. There is a seasonal stream, when water runs into the seasonal stream, what happens is that it overflows the stream, and it crosses the lower driveway.

According to

Mr. Armstrong, that lower driveway has been there for at least fifty years and has never been a problem. Mr. Armstrong is no longer available, has retired, moved to Virginia; his indication was that prior to any work done on the Foxe property, there was never issues with the water crossing the lower driveway that washes out Dr. Schwartz' driveway. The field that the board is quite familiar with on Route 343, was always a productive field. What is now happening is that water is washing out the driveway, running across the small barrier, and flooding the field which in the case of this past winter, is flooding the new driveway that Dr. Schwartz has put in which was engineered to handle the water. The water that is coming off the hill, whether it is because of trees cut down, or change in pitch, it is all ending up on Dr. Schwartz' property. This too, was brought to the attention of the building department before the structure was built, and again was told that you have no reason to complain, there is nothing that we can do about it, and we are sorry.

Dr. Schwartz said that his biggest issue is that there needs to be a means without getting to this present stage, of bringing these issues to light, so that things can be done appropriately. Since this is his neighbor, "there is a double edge sword" however the reality is that there is a direct affect on his property, that hasn't been there for at least fifty years prior according to Mr. Armstrong. It is a water issue, that has been brought to light relative to any construction on the Foxe property beforehand; that logging road was not pre-existing, the road was put in by Mr. Foxe. It was known before it was put in that there were issues with the grade. Dr. Schwartz said his feeling is that things should have been addressed in order. Now that things have not been addressed in order, going back to square one, it is Dr. Schwartz' understanding that before the Foxe building permit was issued, the planning board should have addressed whether two habitable structures could be on that land.

Mr. Giardina expressed that zoning permits two structures on the land. Dr. Schwartz said the zoning permits two structures because Mr. Foxe has the acreage, this is not the question. The question is does it require a special permit for an accessory structure. Mr. Giardina said, "yes it does." Consultant Wilson interjected that this is the whole purpose of this public hearing, with

Page 6

respect to the issues that Dr. Schwartz has raised, the planning board's engineer will visit the site, look at the driveway grades, make a recommendation to the board for modification as appropriate to ensure that the driveway standards are met across the entire length of the driveway, and whether water that is being sent offsite, that the structures are placed so as to

control the volume and rate of runoff. The whole standard is to ensure, particularly with development projects that come before the planning board, that the board does impose where necessary, requirements, to ensure that stormwater is managed so that pre-imposed volumes are equal, so that downstream flooding conditions are not being created after something has been built.

Consultant Wilson expressed that he is not going to get into the discussion of which came first, all that he is saying is that the planning board has the application now, and it is being reviewed in due course.

A motion to adjourn the Foxe special permit public hearing to the November 6th planning board meeting was made by board member Rochfort, and seconded by board member Alley. 4 ayes, 2 absent.

Fee Status: Special Permit application fee	\$400.00
Escrow Fee	300.00
Total Paid	\$700.00

The application request of JPN Ventures Site Plan (Christopher Lynch) Hammond Hill Road, is for the construction of a two and one-half story wood frame house. Area variances were granted by the ZBA on 9/18/07. The property is zoned RR 10.

Christopher Lynch, owner, appeared before the board.

Board member Hanson referred to the zoning board meeting minutes, and said that there were no comments from the public. Review of the site plan submitted followed by the board and consultant Wilson. Mr. Lynch said that he met with Town Highway Superintendent, Brownell, at the site for review of visibility, and access issues. Superintendent Brownell was okay with the review.

The board has not received Town Highway Superintendent, Brownell's written approval. **A motion to waive the JPN Ventures public hearing, accept the ZBA ruling, and grant site plan approval with the condition that written approval is received from Town Highway Superintendent, Brownell, was made by board member Shequine, and seconded by board member Rochfort. 4 ayes, 2 absent.**

Written approval from Town Highway Superintendent Brownell, was received subsequent to this meeting and is on file.

The application request of Zoellner Special Permit (Robert Zoellner) 141 Altamont Road, located at the corner of Altamont Road and Oak Summit Road is for the construction of a private stable, indoor riding arena, and two exterior riding arenas. The proposed stable replaces several existing deficient structures, including a barn, stable, tractor shed, and other small sheds. The

property is zoned RR 10.

James F. Vaeth, P.E., Senior Project Engineer, Zarecki & Associates, Pawling, NY, representing the applicants appeared before the board, presented a revised map, and architectural drawings requested by the board at their workshop to which Mr. Vaeth was present; an ariel photo of the property was presented for the board's review.

Board member Hanson questioned if the adjacent property owners are shown on the map that the board requested at their workshop? Since the adjacent property owners were shown on a separate map, the board requested that they be shown on the full scale map. Board member Hanson questioned the location of manure storage. Mr. Vaeth said it is to be located on the left side of the stable. The board requested that the following information be shown on the map: 1) label the manure storage location on the map 2) show the approximate location and label the wells and septic system 3) show dimensions of proposed structure on survey map.

Consultant Wilson expressed that on these types of applications, the board focuses on issues of water supply, location of proposed improvements in relation to the property boundaries, location of sewage (existing and proposed), and manure storage which are to be labeled on the map. Consultant Wilson said that given the size of some of these properties, it may be appropriate to grant waivers to some of the other information requirements that are normally expected to be seen on a regular site plan. Mr. Vaeth may want to consider that.

Consultant Wilson questioned if there are any streams on the property? Mr. Vaeth said there is a small stream that runs in the back of the property that was pointed out on the map.

Mr. Vaeth related that three (3) existing barns are to be removed, the private stables will consist of fourteen (14) stalls and a tack room. There are two existing wells, probably a 3rd well will need to be dug. Testing for water yield has not been done, the old test reported 4 gal/min. Mr. Vaeth said that the top soil will stay on the site. The total property acreage is 24 acres, to which there will be 6.5 acres of disturbance.

Board member Shequine questioned Mr. Vaeth if there are people facilities in the proposed stable? Mr. Vaeth said there is an office with private bathroom, and a small one-half bath.

A copy of the map was given to consultant Wilson who will submit the map and a 239M form to the County for review.

Lori Zoellner, owner, who is present, spoke to the application being for a private stable.

A public hearing is scheduled for November 6, 2007.

Page 8

Fee Status: Special Permit Application fee	\$400.00
Escrow fee	300.00
Total Paid	\$700.00

A Resolution to change the number of Application Submissions on Town of Washington Planning Board Application Forms and Description of Procedures, page 1, 3)a, i from Original and ten (10) copies of the completed application forms with supporting affidavits, to four (4) copies of the completed application forms with supporting affidavits, was adopted by the board by a unanimous vote.

A motion to adjourn the meeting was made by board member Rochfort, and seconded by board member Shequine. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Nikki Caul, secretary

