

APPROVED

Town of Red Hook Planning Board Meeting Minutes January 5, 2009

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:32 p.m. and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, Sam Phelan, Wil LaBossier, Sam Harkins, Charlie Laing, and Paul Telesca. Planner Michele Greig, Town Board member Robert McKeon and Town Board Liaison Micki Strawinski were also present.

BUSINESS SESSION

(Since Christine Kane had not yet arrived, Deputy Chair Charlie Laing began the meeting)

Charlie Laing confirmed the agenda. The December 15, 2008 minutes were not available for discussion. Charlie Laing then read one announcement—the Dutchess County Planning Federation was soliciting nominations for its spring 2009 awards for excellence. He added that there were five categories, that information could be obtained from the Federation's website, and that the deadline for nominations was February 13, 2009.

(Since Sam Harkins said he would recuse himself from discussions about the Garelick subdivision project, leaving the Board without a quorum, Charlie Laing proposed that the Board come back to that project and go on to New Business.

REGULAR SESSION- NEW BUSINESS

Michael Anderson – 60 Station Hill Road – Certificate of Appropriateness

Steve Dunning was present with an application for a Certificate of Appropriateness to construct a fence on a 0.85-acre parcel in the Hamlet Zoning District. He explained that when Michael Anderson moved in to his house in 2003, several sections of fence had already been installed on the east side of the property by his neighbors. In 2007, Mr. Anderson had extended that same type of fencing to the rear of his property and along the back property line. In 2008, he had extended the fence again, this time along the west side of his property, but only to where his neighbors on that side had constructed a retaining wall and parking area. He said that Mr. Anderson had been unaware that he needed a permit at that time and so was now seeking a retroactive Certificate of Appropriateness.

The Board reviewed Section 143-45 of the Zoning Code, Development in the Hamlet District.

Mr. Dunning said that the fencing installed by Mr. Anderson was 6 ft. high. The fencing installed by his neighbors to the east was 6 ft. on the side and, along the front, 6 ft. at the two ends tapering down to 4 ft. in the middle. The Board discussed the requirement that a fence be 4 ft. high along the side as far back as the front yard setback, which in the Hamlet District was found to be 75 ft. with an option to reduce that setback to 25 ft., according to the District Schedule of Area and Bulk regulations. Mr. Dunning noted that the fence along the west sideyard was at the

bottom of a slope and was below Mr. Anderson's house and, except for the top of the post, below Station Hill Road.

Ms. Greig noted that although neither an EAF nor a SEQR review were required for a Certificate of Appropriateness, the Board should consider formally classifying the project as a Type 2 action under SEQR requiring no further SEQR review. Sam Phelan made that motion. Sam Harkins seconded the motion, and all members present voted in favor.

The Board then referred the project to the Hamlet Review Committee, set a public hearing date for February 9, 2009 at 7:40 p.m. and asked Mr. Dunning to submit a location map.

(Christine Kane arrived at this time and took over the duties of chair)

REGULAR SESSION- OLD BUSINESS

(Sam Harkins recused himself for the discussion of the next project and left the room)

Anne Garelick – 130 Crestwood Road – Minor Subdivision

Marie Welch, L.S. was present for continued discussion of an application for subdivision plat approval to create one new residential lot of $\pm$ 4.280 acres and one remaining lands lot of $\pm$ 9.388 acres from a $\pm$ 13.668 acre parcel in the RD3 Zoning District. She explained that her client wished to create a residential lot for one of her children. She also said that she had recently been informed by the planning office that Crestwood Road was not a designated scenic road, so the double setback requirement did not apply.

The Board reviewed comments from the Agricultural and Open Space Committee. The Committee suggested that the Board require a building envelope to be located near Crestwood Road and that the existing thick tree line in the middle of the parcel to be permanently maintained-- both restrictions to protect the active agricultural land to the north. The Committee noted that although the applicant had stated on the Agricultural Data Statement that no agriculture was taking place on the parcel, hay bales had been seen on that parcel until recently, indicating agricultural activity. The Committee suggested that the Board require a permanent access to the hay field at the rear of the property.

The Board and Ms. Welch discussed whether the hay field could be defined as agricultural land under the NYS Ag and Markets Law. Ms. Welch said that her client had told her that she was not using the land for any agricultural income. The Board found there was no evidence that the owner was taking an agricultural exemption.

Sam Phelan asked whether the lots could be reconfigured to preserve the entire hayfield on the larger lot, possibly by spreading the new proposed lot along Crestwood Rd. Ms. Welch said that that configuration would take up most of the available frontage, leaving little remaining frontage in case her client wanted to subdivide again to give a lot to her second child.

The Board reviewed preliminary soils and wetlands maps which showed soils of statewide importance in the southeast corner of the parcel and a federal wetland in the northeast corner.

Christine Kane said that one of the Town's stated goals was to preserve agriculture and asked whether the applicant would come up with an overall subdivision plan which would plan ahead for future subdivision yet preserve the most agricultural land and buffer the farm to the north.

Ms. Welch said that this was not an agricultural parcel, that it was not in the Certified Agricultural District, and that it should not be reviewed as if it were.

Asked about alternative options, Ms. Welch said that originally her client had proposed a 3-acre new lot, which had left about an acre of remaining land behind the new lot. The client had then reconsidered and drawn the proposed new boundary line all the way to the rear, adding that acre to the proposed new lot. Ms. Welch said that rather than two adjoining neighbors, the farmer to the north would now only have one adjoining neighbor on that side.

Christine Kane said that a cluster subdivision would permit smaller new lots, which would allow the hay field to stay in the remaining lands lot and would also give the adjoining farmer only one neighboring land owner. Ms. Welch said that there was no precedent for clustering on non-agricultural land. Michele Greig said that the Planning Board could mandate clustering on any parcel.

Ms. Welch said that allowing the proposed lot line to remain as it was would permit another subdivision at a later time without any encroachment on the HsB soils to the southeast. An alternative configuration could lead to a flag lot subdivision at a later time, with a driveway and building envelope on those soils. In any event, she said that her client may never wish to further subdivide and should not be made to develop and commit to a subdivision plan at this point.

Paul Telesca said that such a cluster plan would result in two new houses, the same number as in the applicant's plan, and would result in two owners adjoining the active farmland, not just one. He said he saw little advantage to a cluster subdivision.

Sam Phelan referred to the Town's stated goal of preserving rural character, and he questioned whether siting several houses close to the road would lead to a suburban look. He said that the remaining lands lot of 9+ acres could be subdivided further to create two additional new lots along the road.

Charlie Laing said that the AOSC and the landowner both agree on a building envelope to the west of the tree line. He said that having only one landowner adjoining the ag land would be advantageous.

Wil LaBossier asked whether the applicant would expand the size of the proposed new lot so that less than 9 acres was left in the remaining lands lot. This would limit further subdivision to one additional lot, he said. Ms. Welch said that she didn't think her client would agree to that plan.

Sam Phelan said he knew that the proposed new residence could be tucked into the wooded area of the new lot. He was concerned about possibly the second and third new houses, and he wanted this new lot configured such that it preserved the ability of the Planning Board to use the wooded area in siting any future houses to avoid a suburban look along the road.

Ms. Greig suggested that the applicant and the Board consider an average density subdivision. Ms. Welch said that she was only proposing one new lot and so had nothing to average it with. Ms. Greig said that a note could be added to the plat saying that this parcel was being developed using average density subdivision so that any future lots would be configured using this same method. Ms. Welch said that she could consult with her client. After reviewing the pertinent subdivision regulations, the Board found that a lot created using average density

calculations must have a minimum of 2 ½ acres. The Board generally agreed that this size did not result in a substantial gain to the remaining lands lot.

The Board and Ms. Welch agreed that engineering information would be helpful before going further. Meanwhile, Ms. Welch said she would submit revised maps showing contours, soils and a proposed building envelope. The Board asked that she also add a general outline of where the wetland and the tree line were located. The project was tentatively scheduled for the February 9, 2009 agenda.

REGULAR SESSION – NEW BUSINESS (resumed)

Dean Bloch/Gale Wolfe – 21 Steamboat Dock Road – Special Permit and Certificate of Appropriateness

Carlos Newcomb of Hudson Valley Clean Energy was present with an application for a Special Permit and a Certificate of Appropriateness to install photovoltaic solar modules on the roof of an existing residence on a 0.47-acre parcel in the Hamlet Zoning District. Mr. Newcomb said that his clients wished to install photovoltaic solar panels on the south-facing slope of their garage. He said that there would be no visible wiring and that these black panels would look like a new roof. He said they would lay on top of the shingles, with the surface of the panels about 2 ½ inches above the shingles. He said that the total area of the panels would be about 600 sq. ft. and that the array would produce 11 - 12 megawatts of power.

Sam Phelan said that the goal of a review for a certificate of appropriateness was to make sure that a project was visually acceptable in a hamlet setting.

Charlie Laing made a motion to determine the project to be a Type 2 action under SEQR and not subject to any further SEQR review. Wil LaBossier seconded the motion and all members present voted in favor.

The Board referred the project to the Hamlet Review Committee and scheduled a public hearing for February 9, 2009 at 7:45 p.m.

Sam Phelan asked the applicant to provide photos of the proposed site from the nearest road.

Omnipoint Communications – 2 Tower Lane – Site Plan

Attorney Matt Kerwin was present with an application to co-locate antennas on an existing monopole on a ± 2.0-acre parcel in the RD 3 Zoning District. He said his company did business as T-Mobile.

Mr. Kerwin said that the goal of this project was to provide cell phone coverage for the Bard student community and for the residences along Rte. 9G and Kelly Road. He said that currently, T-Mobile had no coverage in that area. He said that other carriers have leased space for their panels on the existing pole, which is owned by the Town, and that the only current spaces for T-Mobile panels were at 110 ft. He said that by adding 10 additional feet to the current 163 ft. pole and installing the company's panels at a height of 171 ft., coverage could be significantly increased.

The Board and the applicant agreed that co-location was preferable to building a new tower. Mr. Kerwin said that the Town Board had approved a lease agreement with Omnipoint at its last meeting.

The Board then reviewed a GreenPlan memo. Ms. Greig said that the Town Board must correct a SEQR circulation error, since it had inadvertently not included the Planning Board as an involved agency and had not circulated to the Planning Board for lead agency consent. She said that the Town Board had requested that the Planning Board correct that error by voting on whether to consent to the Town Board's serving as lead agency for the SEQR review.

Ms. Greig requested a more detailed area plan showing the correct zoning district and the parcels and buildings around the tower lot.

In answer to several questions about the project, Mr. Kerwin said that if the company was permitted to extend the tower by 10 ft., the job would be put out to bid and a contractor hired. He said that the extra height would require changes to the base flanges. Other modifications would include the installation of 3 equipment cabinets, a back-up generator and the subsequent enlarging of the concrete pad and surrounding fence to accommodate the additional equipment. He said that each of the 6 proposed panels would be about 4 ½ ft. tall by 1 ft wide by 5 inches deep. The panels would be connected to the equipment cabinets at the base of the tower by coaxial cables that would run down the inside of the tower. He said the company would sign a 5 year lease with an automatic 5 year extension.

Ms. Greig confirmed that the ZEO had determined that this project needed only site plan approval, not a special permit, because the tower had already been approved. She said the question was, approved by whom.

Ms. Greig said that a structural analysis had been done when the tower was previously approved around 2000 and that the structural analysis provided by the applicant should be reviewed in light of the proposed height extension. She said that Ray Jurkowski of Morris Associates may have already been working on a review of the tower's structural integrity at the request of the Town Board.

The Board then reviewed submitted photos of the tower as it currently appeared and also as it would appear if the extension were permitted.

The Board asked the applicant to provide a more detailed and scaled map showing a location map and all the parcels, residences and other structures around the tower. The Board was specifically concerned about the proximity to the Town's water tower and also about structures within the "fall zone". Ms. Greig said that the Town's regulations only require vacant land around the tower for a distance of ½ the height of the tower.

The applicant was also asked to provide the correct address of the parcel, to correct the Zoning District, to provide information about the fall zone, to provide documentation stating that the FAA would not require lighting on the tower and to provide spec sheets for the proposed back-up generator with particular attention to noise output. Mr. Kerwin said that the equipment cabinets would be silent.

Although the project site was determined to probably be farther than 500 ft. from Rte. 9G, Ms. Greig suggested that the Board might want to send the project to County Planning because the tower would be highly visible from that road.

Ms. Greig also said that the applicant could request that some of the other site plan requirements, such as those regarding septic and water supply, be waived.

Sam Harkins made a motion that the Planning Board consent to the Town Board's serving as lead agency for the project's SEQR review. Paul Telesca seconded the motion, and all members present voted in favor.

The Board also generally agreed to ask Ray Jurkowski if he was prepared to provide a statement affirming the structural integrity of the tower with the proposed extension. If he was not, the project would be referred to Town Engineer Dan Wheeler.

Paul Telesca made a motion to permit the Planning Board secretary and Ms. Greig to assess the revised map when it is submitted and to empower them first to determine whether the project must be referred to Dutchess County Planning and second to confirm that all requested items had been submitted. Charlie Laing seconded the motion, and all members present voted in favor. The Board and the applicant agreed that if the two Planning Board representatives believed there were problems with the documents, the Board would request Mr. Kerwin's presence at the January 26 meeting. A public hearing date was set for February 9, 2009 at 7:50 p.m., provided all materials were submitted on time and were found to be satisfactory.

Since there was no further business to come before the Board, Sam Harkins made a motion to adjourn the meeting. Charlie Laing seconded the motion, and all members present voted in favor.

Respectfully submitted

Paula Schoonmaker