

APPROVED
Town of Red Hook Planning Board
Meeting Minutes
October 3, 2011

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, members Sam Harkins and Charlie Laing and alternate Brian Walker. Members Wil LaBossier, Kris Munn, Sam Phelan and Pat Kelly were absent. Also present was planner Michele Greig.

BUSINESS SESSION

The September 19, 2011 draft minutes had been circulated among the members and reviewed. Sam Harkins made a motion to adopt the minutes. Charlie Laing seconded the motion, and all members present voted in favor.

There were four announcements. Christine Kane reminded the Board about the Centers and Greenspaces Zoning Amendments Training session to be given on Wednesday, October 5 at 7:30 p.m. at the Town Hall. She also said that there would be a bus tour on Saturday, October 21 highlighting green infrastructure practices used to mitigate stormwater. Third, she said that the Cary Institute was sponsoring a forum focused on Climate Change in the Hudson Valley to take place Saturday, October 22. Finally, she said, the Dutchess County Planning Federation was holding a four-hour training session on SEQR basics and public hearings and record keeping on November 1. Attendance at any of these classes, she said, would qualify for training credits.

REGULAR SESSION – NEW BUSINESS

Christopher Gilbert – 10 Old Post Road (Upper Red Hook) – Certificate of Appropriateness

Chris Gilbert was present with an application for a Certificate of Appropriateness to install a fence along the front of a 1.43-acre parcel in the H (Hamlet) Zoning District.

Mr. Gilbert said that he had decided not to include a front porch in his application, that he was only interested in installing a fence at this time. He said that the fence would not block the view of the yard but would only demarcate the property line. He said that the fence would be about 38” from the ground to the top of the posts and a little over 7 feet long. After showing picture of a section of the fence, he agreed to revise his application to describe the fence style as “chinoiserie”, or Chinese-like.

Charlie Laing made a motion to classify the project as a Type 2 action under SEQR. Brian Walker seconded the motion, and all members present voted in favor.

The Board then referred the project to the Hamlet/Design Review Committee and scheduled a public hearing for October 17, 2011 if the Hamlet Committee believed it

could submit its comments by that date. Mr. Gilbert, normally a member of the Hamlet Committee, recused himself from the Committee's review of this project.

REGULAR SESSION – OLD BUSINESS

Oaks at Lakes Kill – Feller Newmark Road – Preliminary Major Subdivision

Mitchell Markay, Michael Bodendorf, P.E. , biologist David Griggs, Mark Baisch and the Board's habitat consultant Michael Klemens were present for continued discussion of an application for preliminary subdivision plat approval to create 11 lots on a $\pm$ 100.45-acre parcel in the AB (Agricultural Business) Zoning District.

Mr. Bodendorf said that he had calculated the lot yield for the project according to the newly amended subdivision and zoning regulations, noting that the parcels were in both the RD3 and the AB Zoning Districts. He said that he believed eleven (11) lots would be permitted. Michele Greig said that she would like a document listing the various constraints, such as DEC wetlands and buffers, steep slopes, flood plain etc., and stating for each constraint that there would be no acreage in the development area.

Mr. Bodendorf went on to say that the applicants had removed Lot 12, a flag lot, and had pulled the remaining lots closer to the road. He said that he had reduced the radii of the cul-de-sac turnarounds to 30 ft. and that the applicants were considering making one of the cul-de-sacs a shared driveway. He confirmed that the setbacks had been maintained. He asked whether the flagpole section of a flag lot still had to be 50 ft. wide. Michele Greig said she did not believe that 50 ft. was still required. The Board and Michele Greig agreed that if lots had access to a shared driveway, those lots would not need a flag pole to a public road. The Board also discussed the road width for the cul-de-sac road. Mr. Bodendorf said he had planned on 24 ft. The Board asked the applicants to check with the Fire Department to make sure the cul-de-sac radius was acceptable.

Mr. Bodendorf said he would also check to make sure the cul-de-sac met the maximum length limit, saying that a very small part of the road was in the AB District with a length limit of 820 ft. and that most of the road was in the RD3 District with a length limit of 1000 ft. Christine Kane said that usually the most restrictive zoning would apply. Charlie Laing said he believed that in a case such as this, the zoning that applied to the largest part would apply to the whole. Michele Greig said she would check.

Michele Greig then noted that there was, in the new zoning regulations regarding cluster subdivisions, a formula method for calculating lot yield in the RD3 District that required the subtraction of unbuildable features as well as the subtraction of 10% of the net buildable area to provide for roads, drainage and lot shape irregularities. She said that, in her understanding, this 10% deduction did not pertain to the AB District. The Board members and the applicants agreed with this understanding.

The Board and Michele Greig then discussed how to treat proposed lots that straddled two zoning districts and also whether the applicant could combine a fraction of a lot in the lot yield of one zoning district with a fraction of a lot in the lot yield of another zoning district to yield one lot. The Board and Michele Greig generally agreed that the applicant could combine fractions of lots in the lot yields and that, as in the old zoning regulations, the more restrictive zoning would apply to a lot, but not necessarily a road, that straddled two zoning districts.

Mr. Bodendorf said that the applicants had pulled several lots back as far as possible from the vernal pools. The Board and the applicants agreed that the lots could be made smaller because of the new regulations. Mr. Bodendorf said that the box shapes on the map represented a 20 x 50 dwelling unit with an attached garage.

The Board and the applicants discussed a previously proposed plan to erect a fence to delineate the stream buffer. Charlie Laing suggested that the lots be made smaller to separate the homes from the buffer rather than a fence.

Mr. Bodendorf said that this plan met the 80% open space requirement with just over 83%. Christine Kane asked who would control that open space lot, noting that a conservation easement must be placed on it. Mr. Baisch said that since the homeowners would be most impacted by the property, it seemed logical that the homeowners association take title to it. Christine Kane said that public access to the open space was not necessary and, since that lot contained such critical species habitat, public access was probably not advisable.

Charlie Laing then discussed Lot 6, which he said was a rocky area that extended into the valuable habitat area. He asked whether the applicants could tighten up the lots and bring Lot 6 back into the cluster. Biologist David Griggs said that the rocky area seemed to have resulted from quarrying or some other disturbance. Mr. Markay said that the applicants did not anticipate the need to blast but that they had not yet conducted any borings.

Biologist David Griggs then spoke about the ecology report he had researched and written for the applicants. He said that following a plan developed on-site with Dr. Klemens in early April, he had begun his field work, starting May 5 and ending June 20. He said that the objective was to develop a more thorough investigation of the wildlife, mainly reptiles and birds and including animals moving through the site as well as those nesting. He said that the study included both the development and the non-development area. He said that the herp study involved setting up a drift fence and that he had used turtle hoop nets near the two vernal pools.

He said that he had found no Blandings turtles, no wood turtles and minimal habitat for those turtles. He said that with the drift fence he had captured two painted turtles and three snapping turtles plus various rodents. Dr. Klemens said that the habitat had potential for box turtles, painted turtles and other species, although probably not in high density. Dr. Griggs noted that the water depth in the area, even with all the rain, was the minimum that a Blandings would inhabit.

Dr. Griggs then addressed his study of the two vernal pools. He said that he had found several species of salamanders, including red backs, Jeffersons, spotted salamanders and newts. He said that the Jefferson salamander was a State Listed Species of Concern.

He said that 60% of the birds they found were forest dependent and about 25% were edge species. He said that many species were also either wetland dependent or would use the wetlands. He said he had found a total of 47 species of birds, all of which were breeding birds. He said that he had found barred owls, which was on the Audubon List of Concern.

Dr. Klemens said that he believed that Dr. Griggs had gathered adequate data for the study but that the data could have been presented in a way that would be more useful to the Board. For instance, he said, it would be helpful to know where concentrations of different species had been found and the conservation status of each species. He said that the report should support the reasons why the development was laid out the way it was. He said that many of the species found were uncommon and that the report could say where the animal was found on the site, whether there were multiple sightings or whether there were multiple animals in one sighting. He also asked for a table giving the various bird species, whether they were forest dependent, edge dependent, etc. and whether they were on the Audubon or Partners in Flight watch lists or had any other notable conservation status.

The Board and Dr. Griggs then went through Dr. Klemens' written questions and comments on the report. Dr. Griggs said that he would address these remarks.

Mr. Markay said that some of Dr. Klemens' suggestions asked for data that might be interesting but might not actually pertain to the development area. He said that the data should not discuss how diverse a species was but rather how the development might or might not impact that species. Dr. Klemens disagreed, saying the more information the Board had about the habitat area the more intelligent and better decisions they could make. He said that the data had already been compiled-- it just needed to be organized in a more useful way. He said that the Board had opted to require in-depth habitat studies as a part of its SEQR review rather than require an Environmental Impact Statement,

Mr. Markay said that there was no need to include all the different birdwatcher groups, each with its own species of concern. Dr. Klemens said that the Audubon and the Partners in Flight lists were the major watch lists.

Christine Kane said that this information would be useful to the homeowners association that would have title to this open space lot.

The Board then questioned whether Lot 6 could be pulled off the wooded, rocky peninsula that extended into the open space and back into the cluster of lots. Dr. Griggs said he did find, among other animals, Jefferson salamanders and various species of snakes on and near Lot 6. He said that rocky ground near a wetland was ideal habitat for these species. He said that he had made several recommendations about how to mitigate the disturbance to that area. Dr. Klemens said that with the new, more flexible zoning, the applicants had an opportunity to move the lot away from that area.

Mr. Markay asked whether the applicants could create habitat to replace that taken up by Lot 6. Dr. Klemens said that such a task would be almost impossible and at best would take a long time. He said avoidance would be better. He said that Lot 6 jutted out from the cluster into the habitat area. He indicated a line on the map that followed the contours of the land. He said he was not trying to lose a lot.

The Board members and the applicants discussed the possible ways of reconfiguring the cluster to achieve the integration of lot 6. Michele Greig said she would check the requirements for a private road, where some additional space could be found.

Dr. Klemens asked about lighting. The applicants agreed that requirements for down lighting, low wattage bulbs and fully shielded lighting could be included in the homeowners association agreement.

Dr. Klemens also had concerns about the destruction that could be caused by cats, either feral or house cats that were allowed outdoors. He suggested that there be a clause in the homeowners association agreement requiring cats to be contained.

Dr. Klemens said that Dr. Griggs' field work had been a more than adequate search for Blandings turtles, which would have been moving through the vernal pool area if they were there at all. He said that the Hudsonia study that indicated possible habitat for Blandings was a different type of study.

Mr. Bodendorf presented a new, more detailed vernal pools map that separated the pools and that included all the rings and buffer areas. Dr. Klemens said this map was in response to the Planning Board's request for information about the impact of the development disturbance on the vernal pools. Dr. Klemens said that there was a standard methodology for calculating this information. He said that the goal was to discern how much of the vernal pool area would change as a result of the development. Mr. Bodendorf said that all the calculations were given on the map. He said that the total potential development area would be outside the vernal pool buffers. He said that the actual disturbance would be less than the allowable disturbance.

Dr. Klemens referred to the publication "Best Development Practices". He said that the guidelines in the publication were a good checklist to make sure that the development was compliant.

The Board reminded the applicants that they also had to respond to NYS Office of Parks, Recreation and Historic Preservation's request for a Phase 1 archaeological survey.

OTHER BUSINESS

Town Board resolution regarding rezoning application

Christine Kane summarized a Town Board resolution establishing the Town Board as lead agency in the SEQR review of the Arvine Coon application for rezoning two lots along NYS Route 9. Noting that Mr. Coon's plan for a business in that location would involve site plan approval, the Board generally agreed to sign off on the Town Board's serving as lead agency only for the zoning application, not for the site plan review. Charlie Laing made a motion to that effect. Brian Walker seconded the motion, and all members present voted in favor.

Legal counsel for Anderson Commons

The Board discussed a letter from Pete Setaro of Morris Associates suggesting that the Board use the firm of Rapport, Myers and Whitbeck if it needs legal advice on the new submission of applications for Anderson Commons. Mr. Setaro said that the firm was advising the Village and the Town and that retaining that firm would reduce duplication and cost. Christine Kane read an e-mail from Town Attorney Christine Chale saying that the Planning Board had the discretion to choose whatever attorney it wished. Charlie Laing said he would favor an independent review. Christine Kane said that Keane & Beane had reviewed the project when it was previously submitted and so had some

background of knowledge about it. The members generally agreed to send a letter to Mr. Setaro respectfully saying that if legal advice were needed, the Board would contact Keane & Beane.

ADJOURNMENT

Since there was no more business to come before the Board, Brian Walker made a motion to adjourn. Sam Harkins seconded the motion, and all members present voted in favor.

Respectfully submitted,

Paula Schoonmaker