

Town of Washington  
Planning Board

The monthly meeting and public hearing of the Town of Washington Planning Board was held on November 2, 2010 at the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Chairman, Josh Mackey, Donald Hanson, Ted Jorgensen, Matthew Rochfort, James Shequine, Lisa Schwartz, Paul Schwartz, consultant Neil Wilson.

Chairman, Mackey opened the meeting at 7:30 P.M. with the Pledge of Allegiance, introduced, welcomed, two new board members, Lisa Schwartz, Paul Schwartz.

**A motion to approve the October 5, 2010 meeting minutes as submitted was made by board member Hanson, seconded by board member Jorgensen. 5 ayes.**

The application request of Leith Fisher-Pink Coat, 3717 Route 44, Mabbettsville is for a special permit to operate an antique store offering decorating services. Previously submitted to the board were completed Combined Application Form, Short Environmental Assessment Form, copy of map prepared by Dutchess County Real Property Tax Service Agency GIS Department, copy of property deed, colored photos of current outdoor display.

**Dutchess County Tax Map Grid No: 6865-03-387430**

Leith Fisher, Pink Coat owner appeared before the board.

Chairman, Mackey remarked that Zoning Administrator, Neubauer visited the site to talk about the business being a nonconforming use, also checked the outdoor display.

Mrs. Fisher described her business operation as an antique store on four acres of residential property, the antiques are located primarily in the barn, because of inventory and the decorating shop she has opened the first floor of the house as well. Outdoor items are displayed in the front of the house to make it known that there is a high end antique store in the barn.

Board member Jorgensen remarked in that area there are a number of businesses that have signs, questioned the outdoor display. Mrs. Fisher said she would like the option to have the outdoor display on occasion. Consultant Wilson said that the board can authorize the outdoor display as long as it is acknowledged in the application, showing the location of the outdoor display. Said, the board for a site plan review traditionally asks for a survey of the site, however, on occasion waives the need for a full survey if the applicant is using the site as it exists and the board is satisfied that the applicant as in this case has submitted photographic information documented.

Board member Hanson questioned if applicant has discussed the current sign with Building Inspector, Jack Neubauer? Mrs. Fisher said she spoke to Mr. Neubauer, there is no concern about

the sign and sandwich board. Said, the sign is set on a tree that is so far back from the road there is no visibility, if she didn't have the sandwich board there it would be as if there were no signage at all.

Board member Hanson questioned if applicant requires DOT approval since she is applying for a commercial/retail permit? Consultant Wilson said his recollection is that the site has historically been used for some sort of antiques sale, would probably not need approval because of the long term use. Also to consider that when the DOT becomes involved the driveway issues becomes very commercial, does not think DOT approval is required.

Chairman, Mackey questioned Mrs. Fisher if she owns the property or is renting? Mrs. Fisher said she is renting with the option to buy.

Board member Hanson questioned the amount of traffic that will be generated with this application? Mrs. Fisher said it varies, fifteen cars is max, few persons at one time.

Board member Jorgensen referred to the outdoor display, helping a customer locate the business; when having an outdoor display you are calling in, testing, via retail traffic, there is a different order of retail business, feels the board should go slowly in easily approving a sign that is seen in that area as in British Sporting Goods. There are different grades of retail, thinks the board is being asked for something that is not in the area, may not be appropriate for the traffic flow, may not be appropriate to the access of this property, is an unusual step. Chairman, Mackey remarked that this is something that the board may want to condition in the issuance of the special permit. Mrs. Fisher said she would be agreeable, would like the option to on occasion have an outdoor display, a Christmas display, etc. Board member Jorgensen expressed, "it's a different animal to bring in passer-by traffic, to what is essentially a home occupation." Questioned, how does the board condition the special permit, how many tents when are up, how many pieces on the lawn? Said, its not how many tents or how many pieces. The other businesses seen are doctors, sporting goods; the sign helps you locate where you are going, it doesn't pull retail traffic off the road, retail traffic off the road is a different thing. Chairman, Mackey remarked that there is an example of this in Washington Hollow, referred to the bottle shop across from the Getty gas station, people pulling alongside the road, can be hazardous. Board member Jorgensen questioned when asking for a special permit how you describe the display? Said, in the grade of retail applications this is "pushing what is in Mabbettsville." Consultant Wilson spoke to special permit conditions, said you limit the size of the display area and the number. If the applicant has something that could accommodate her business use but would not overwhelm the highway, would limit according to the size and the area of the location on the site. Applicant Fisher said one of the photos she submitted is a very small display, would be willing to use that, would be appropriate, thinks its subtle. Review of the set of color photos submitted followed by the board.

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Chairman, Mackey remarked that he and board member Paul Schwartz questioned if this application is a continued nonconforming use under Zoning section 391? Consultant Wilson said he doesn't have any information when the prior antique shop was in operation. Said,

the use is a permitted use, once the applicant has the special permit it is no longer a nonconforming use.

Board member Shequine described the prior business located on the site, Mr. and Mrs. Eggleston as having antiques inside the house, that were never brought outside, on occasion in the barn, the barn in those days was really a shop that had all kinds of equipment to repair furniture and carpenter repair, Mr. Eggleston being an excellent carpenter. Chairman, Mackey questioned applicant if there is a time gap between her business and the former business? Mrs. Fisher said there is at least a four year gap.

Board member Jorgensen remarked that there should be a way to say that there is a sign plus specimen pieces around the sign that are taken in each night, commented it is not like a yard sale tent, they are just a couple of specimen pieces around a sign. Board member Hanson agreed with consultant Wilson, board member Jorgensen recommendation to have the sign, the board can determine the number of pieces, maybe four, allowed in a specific area. Mrs. Fisher presented the photo display that was most appropriate. Chairman, Mackey commented that the board will determine a size that makes sense. Mrs. Fisher remarked that it is important to establish that her business is a high end antique store. Board member Hanson remarked that the board is not trying to discourage the business, is seeing that it is in keeping with the neighborhood, the surroundings. Board member Shequine spoke to the McLaughlin clothing store across the road having a nationally known name, has a garage in the rear that houses his clothing store, people driving by spot the sign, store, very quickly. Board member Jorgensen expressed, there is no doubt it's a retail area, what is on the street is identification, there is no merchandising on the street. Board member Hanson questioned about a site visit to check on the amount of space utilized for the sign and display. Chairman, Mackey referred to DOT regulations. Consultant Wilson said the DOT regulation is ten feet from the right-of-way, not from the edge of the pavement. Mrs. Fisher commented that the sign sits so far back from the road that it is difficult to be seen, particularly during the summer months, having the pink coat sandwich board up front remedies the situation.

The board requested applicant to submit a drawing of the proposed sign with dimensions for the November 30<sup>th</sup> workshop, is also to obtain approval from Building Inspector, Neubauer.

A public hearing is scheduled for December 7, 2010.

Fee Status: application fee	\$400.00
escrow fee	250.00
Total due	\$650.00

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The board next discussed an opinion letter from attorney Richard I. Cantor, re proposed Wetlands & Watercourses Law on behalf of his client, Rob Dyson. Chairman, Mackey said he will scan the letter for board members to review. He has been sitting in on some of the meetings as a member at large of this committee, the board has given input over a year ago, some revisions were made based on that input, the process is continuing.

Chairman, Mackey requested Councilman Michael Murphy to bring the board up to date on the wetlands ordinance. Councilman Murphy explained that the public hearing is continuing, a workshop meeting of the committee will be held in early November, and another public hearing can be scheduled after that. The current open public hearing has allowed for written submission, Mr. Cantor, who has appeared for the last several public hearings, has verbalized for his client, this letter has been submitted and is being circulated. Said, Chairman, Mackey has been a member of the committee recently, also sits in as a member of the planning board. Because the public hearing remains open comments are allowed to be made. Board member Jorgensen questioned if the planning board will be asked to express an opinion? Councilman Murphy said individual members of the planning board have looked at the document with the slight revisions that have occurred over the last couple of public hearings, that document is public and is available for review by any board member. Chairman, Mackey can speak on behalf of the board or any citizen can make comment on the document itself.

Consultant Wilson referred to the proposed wetlands ordinance as an amendment of a section of the zoning law. The zoning law talks about a referral being made to the planning board for a report, recommendation, prior to the public hearing. The language of the zoning code doesn't say that the planning board gets forty five days, fifty days, thirty days, but does talk about a mandatory referral. About one year ago the planning board made a referral, but does not know if any of the current revision has been included in that referral.

Councilman Murphy expressed that the committee is trying to get to that point where the document in the view of the Town Board overseeing the public hearing has to make a decision of when to close the public hearing, just before doing that, will refer to the new materials, issues, presented.

All of the comments that the planning board has made over a year ago were taken into account, this is when Chairman, Mackey became involved. Tom Beaumont was involved in those revisions that were put in, particularly the scope of the document that helped channel through. The document is different looking than it was one or two years ago.

Chairman, Mackey encouraged planning board members to attend the wetlands ordinance public hearing. Said, he doesn't want to have an ad hoc wetlands committee deciding while the wetlands committee who has been working for years would then potentially further stall the process. Councilman Murphy expressed the document that is available now is the document that was looked at two public hearings ago, some definitions need to be tweaked, comment was received from the County that had to be incorporated into it. Over the last several revisions there have been very minor changes. The public hearing is still open because some issues on cost came up

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it was felt that the committee needed to meet one more time to discuss and address those, particularly some of the issues that attorney Cantor has brought up. These issues will be discussed at the upcoming wetlands workshop, may not trigger any more changes, but it can be on record that the committee met to discuss what was brought forward, then attorney for the Town, Rebecca Valk, will make those changes that need to be made.

Board member Shequine questioned Chairman, Mackey if he is satisfied that the recommendations sent in his letter are appropriately addressed? Said, the problem is with mitigation, this board is the one that gets involved with the mitigation, whether someone has a problem, how do you solve it. The historical position on this is not much, you may have to hire someone, go through a lot of cost. This is an area that he has always been concerned with for the ordinary land owner, is okay for the large property owner who has substantial wealth, is a minor problem, is not a problem for someone just farming because they don't have to abide by the law. If the modest person is facing twenty thousand dollars worth of mitigation expenses, he is concerned, feels the board should be concerned. Chairman, Mackey remarked that the board will again review this, discuss at the workshop. Councilman Murphy said this is one of the topics for the upcoming workshop. Chairman, Mackey said there were also comments about vernal pools, other definitions, small scale farming, not just business farming.

Frank Genova addressed the board, questioned when the planning board will issue another position statement? Chairman, Mackey said he does not know if the planning board is going to issue another position statement. Mr. Genova remarked that in light of board member Shequine's concern on mitigation he recommends issuing a position statement. Consultant Wilson remarked the board needs to see what is updated before the public hearing is closed, before anything is said. Chairman, Mackey said if there is anything more than what has already been said it is possible that the board may issue a second position statement if the board wants to do that.

Frank Genova questioned if this will involve the CAC? Chairman, Mackey remarked that Mr. Genova has said that the CAC is not going to participate with the board on this. Mr. Genova said as far as he is concerned, it is up to the CAC as a general body, he will not be in consultation on this issue in the sense that he will be determining for the client whether he accepts it or not. Chairman, Mackey questioned Councilman Murphy on the CAC involvement in the board's final review of the law? Mr. Genova expressed that the CAC is an advisory committee, not a regulatory committee, said the term vernal pools is still in the document. Chairman, Mackey remarked that we still do not have a separate definition for them, there is a wetlands definition that encompasses vernal pools. Mr. Genova said there is no definition for vernal pools, said one thing that was failed to mention is when you put a boarder around "a wetland" undefinable in the court of law, take a one hundred foot barrier around that, you are taking 1.6 acres for every one tenth of an acre that is defined as a vernal pool, you are taking somebody's land. Councilman Murphy stated that the committee can supply the data on the wetland ordinance document that is to be reviewed by the board as a group, have the planing board and the CAC review it again.

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Chairman, Mackey suggested that board members review the document, if there are any more comments bring those in at the next workshop to talk about them.

There being no further business a motion to adjourn the meeting was made by board member Hanson, seconded by board member Jorgensen. The meeting adjourned at 8:15 P.M.

Respectfully submitted,

Nikki Caul, secretary