

APPROVED

Town of Red Hook Planning Board Meeting Minutes April 2, 2007

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:40 p.m. and a quorum determined present for the conduct of business.

Members present — Sam Phelan, David Wright, John Hardeman, and Chair Christine Kane. Charles Laing, Jennifer Fier and Paul Telesca were absent.

BUSINESS SESSION

Christine Kane confirmed the evening's agenda. She then announced that Dutchess Land Conservancy would hold a breakfast meeting on April 23, 2007 at 7:30 a.m. The topic for the meeting would be 'The Community Preservation Act'.

Since there were not enough members present who had also attended the March 19, 2007 meeting, consideration of the minutes from that meeting was tabled.

PUBLIC HEARINGS

JAMS, LLC/Wolfson – Crestwood Road – Lot Line Alteration

Sam and Arlene Harkins were present for a continuation of the public hearing on an application for Lot Line Alteration to convey 4.75 acres from the 16.02-acre Lands of OAOA, LLC to the adjoining 1.00-acre Lands of Wolfson, in the RD3 Zoning District and partially in the Certified Agricultural District.

Christine Kane read a referral response, dated March 30, 2007, from the Agriculture and Open Space Advisory Committee. The response cited several reasons for not endorsing the project. Among those reasons were: that neither bringing an adjoining lot into conformance with zoning nor the adjoining landowner's need for additional land to install a swimming pool was a compelling reason for diminishing farmland; that note 8 on the original subdivision plat prohibited any further subdivision, regardless of whether an additional lot would be created, because it was the size of the originally created lots that was to be preserved as well as the number; that one of the objectives of the 2003 subdivision was to maintain an adequate distance between improvements and active agricultural land; and finally, that approval of the application would make both the JAMS lot and the Wolfson ineligible for the Town's conservation easement program for which the applicant had already applied.

Christine Kane then asked if there was any public comment.

Larry Thetford, a member of the Agriculture and Open Space Committee, said that a farm plan for the subdivision of the Fraleigh farm had been submitted in 2003, reviewed by the Planning Board and AOSC and accepted. He said he believed that the present Planning Board should hold to that plan.

Mary Ann Johnson, also a member of the AOSC, echoed Mr. Thetford's statement and said she could not understand how the Planning Board could consider this action in light of the 2003 agreement.

Christine Kane referred to the JAMS, LLC application for inclusion in the Town's conservation easement program. The Board then discussed whether the two parcels involved in this application would be eligible for that program, since, should the lot line alteration take place, neither parcel would contain the requisite ten (10) acres in addition to the three (3) acres required in the RD3 Zoning District. Some members believed that that additional ten (10) acre requirement was necessary only for the tax abatement program. Ms. Greig said that there was only one local law and one Town conservation easement program. She said that the ten (10) additional acres was a requirement of that program, whether the goal of the landowner was tax abatement for a specific time period or perpetual conservation easement.

Sam Phelan said that he agreed with Mr. Thetford that the 2003 Farmland Protection Plan had been agreed to by all parties, and he was loathe to undermine it. Still, he said, the fact remained that deed restrictions don't work and that this area needed one or more conservation easements. He said that he was concerned that this action could set a precedent for other sections of this subdivision or other similar subdivisions, and again he called for a conservation easement.

John Hardeman said that he didn't think that the size of that parcel should matter—if the Town felt a parcel was important, it should take the easement. In this case, the parcel was also part of a designated scenic viewshed, so the small size should not preclude it from receiving an easement.

Noting the AOSC's statement that the 2003 Farmland Protection Plan should not be overridden simply because Mr. Wolfson wanted to install a swimming pool that would extend into the land proposed to be transferred, some members said that the pool would be confined to a very small building envelope adjacent to the current Wolfson property line and that there would be an additional small building envelope for an agricultural building.

Sam Phelan repeated that the 2003 Farmland Protection Plan had been agreed to and must be conserved. He noted the sentence in the Keane & Beane opinion that said that the Planning Board should entertain the application only under extraordinary circumstances. He said that bringing the Wolfson property into compliance with zoning did not seem to him to be an extraordinary circumstance but that obtaining a conservation easement on both properties was a good enough reason for him.

Mr. Harkins said that the land trusts he had consulted had quoted him a cost of approximately \$5,000 to place an easement and that while he was agreeable to the easement, he would not pay that amount. He added that none of the land trusts seemed interested in easements on lots as small as these.

Some members of the Board wondered whether he could obtain a Town easement on the current 16-acre JAMS, LLC lot and then continue with the application for a lot line change or whether that action would negate the requirements of the Town easement law. The members determined that this was a question for the Town Attorney.

Michael Rohatyn, of 199 Feller-Newmark Road, said that while he was in favor of preserving the beauty of the area, he was concerned that a conservation easement would be passive and only conserve the picturesque. He said that he would rather see active agriculture than fallow ground.

Christine Kane said that Mr. Rohatyn had raised a good point because there are differences that must be taken into account when conserving open space vs. agricultural land. With this application, the Planning Board is trying to preserve both the scenic viewshed and the active agricultural land.

In a discussion about whether to issue a negative SEQR declaration, Sam Phelan said that a paragraph should be added about the concern for preserving agricultural land and that that same paragraph should include a requirement for the placement of a conservation easement. The members generally determined that an agreement about a conservation easement had not been reached.

Sam Phelan said that if there was no such agreement, the Board should not issue a negative SEQR declaration. He said that the placement of a conservation easement was the extraordinary event that would allow the Board to entertain the application at all. He said that while he was completely in favor of trying to minimize the cost of the easement to the applicant, that cost was not the Board's primary concern.

Some Board members discussed whether to simply include a paragraph in the neg dec saying that a conservation easement will be placed on the lands and then work out the details later. John Hardeman favored keeping the public hearing open, listening to a presentation by the three local land trusts at the April 16, 2007 meeting, and then, with possibly new information, attempting to reach an agreement. The members generally agreed.

The Board generally agreed to ask the Town Attorney two questions: first, whether the Town could accept a conservation easement when the "ten acres plus the lot" requirement for a term tax abatement easement was not reached or there would be no tax abatement, and second, if an applicant placed an easement on an entire parcel that met the extra land requirement, could he or she then proceed with a lot line alteration without negating the terms of the easement.

The public hearing was continued until April 16, 2007.

REGULAR SESSION (OLD BUSINESS)

Ulster Savings Bank – 7296 South Broadway – Site Plan

Architect David Souers and Terry Dodd from Ulster Savings Bank were present for a discussion of an application for Site Plan approval to establish a 4,235 sq. ft., one-story bank with associated drive up facilities, site improvements and landscaping, on a 1.604-acre parcel in the B2 Zoning District.

Michele Greig said that the plan and a Notice of Intent should have been circulated to the Village Water Board, since Village water may extend to the parcel in the future. She said it was not too late to do so.

Christine Kane said that the ZBA had agreed that the Planning Board should serve as lead agency for the SEQR review.

Christine Kane also said that representatives of Optimus Architecture and Ulster Savings Bank had met with Dutchess County Planning and that a new plan had grown out of the discussions. Mr. Souers said that when he had laid out senior planner John Clarke's sketch to scale, the double stacked parking element along the south side did not work, but all the other pieces did. Christine Kane said that the new plan created a secondary pedestrian business area, provided more room to the drive-up lanes and allowed more space in case cars became 'stacked'. She added that the plan allowed for an inter-site road connection as well as the possibility of an extension to Hannaford Road at some future time.

The Board reviewed both the GreenPlan memo and the applicants' written response.

Michele Greig offered to look up the ITE statistics on car trip generation for a bank with six (6) tellers.

David Wright said that the number of tellers would be one measure of traffic generation but that this would be a full service bank with insurance and other services. Mr. Dodd said that these other services did not generally create a significant amount of additional traffic.

Asked if Ulster Savings had an existing bank of approximately the same size, Mr. Dodd said that only the New Paltz branch was approximately this size. Mr. Dodd added that the New Paltz bank was much older and he was not sure that any statistics regarding traffic or customers per day would be comparable or useful.

Some members believed that the NYS Department of Transportation would have a count of how many cars passed that section of Route 9 or used the Metzger Road/Route 9 intersection in one day.

The Board reviewed the four variances needed for the plan—three area variances for setbacks and one for front yard open space. The Board generally agreed to send a letter in support of those variances to the ZBA for its April 11, 2007 meeting.

The Board also generally agreed to endorse this revised sketch plan. Mr. Souers said that he would now begin the engineering and other more detailed plans.

Brian Williams & Mark Angelier – Yantz and Oriole Mills Roads – Subdivision Plat

Brian Williams was present for a discussion of an application for Final Subdivision Plat Approval to authorize the creation of three (3) residential building lots of 3.81 acres, 12.33 and 12.29 acres from a 28.44-acre parcel in the RD3 and Certified Agricultural Districts.

Christine Kane reviewed a letter from attorney Warren Replansky and the documents forwarded from his office. The Board generally determined to refer the shared driveway maintenance agreement and the deed of covenant and restrictions to Keane & Beane for review.

Mr. Williams said that he had obtained Health Department approval for Lot 1 but that while his engineer had dug test holes on the proposed Lots 2 and 3, the engineer had not sent a letter of feasibility for water supply and septic. Mr. Williams asked that the requirement for a letter of feasibility be waived. The Board generally agreed that if the requirement were waived, a note must be added to the plat that no Health Department approvals had been obtained for Lots 2 and 3 and that an additional signature block would have to be added to the plat.

The Board reviewed an offered resolution granting conditional final approval to the subdivision plat. The members generally agreed that the notes regarding approved future development must be made clearer and should reference the Farmland Protection Plan in the Planning Board files, that the valuable agricultural soils need not be delineated by metes and bounds, and that a note must be added to compensate for the lack of an engineer's letter of feasibility.

John Hardeman made a motion to adopt the revised resolution. David Wright seconded the motion, and all members present voted in favor. A copy of that resolution is attached to, and made part of, these minutes.

REGULAR SESSION (NEW BUSINESS)

Red Hook Auto – 151 Route 199 – Amended Site Plan

Peter and Joseph Scibelli were present with an application for Amended Site Plan Approval to construct a total of 600 sq. ft. of additional space to an existing auto repair garage on a 0.41-acre lot in the R1.5 Zoning District.

The Board reviewed the portion of the October 2003 Planning Board minutes that discussed the expansion of the Red Hook Auto facility, which was, and still is, a non-conforming use in a residential zone. The applicants said that they now seek an additional expansion. This expansion, when added to the 2003 expansion, would result in a total 85% expansion of the original building, thereby exceeding the 50% allowed for a non-conforming use. The applicants said that they had sought variance for this expansion as well as a setback variance from the ZBA.

Christine Kane read a letter dated March 22, 2007 from ZBA Chair Timothy Ross. Mr. Ross said that the ZBA would agree to Planning Board serving as lead agency in the SEQR review.

The Board determined the project to be an Unlisted Action under SEQR. John Hardeman made a motion to establish the Board's intent to serve as Lead Agency for the SEQR review. David Wright seconded the motion, and all members present voted in favor. The ZBA was determined to be an involved agency.

Ms. Greig reminded the Board that the ZBA may not vote on the variances until the SEQR determination has been issued but that the applicants may ask for a sense of how that Board views the applications before they go forward with a more detailed and costly site plan.

The Board said that eventually, the applicants must submit a site plan that includes parking, lighting, signage, landscaping, accesses to Route 199 and other features.

Once that site plan is submitted, the project can be referred to Dutchess County Planning under General Municipal Law 239m.

Gordon Taylor – Route 9G – Conceptual sketch plan

Darin Dekoskie was present to discuss a concept plan to subdivide an approximately 13.45-acre lot into four (4) residential building lots of approximately 3.1 acres each in the RD3 Zoning District and the National Historic Landmarks District.

Mr. Dekoskie said that there were wetlands on the parcel and that they had not yet been flagged. He said this preliminary plan showed two curb cuts and two shared driveways serving four proposed lots.

The Board said that NYS Route 9G was a designated scenic road, so each lot must comply with double front yard setbacks. In addition, Town regulations required that three (3) or more lots on a state highway must share a driveway. This shared driveway may be built to driveway specifications, not Town road specifications. Finally, because of the scenic road designation, the trees and other vegetation along the road must be maintained as a visual buffer.

Mr. Dekoskie said that he had identified the area as an archaeologically sensitive area but asked that the requirement for an archaeological survey be waived. The Board said that it could not waive the requirement for a Phase 1 survey for such a large project.

Ms. Greig said that she would contact Hudson River Heritage to make sure that the area was within the National Historic Landmarks District. If so, the project would be a Type 1 action under SEQR, and a full EAF would be required.

OTHER BUSINESS

Letter from LRC

Christine Kane read a letter from LRC Planning Services requesting a meeting with members of the Board and a planner to discuss the proposed Meadowbrook Estates. LRC suggested April 10, 11, or 12 as possible meeting dates. The Board determined to schedule a date after each member checked his previously scheduled appointments and after asking the Town Engineer to attend.

Revising “Policies and Procedures” and Fee Schedule

Since the Board was no longer dividing the regularly scheduled meetings into work meetings and action meetings, it generally agreed to revise the “Policies and Procedures” handout to reflect that change. Sam Phelan made a motion to make that correction. John Hardeman seconded the motion, and all members present voted in favor.

The Board discussed how to clarify the sentence in the Planning Board’s fee schedule regarding recreation fees imposed on subdivided land in the Certified Agricultural District. Ms. Greig suggested that the matter be referred to Keane & Beane. Since no agreement was reached, that decision was tabled until additional research was undertaken and until the full Board was in attendance.

Sam Phelan said that the Board should periodically review the expenditures from applicants’ escrow accounts, since this issue had been raised by the Town Board. The

Board generally agreed. The Board also generally agreed that when an applicant submits his application, the office staff should clearly explain that certain expenses will be his or her responsibility, that unused escrow amounts will be returned and that application fees will not be returned once the applicant presents his or her project before the Board. The Board noted that these explanations are all included in the Board's "Policies and Procedures" handout, which is available both at the Town Hall and online.

Hansen subdivision recreation fee question

The Board reviewed the January 25, 2007 letter from the NYS Department of Agriculture and Markets and the March 1, 2007 opinion from Keane & Beane. It generally agreed that the recreation fee was appropriate for both of the two new residential lots created by the Richard Hansen minor subdivision. The Board directed that a letter to this effect be sent to Mr. Hansen's attorney.

ADJOURNMENT

Since there was no further business, Sam Phelan made a motion to adjourn. David Wright seconded the motion, and all members present voted in favor. The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Paula Schoonmaker
Assistant Clerk

Attachments

Resolution granting conditional Final Subdivision Plat Approval to Brian Williams and Mark Angelier

Resolution Granting Final Sub division Plat Approval to Williams/Angelier Subdivision

Name of Project: Williams/ Angelier minor subdivision

Name of Applicants: Brian Williams and Mark Angelier

Date: April 2, 2007

Whereas, the applicant has submitted an application for Final Subdivision Plat approval dated March 13, 2007 to the Town of Red Hook Planning Board to subdivide a $\pm$ 28.44-acre parcel of land (Tax Map Parcel No. 134889-6371-00-12920) into three (3) residential building lots $\pm$ 3.81 acres, $\pm$ 12.29 acres, and $\pm$ 12.33 acres in size; and

Whereas, the subject parcel is located on Yantz Road and Oriole Mills Road in the RD3 Zoning District in the Town of Red Hook, Dutchess County, New York, and;

Whereas, the applicant submitted a Final Subdivision Plat prepared by Richard P. Hanback, L.S. dated October 21, 2004 and revised November 16, 2004; May 10, 2005; May 5, 2006; September 11, 2006; and January 29, 2007; and

Whereas, the parcels are located within a certified agricultural district (Agricultural District 20) and the applicant submitted an Agricultural Data Statement dated October 22, 2004, which the Planning Board duly forwarded to all owners of farm operations within 500' of the subject parcels; and

Whereas, the application is subject to the Town's Important Farmlands requirements as enumerated in of § 143-47 of the Town's Zoning Law and the Planning Board duly forwarded the application to the Town's Agricultural and Open Space Advisory Committee for its review; and

Whereas, the Planning Board considered the comments on the Agricultural Data Statement and review responses from the Agricultural and Open Space Advisory Committee in its review of the application; and

Whereas, on March 21, 2005 the Town of Red Hook Planning Board declared itself lead agency for the purpose of conducting an uncoordinated review of an Unlisted Action pursuant to SEQR; and

Whereas, on October 2, 2006, the Town of Red Hook Planning Board, in consideration of the Short Environmental Assessment Form

(EAF) and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potentially significant adverse impacts on the environment, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

Whereas, on October 2, 2006, the Planning Board conducted a public hearing on the Preliminary Plat application, at which time all interested persons were given the opportunity to speak; and

Whereas, the Planning Board now wishes to grant Final Subdivision Plat approval to Brian Williams and Mark Angelier to subdivide a $\pm$ 28.44 acre parcel of land located on Oriole Mills Road and Yantz Road into three (3) residential building lots $\pm$ 3.81 acres, $\pm$ 12.29 acres, and $\pm$ 12.33 acres in size.

Now therefore be it resolved, that the Planning Board grants Final Subdivision Plat approval to Brian Williams and Mark Angelier to subdivide a $\pm$ 28.44 acre parcel of land located on Yantz Road and Oriole Mills Road into three (3) residential building lots $\pm$ 3.81 acres, $\pm$ 12.29 acres, and $\pm$ 12.33 acres in size in accordance with the plans and specifications heretofore submitted upon the following conditions:

- A. That the applicant obtains the permits and approvals listed in Part 1 of the EAF.
- B. That in lieu of documentation from a licensed engineer regarding the feasibility of wells and septic systems on Lots 2 and 3, the applicant adds a stamp and note to the plat stating that there are no Health Department approvals for Lots 2 and 3
- C. That the applicant adds notes to the plat that clarify approved further development on the parcel
- D. That the applicant adds a note to the plat referencing the Farmland Protection Plan filed in the Planning Board office.
- E. That the applicant implements any environmental mitigation measures contained in the Negative Declaration.
- F. That the applicant submits the deed of covenants and restrictions in final form acceptable to the Planning Board, and files that document in the Dutchess County Clerk's Office.
- G. That the Final Plat references the filing date and document number for the deed of covenants and restrictions filed with the Dutchess County Clerk's Office.
- H. That the applicant submits the Common Use and Maintenance Agreement for the shared driveways in final form acceptable to the Planning Board.

- I. That the Final Plat references the required filing of the Common Use and Maintenance Agreement by filing date and document number.
- J. Payment of recreation fee to the Town of Red Hook.
- K. Payment to the Town of Red Hook of any outstanding fees due and owing for the review of this application.
- L. Submission of Subdivision Plat drawings for stamping and signing in the number and form specified under the Town's Land Subdivision Regulations, including all required P.E. and L.S. stamps and signatures.

On a motion by John Hardeman , seconded by David Wright

Roll Call Vote:

Chair Christine Kane	yes
Member Jennifer Fier	absent
Member John Hardeman	yes
Member Charles Laing	absent
Member Sam Phelan	yes
Member Paul Telesca	absent
Member David Wright	yes

Resolution declared: **APPROVED**

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

Paula Schoonmaker, Assistant Clerk to the Board Date