

draft
**Town of Red Hook Planning Board
Meeting Minutes
March 7, 2005**

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:34 p.m. by Chair Paul Thomas and a quorum determined present for the conduct of business.

Members present — John Hardeman, Christine Kane, Mary Lou Muirhead, Paul Telesca, David Wright, and Chair Paul Thomas. Sam Phelan was absent. Planning Consultant Michele Greig and Town Board liaison Jim Ross were also present.

BUSINESS SESSION

The Chair confirmed the present meeting agenda and said that there was no non-agenda business.

The minutes of the February 22, 2005 meeting had been sent to the Board members and reviewed. David Wright said that an addition should be made in the reporting of the presentation of the Hardscrabble Commons applications for Site Plan Approval and Special Permit. He said that agent Art Brod had said that the applicants planned to build the proposed road stretching from the rear of the Hannaford property through the rear of the Hardscrabble property in phases. During the first phase, only the section extending from the Hannaford property to the proposed storage facility would be built. Then David Wright made a motion to accept the corrected minutes. The motion was seconded by Christine Kane, and all members present were in favor.

The Chair said that this would be his last meeting as Member or Chair, since he had moved out of the Town and was no longer eligible to serve. Christine Kane would take over as acting Chair.

PUBLIC HEARINGS

Dale & Joseph Salvia – Fraleigh Lane – Subdivision Plat

Bob Zimmerman, P.E., appeared before the Board with an application for Subdivision Plat approval to authorize the creation of a 3.0-acre existing house parcel and a 3.014-acre residential building lot from a 6.014-acre parcel (Lot 9) in the RD3 District.

Before discussion of this matter began, Mary Lou Muirhead recused herself from both discussion and any subsequent vote.

The Chair read the public hearing notice that appeared March 1, 2005 in the Kingston Daily Freeman.

Mr. Zimmerman explained the proposed subdivision to the Board and to the public. He went on to say that he had measured Fraleigh Lane from the point at which Echo Valley Road intersects the Lane to the cul-de-sac and found that distance to be one and one-quarter miles. He also said that deed restrictions on the original lots precluded subdivision until 1992 but that before that time, a 50 ft. strip had been subdivided from

Lot 10 and sold to David Fraleigh as an access to Mr. Fraleigh's fields. Finally, Mr. Zimmerman said that Mr. Salvia had come before the Board in 1992 with an application for a Lot Line Alteration that would add enough land to total over six (6) acres. He had stated at that time that his goal was eventually to subdivide and that the Board had not contested that action.

The Chair then opened the hearing for public comment.

Robert McKeon, 163 Crestwood Road, said there were several reasons for this application to be denied. First, the application was precluded by the Zoning Code and Subdivision Regulations because the lot did not meet the minimum requirements of the Town's District Schedule of Area and Bulk Regulations. Second, the fifty (50) foot wide strip used as a driveway access to Mr. McKeon's agricultural fields would adjoin the proposed driveway for the proposed lot. Under the Town's Subdivision Regulations, two adjoining driveways must be joined to create a common driveway. Third, the one-lot exception under which sketch endorsement was granted for this project was intended for landowners who did not wish to subdivide their entire parcel, as Mr. Salvia does. Fourth, the twenty-four (24) lots in this non-conforming subdivision are grandfathered, but any additional lots would not be grandfathered and therefore would be prohibited. Finally, he said, one of the deed restrictions states that each original lot would be allowed one house and one two-car garage. Since a house and garage already exist on Lot 9, any subdivided lot would not be allowed a house or garage.

Todd Abrahams, 235 Fraleigh Lane, said that actually the deed restriction stated that none of the original lots shall be subdivided until 1992 without Frank Abraham's permission. He added that Chris Gilbert had subdivided lot 1 several years ago. Finally he said that if Mr. Salvia were allowed to subdivide, other lot owners along Fraleigh Lane had enough land to subdivide also.

Bob Frevele, 242 Fraleigh Lane, said that currently twelve (12) lots was the legal maximum allowed for a cul-de-sac subdivision. The Fraleigh Lane subdivision already had more than the maximum, and, he said, many other lots along the road had enough acreage to be subdivided.

The Chair then read a letter dated March 3, 2005 from Town Fire Chief Arvine Coon, Jr. Mr. Coon was concerned that, if allowed, this subdivision would set a precedent for further lot subdivisions along the road and that this increased number of lots would create a potential problem for access and egress by emergency vehicles.

Planning Consultant Michele Greig said that the Board was only allowed to waive the subdivision regulations if doing so would not endanger the health and welfare of the community. She also said that because the "pole" of the proposed flag lot was quite long and because the 3-acre minimum area must be measured from the first point at which the lot stretched to its maximum width, she did not believe that, as configured, the proposed lot would meet the minimum area requirement. The applicant would have to either reconfigure the lots or seek an area variance.

The Chair then read a letter dated January 31, 2005 from Jennifer Porter, attorney with Keane & Beane, which stated that the Board may only waive the subdivision regulations in cases of unusual hardship.

John Hardeman and Paul Telesca requested that the Chair consult Keane & Beane again, submitting for review both the subdivision's deed restrictions and the letter from the Fire Chief. The Board by consensus agreed.

The Board by consensus then agreed to continue the public hearing to March 21, 2005.

Common Fire Foundation – West Kerley Corners Road – Subdivision Plat

Mark Graminski, P.E. and L.S. and Jeff Golden were present with an application to authorize creation of three (3) residential building lots ranging from 5.9 acres to 37.6 acres from a 52-acre parcel in the RD3 District.

The Chair read the public hearing notice that appeared March 1, 2005 in the Kingston Daily Freeman.

Mr. Graminski explained the project to the Board and to the public. He said that applications had been made to NYS DEC for a wetlands disturbance permit and to the Department of Public Works for an access to a public road. He said that the sight distances at the entrance to the driveway exceeded the minimum required. He said that the DEC had verified the wetlands delineation and acknowledged that since the wetlands disturbance would be between 4 and 5 acres, he would need a SPDES permit.

The Chair opened the hearing for public comment. There was none.

Ms. Greig referred to a letter dated February 18, 2005 from DEC requesting additional information regarding disturbance to the wetland and also requesting a stormwater pollution prevention plan. She said that the Board could take no action until it received a response from DEC regarding that information. She also said that the federal wetlands had to be verified by a third party but that the verification could not take place until the snow cover was gone.

Mr. Graminski estimated that a response from DEC could be expected within six weeks. The project was then tentatively scheduled for a reappearance before the Board on April 18, 2005.

Bard College/ Robbins House Residence Hall – Robbins Road – Site Plan

Pete Setaro, P.E. from Morris Associates, Chuck Simmons from Bard College, and Peter Reynolds, architect, appeared before the Board in a continuation from February 7, 2005 of the public hearing on an application to authorize construction of both a 50,000 s.f., 162-bed addition to the Residence Hall and an associated 70-car expansion of a parking lot opposite the Residence Hall, all in the Institutional (I) and National Historic Landmarks Districts.

Mr. Setaro began by saying that he had received a letter from the NYS Department of Parks, Recreation and Historic Preservation signing off on the required archaeological study of the parcel but expressing concern that the new addition would not blend in with the existing building or would overshadow it. The NYSDOPRHP advised that the additional beds be contained in an entirely new facility to the side of or behind the existing building. Mr. Reynolds said that he and the Board had discussed this concern almost a year ago and that he had demonstrated to the Board's satisfaction at that time that the new addition would complement and enhance the existing building. The Board members generally agreed that they were satisfied.

The Board and the applicants then addressed the landscaping plan. Mr. Setaro pointed out the planned addition of thirty-nine (39) deciduous trees, thirty-six (36) evergreen trees and meadow plantings which would screen the back of the parking lot. Although not every tree was depicted on the landscaping plan, all the new trees would be planted at the rear of the parking lot. Mr. Reynolds added that there was a stand of trees near the front of the building, of which only one or possibly two would be removed during construction of the addition. He believed that those trees plus others near the building were sufficient for the site. The Board generally agreed.

The Chair then closed the public hearing.

The Chair read an offered resolution classifying the project as a Type 1 action under SEQR, issuing a negative declaration, and granting conditional Site Plan Approval. Mary Lou Muirhead made a motion to adopt the resolution. David Wright seconded the motion, and all members present voted in favor. A copy of the resolution is attached to, and made part of, these minutes.

REGULAR SESSION (OLD BUSINESS)

Red Hook Boat Club – Dock Road/ Barrytown – Special Use Permit(s) and Site Plan

John Stone appeared before the Board in support of applications to authorize construction of a 2,200 sq. ft. roofed pavilion 17 feet from the Hudson River in the Hamlet (H) and National Historic Landmarks District.

The Chair said that at this point, the Board could refer the applications to the Hamlet Design/ Review Committee, and the Board generally agreed to do so. Mr. Stone wished to be advised of the Design/Review Committee's meeting date so that he might attend.

Ms. Greig said that because the site was within 500 feet of a County Road, the project must also be referred to the Dutchess County Department of Planning and Development. In addition, she advised that a Protection of Waters permit may be necessary and that the proposal should be referred to the permitting section of the NYS Department of Environmental Conservation.

Ms. Greig went on to say that although several sections of the Zoning Code affected this project and each required a Special Use Permit, only one Special Permit application form would be necessary. The ZEO could cite the various applicable sections of the Code on that one form. The project did require Site Plan Approval, though, which would necessitate an additional application.

Finally Ms. Greig advised the Board to assess the visual impact of the pavilion. She recommended that the Board require the applicant to submit photographs taken from the Hudson River, some showing the site as it currently was, from several angles, and others showing the site with the pavilion superimposed.

The project was tentatively scheduled for a reappearance before the Board on April 4, 2005.

Anderson Commons – Baxter Road, Fisk Street and Glen Ridge Road – Subdivision Plat

Pete Setaro, P.E., and Steve Tinkelman, architect, appeared before the Board with an application for Subdivision Plat Approval (Sketch Plan) to create 51 residential building lots ranging from .12 acres and larger together with an open space lot, all from a 65.3-acre parcel, partially in the Village of Red Hook and partially in the R1 District in the Town of Red Hook.

The Chair welcomed the Village of Red Hook Planning Board to this presentation.

Mr. Tinkelman said that there had been some minor modifications to the plan but that basically it was the same as the Board had seen in a pre-submission conference in September, 2004. Mr. Setaro said that the Town Fire Chief had been contacted about the project.

The Chair said that he had asked Jennifer Porter from the law firm of Keane & Beane whether the Planning Board had the power to waive the zoning regulations to allow smaller lot sizes. Ms. Porter had said no, that the applicants would need several variances from the ZBA.

Ms. Greig said that the Town's cluster regulations were actually very suburban in nature, with relatively large setbacks from the road and relatively large lot sizes. This project, with its smaller lot sizes and smaller setbacks, conformed to the traditional neighborhood design outlined in the Town's Master Plan and favored by Greenway. She advised the applicants to survey some of the streets in the Village, measuring lot sizes, setbacks and other attributes that would set a model for a neighborhood design.

She also said that this project was an unlisted action under SEQR and recommended that whichever municipality chose to serve as Lead Agency should undertake a coordinated review. She added that a Special Permit would be required for the multi-family homes and that a SPDES permit would also be necessary.

Ms. Greig outlined some of the first steps in processing the application. She said that, if it wished to serve as Lead Agency, the Village should circulate the appropriate notice and then, if the notice was uncontested, undertake the coordinated SEQR review. She also recommended that the applicants appear before the Town ZBA to give a pre-submission presentation of the plan, even though the ZBA would be unable to vote on the needed variances until a SEQR determination was made. Finally, she said that although joint meetings between the Village and the Town Planning Boards were not necessary for all steps in the process, both Boards should probably attend such a meeting when an important vote, such as the SEQR determination, was taken.

Ms. Greig went on to say that while the SEQR process was continuing, the applicants could begin presenting both municipalities with their initial site plan drawings and apply to the Town Planning Board for the necessary Special Permit(s). She said an Agricultural Data Statement and a density calculation should be submitted in anticipation of referrals to the Agricultural Advisory Committee and to the Dutchess County Department of Planning and Development. Finally, she said the applicants should coordinate their planning with the Town Highway Superintendent.

Jay Trapp, Chair of the Red Hook Village Planning Board, said that the Village is currently working on a zoning incentive package that would allow the higher densities outlined in the Anderson Commons design. He said that that zoning package would have to be adopted before a SEQR determination could be made.

Mr. Setaro said that the storm drainage plan and sewage disposal system plans were finished but that they had not been included in any formal application. He added that he would like to get a sense of the ZBA's opinion about the plan and welcomed addressing that Board before formal applications for variances are made. Various Board members said that the ZBA might send a request to the Planning Board asking for its comments and recommendations.

Finally, Mr. Setaro said that he would send a letter to the Town Planning Board listing back-up documentation that would be necessary for Part III of the EAF, so that when the Town Planning Board consented to the Village Planning Board serving as Lead Agency, the Town Planning Board could list additional items of concern in its response.

Upon a request by Mr. Setaro, the Board generally agreed that GreenPlan may forward a copy of its meeting memos regarding the project to the applicants at the same time it sends those memos to Board members in preparation for an upcoming meeting.

The Board generally agreed to accept the subdivision application and, when the density package was received, refer the matter to both the Agricultural Advisory Committee and Dutchess County Planning.

The project was tentatively scheduled for another appearance before the Board on April 18, 2005.

Firehouse Productions/ Bryan Olson – 12 Glen Pond Road – Site Plan

Leonard Sieverding, architect, and Bryan Olson appeared before the Board with an application for Site Plan Approval for the modification of an existing 17,991 sq. ft. storage building for mixed use office and storage space on a 3.04-acre parcel, partially in the Village of Red Hook and partially in the B2 District of the Town.

Mr. Sieverding explained the project to the Board. He said that he had submitted the lighting plan, which consisted of one security light above the door, as requested by the Board. Ms. Greig said that the light shown on the schematic was shielded, as the Board had required, but that it allowed more foot-candles than was necessary for the site or desired for the neighborhood. Mr. Sieverding agreed that the applicant would limit the bulb to no more than 300 watts.

Ms. Greig said that because of its proximity to the Village, this project must be referred to Dutchess County Planning and also to the Village of Red Hook Planning Board. She added that the Board should ensure that the application does not require Village Planning Board review and should require a letter of no concern be obtained from the Village Zoning Enforcement Officer and from the Village Planning Board before the application was approved. The Board generally agreed to make those referrals.

Village Planning Board Chair Jay Trapp said that the Village would probably be concerned with how much traffic would be entering and leaving the site and what size and type of trucks would be involved.

Mary Lou Muirhead made a motion to adopt the following offered resolution accepting the application as sufficient for Board, consultant and public review and setting a public hearing for April 4, 2005 at 7:35 p.m:

Name of Project: Firehouse Productions

Name of Applicant: Bryan Olson

Whereas, the Town of Red Hook Planning Board has received an application for Site Plan approval dated January 20, 2005, from Bryan Olson for a “storage facility” in an existing structure in the B-2 District; and

Whereas, the ± 3.004 acre parcel is located on Glen Pond Road in the Town of Red Hook, Dutchess County, New York; and

Whereas, the proposed action requires Site Plan Approval pursuant to the Town of Red Hook Zoning Law §143-113; and

Whereas, the Planning Board has received a Site Plan dated February 1, 2005, manufacturer’s cut sheets illustrating proposed lighting fixtures, and a Short Environmental Assessment Form Part 1 dated January 24, 2005 for the proposed storage facility; and

Whereas, the applicant proposes no changes to landscaping, signage (except a small directional sign), grading or paving, outdoor storage of equipment and materials, or exterior structural changes; and

Whereas, the proposed use will require less water and generate less sewage than the preceding use.

Now therefore be it resolved, that the Planning Board accepts the Site Plan application as complete, and sets a Public Hearing date of April 4, 2005 at 7:30 p.m.

John Hardeman seconded the motion, and all members present voted in favor.

Devereux Foundation – NYS Route 9 and Old Post Road – Subdivision Plat

Tim Race, P.E. and John O’Keefe of Devereux were present with an application for the creation of a 5.2-acre residential building lot and a 54.4-acre institutional lot from a 59.6-acre parcel in the Institutional (I) District and Certified Agricultural Districts.

Ms. Greig said that a community residence was a permitted use in the Institutional District but that the Foundation’s Special Use Permit must be amended because the acreage of the parcel would be affected by the proposed subdivision.

Mary Lou Muirhead was concerned that, if the 5.2-acre lot were carved off the parcel, the remaining land would not be enough to accommodate coverage for the existing

buildings. The Board agreed that the applicant must document that sufficient land would remain.

Asked if the existing house couldn't be used or modified for the residence, Mr. O'Keefe said no, that it was too rundown and could not be upgraded to meet the State requirements necessary for such a facility. He said that Devereux had planned to raze that house and build the new facility on the same site but that because of the required double setbacks on a Scenic Corridor, a new site would have to be determined. The applicant stated that the residence would house only 8 people. Ms. Greig said that the proposal would then be for a community residence, and since a community residence was a permitted use in the I District, the applicant would not be required to apply for Site Plan Approval for the proposed residence. She said the Planning Board and the applicant could agree on a building envelope as part of this application.

The Board Members agreed to visit the site individually and informally before the applicant's next appearance.

Christine Kane made a motion to adopt the following offered resolution accepting the Preliminary Subdivision application as complete and setting conditions for a public hearing date:

Name of Project: Devereux Subdivision

Name of Applicant : Devereux Foundation

Whereas, the Town of Red Hook Planning Board has received an application for preliminary subdivision approval dated February 24, 2005, a Preliminary Subdivision Plat dated January 12, 2005, a Short Environmental Assessment Form (EAF) Part 1 dated February 1, 2005, and an Agricultural Data Statement (undated) for a proposed subdivision of a ±59.60 acre parcel into two lots in the Institutional (I) District and the Scenic Corridor Overlay (SC-O) District; and

Whereas, the parcel is located on Route 9 in the Town of Red Hook, Dutchess County, New York; and

Whereas, the proposed action requires Subdivision Approval pursuant to Chapter 120 of the Town of Red Hook Code; and

Whereas, the proposed action requires an amendment to the Special Use Permit granted to the Devereux Foundation by the Town of Red Hook Zoning Board of Appeals on May 4, 1988.

Now therefore be it resolved, that the Planning Board accepts the Preliminary Subdivision application as complete; and

Be it further resolved, that the Planning Board will set a Public Hearing for the Planning Board's next regularly scheduled meeting

subsequent to the applicant's submission of a Special Use Permit amendment application.

David Wright seconded the motion, and all members present voted in favor.

The project was tentatively scheduled for reappearance before the Board on April 4, 2005.

REGULAR SESSION (NEW BUSINESS)

Armando D'Onofrio – NYS Route 9 and Kidd Lane – Subdivision Plat

Mark Graminski, P.E. and L.S., Ron D'Onofrio and Armando D'Onofrio appeared before the Board with an application to authorize creation of three (3) residential building lots ranging from 11.3 acres to 39.5 acres from an approximately 62.1-acre parcel, partially in the Village of Tivoli and partially in the RD3 and National Historic Landmarks Districts of the Town of Red Hook.

Armando D'Onofrio said that he and his brother would like to grow flowers and vegetables on part of this parcel and to sell the produce both at a farm stand on the parcel and in other areas of the State. Each brother would like to build a house on the parcel, and they would place the remaining acreage in a conservation easement which would restrict its use to agriculture.

Ms. Greig said that the parcel was located within the Scenic Corridor Overlay District and that it contained both prime soils and soils of Statewide Importance. As a result, it was subject to the Important Farmlands Law, and an Agricultural Data Statement was necessary. Because of its location near the Hudson River, the project also came under the purview of the Local Waterfront Revitalization Plan and a Coastal Assessment Form. Finally, Ms. Greig said that the project was a Type I action under SEQR and therefore required a Full EAF.

The Board agreed by consensus that once these additional documents were submitted, the application and supporting documents would be referred to the Village of Tivoli and to the Agricultural Advisory Committee. The project would also undergo a coordinated review under SEQR.

Christine Kane asked the applicants if they had considered moving the houses closer together toward the rear of the property, leaving a larger area for the agricultural use and also a separate space near NYS Route 9G for the farm stand and its associated parking. This change, she said, would comply with the cluster regulations advocated in the farmland protection plan mandated by the site's agricultural soils. In addition, she said, both driveways could access Kidd Lane instead of NYS Rte. 9G.

Mr. Graminski said that his perk tests showed the soils on the parcel to be mostly impervious clay and that the septic systems for the homes should be widely separated. He added that although one of the driveways appeared excessively long on the map, it had been chosen because of an existing stream crossing.

The Board generally agreed that the applicants must formulate a farmland protection plan and submit the Full EAF, Coastal Assessment Form and Agricultural Data Statement.

OTHER BUSINESS

John Hardeman thanked the Paul Thomas for his skilled leadership as Chair of the Board and, on behalf of the Board, wished him well in the future.

ADJOURNMENT

Upon being advised by the Chair that there was no further business to come before the Board, Christine Kane made a motion to adjourn. David Kane seconded the motion, and all members present were in favor. The Chair adjourned the meeting at 10:40 p.m.

Respectfully submitted

Paula Schoonmaker
Assistant Clerk to the Planning Board

Attachments

Letter from Town Fire Chief Arvine Coon, Jr. regarding the Salvia proposed subdivision
Letter from Robert McKeon regarding the Salvia proposed subdivision
Letter from Keane & Beane regarding the Salvia proposed subdivision
Resolution granting Conditional Site Plan Approval to Bard College Robbins House and
Negative SEQR Declaration
Letter from Keane & Beane regarding proposed Anderson Commons

ATTACHMENTS



Post Office Box 100
Red Hook, New York 12571
(845)758-8706
(845)758-8707

March 3, 2005

Town of Red Hook Planning Board
7340 South Broadway
Red Hook, NY 12571

Dear Planning Board Members,

This letter is in reference to the Salvia property on Fraleigh Lane.

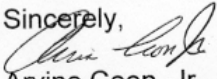
I feel this project should be given careful consideration as the zoning now states that there be no more than twelve lots in a cul-de-sac. This particular road already has almost twice that amount.

If this project is given the necessary approvals there is a possibility that the remaining landowners will be able to do the same as the Salvias, thus creating a major problem. Also there is already a number of acres of farmland on the south side of Fraleigh Lane that could possibly be subdivided at a later date.

When you have a cul-de-sac with that many houses and no other outlet it poses to be a problem with getting fire equipment in and out in an emergency situation. With only one ingress and egress it could set a precedence for other cul-de-sacs in the town.

If you should have any questions on this information, please contact me at (845) 758-8727. Thank you.

Sincerely,


Arvine Coon, Jr., Chief

March 2, 2005

163 Crestwood Road
Red Hook, NY 12571

Mr. Paul Thomas, Chair, Town of Red Hook Planning Board
7340 South Broadway
Red Hook, NY 12571

Thank you for the opportunity to comment on the application for subdivision on the parcel referred to as Salvia, a proposal that we believe should be denied on several grounds. As you are aware our farm borders this property all along the north and eastern sides of their lot. We would like to make several technical observations before raising objections.

1. The application does not meet the minimum requirements of the Town's District Schedule of Area and Bulk Regulations in the R3 zone - minimum frontage of 160 feet. A flag lot exception as outlined in 143-21 (c) shall be granted "***in a limited number of occurrences where the Planning Board finds it to be essential ...without adverse environmental impact...***" This is not warranted here. Even if you did determine that it was essential the project would not meet the lot size requirements when calculated under 143-21 (c) (3):

"That any authorized flag lot satisfy the minimum lot area requirement specified for the zoning district by consideration of only that land which lies further from the lot frontage than the line at which the minimum lot width specified in the District Schedule of Area and Bulk Regulations for the zoning district is first achieved."

2. The application in similar form was proposed back over a decade ago by the previous owners (Field) who applied to subdivide the parcel into 2 lots **before** acquiring the necessary acreage to do so. That application was never completed. At that time, the owners desired to purchase a half acre from the other adjoining property (Abrahams). While they ultimately acquired .43 acres from Dave Fraleigh the PB minutes reflect that perhaps the parcel is still not actually 6 acres. The notes have Mr. Zimmerman stating that a half acre would "still leave them a little short". This should be independently verified.

3. The .43 acres acquired during the 1990's has the springs and the start of a small stream which serves our cattle and horses. It runs south into a large pond and ultimately into the Saw Kill. DEC should be asked to come out and flag these wetlands. Any area designated a wetland or stream course would necessarily bring the acreage even lower.

4. The location of the septic system on this application is not consistent with previous applications. The exact location should be verified. (see attached).

5. The application was granted sketch plan approval based upon a one-lot exception under the *Important Farmlands Amendment 143-47*. This is in error. The one-lot exception is under paragraph H which begins "***To accommodate landowners who do not***

desire to subdivide an entire parcel at the time of the initial application...partial subdivision that would otherwise meet the purposes and requirements of a cluster or conservation subdivision or other development shall be permitted as follows:” Here the applicant is not seeking to subdivide a portion of the land.

The applicants are seeking to further subdivide a non-conforming lot that was grandfathered. Under current subdivision regulations 120-18 (b) (3) a maximum of 12 single family residences are permitted in a cul-de-sac. There exists 24 lots in this development. While the additional 12 lots are grandfathered, ***future lots are not***. Under current subdivision regulations, the maximum length of a cul-de-sac in R3 zone is 1500 ‘. This lot is approximately 1.4 miles into the cul-de-sac and is non-conforming by almost 400%. Perhaps the most important point is that it represents a safety issue for current and future residents of Fraleigh Lane. Can the PB say they respect this law and allow for such non-conformity in a re-subdivision? Would the 23 other lots in Fraleigh Lane be reasonable in anticipating the same treatment in the future?

*Subdivision Code 120-2 Policy and Objectives (B) (5): “All development shall be designed to **facilitate** adequate fire and emergency protection and provide access for fire-fighting and related equipment.” 120-1 Purpose: **The purpose of this chapter is to protect the public health, safety and welfare of the residents of the Town of Red Hook** ...”*

The town’s own attorneys have indicated that the **“creation of an additional lot would be in direct violation of the requirements of section 128.B (4) (a) and is therefore prohibited”**. Modification of the code is permitted only due to ***physical characteristics*** of the site under 120-27 (a) or, if by not allowing it, you would ***inhibit the Master Plan’s objectives*** as described in 120-27(b). ***Neither*** of these situations exist here and so the subdivision must be prohibited.

The Master Plan clearly indicates that the preservation of farmland is paramount. Permitting residential development adjacent to farms is discouraged. MP Section 5 (p.7,8) states that the continuation of agricultural activities must be assisted by ***“segregating agriculture and incompatible non-agricultural uses...thereby reducing pressures to convert.”***

I am often asked to speak throughout New York State on my knowledge of farmland preservation. At each conference I cover this increasingly disturbing topic of neighboring development discouraging and forcing out farmers”. I have also presented to you two articles on the topic last spring. The legal term in real estate is “constructive eviction”. I talk of my own experience receiving a frantic phone call from an adjacent property owner who came upon a herd of cattle on her lawn. The herd of course was mine; they had broken out having been attacked by a rabid animal. Subsequently the best heifer calf of the season died, my wife underwent the series of shots and my worker and I spent considerable time repairing hundreds of potholes in their lawn, re-seeding and covering with hay. Her husband indicated that he was nervous because of the behavior of one of my steers. These understanding folks were and are the Salvias. The issue of

compatibility is not one of supposition. If I have more neighbors, I have more risk, and more risk will send my family and our contribution to farmland preservation “packing”.

We have committed our life savings to assisting the town in creating a critical mass of farmland in this part of town, and have expressed the desire to permanently preserve the nearly 400 acres we own. We have secured this piece by piece; acquiring the land before it was lost to development. This key 20 acre orchard parcel is the only one protected (by Scenic Hudson); who invested their money in our shared goal. The Salvias; along with all of those neighbors should benefit by living next to a permanently protected parcel.

The lot in discussion is next to where we hope to have a riding trail; extending around the perimeter of our apple orchard. Approving a new lot here would negate that idea and make us rethink our plans for the Fraleigh Lane / Feller-Newmark land and ultimately the farm itself. There would not be sufficient buffer if approved.

Compatibility extends not only from residential to agricultural but conversely as well. When we purchased this parcel a few years back, neighbors asked if we were going to allow hunting, as had been the case. With a special permit we can have that incompatible activity year round. Hearing their pleas we agreed to prohibit hunting and they have thanked us immensely. Should we re-think that decision? If we exercise our right under Ag & Markets Law Art.25-AA to prevent crop damage by re-instituting hunting, we could be shooting next to their driveway or close to their house. Would that be safe, prudent or logical?

The entrance to our farm from Fraleigh Lane is a narrow 50' strip that the applicants propose to construct a driveway adjacent to. Having a farm's entrance (which can not be moved) adjacent to a residential driveway is not supportive of agriculture and I don't know of a situation like this in our town.

In sum, the zoning utilized must support the Master Plan's objectives. Safety and farmland preservation. Whether you choose one over the other, (and we believe safety to be the most important,) you must deny this non-conforming re-subdivision. Subdivision Code. 120-31 **Construal of Provisions** states *“In their interpretation and application, the provisions of this chapter shall be held to be the **minimum** requirements established by the Planning Board of the Town of Red Hook for the subdivision of land and the provision of required improvements within the town. Should the requirements of this chapter conflict with or otherwise be inconsistent with any provision or requirement of any other lawfully adopted rules, regulations, ordinances or laws, whether of the Town of Red Hook, the County of Dutchess, the State of New York or the United States of America, **the more stringent provisions or those imposing the higher standards shall govern.**”*

Please apply the code as written and please help us keep our farm a possibility for generations to come.

*Sincerely,
Robert McKeon*

KEANE & BEANE, P.C.

445 HAMILTON AVENUE, 15TH FLOOR
WHITE PLAINS, NEW YORK 10601
(914) 946-4777
FACSIMILE (914) 946-6868
www.kblaw.com

MEMORANDUM

Attorney-Client Privileged Communication
Not Subject to FOIL

TO: Town of Red Hook Planning Board
FROM: Jennifer M. Porter, Esq.
RE: Salvia Subdivision – Farmland Issues
DATE: January 31, 2005

Issue #1: If a parcel for subdivision is not in the agricultural district but contains protected soils (i.e. prime soils or soils of statewide importance), does that fact alone trigger review under Section 147-43 of the Zoning Code?

Answer: Yes

Analysis: Section 143-47 applies to all types of “important farmlands” not just to lands within an agricultural district. Evidence of the intention to regulate farmland which is not in the agricultural district but which contain prime soils or soils of statewide importance can be found by looking to the definition of “important farmland.” Such term is defined as:

Important Farmland -- Land characterized by one or more of the following characteristics:

- (1) Presence of prime agricultural soils;
- (2) Presence of soils of statewide agricultural importance;
and
- (3) Active agricultural lands.

Moreover, section 143-47.D(4)(a)[1] provides that the regulated farmland overlay area consists of those farmlands certified for inclusion in Dutchess County Agricultural District 20 by the New York State Department of Agriculture and Markets pursuant to the NYS Agricultural Districts Law and which have been determined by the Town Board, through their inclusion within the Environmental Protection Overlay (EP-0) District, to be of special significance to the Town. For these reasons, although land may be outside of an agricultural district, if such land contains prime soils or soils of statewide importance, such land still falls within the environmental protection overlay district and is subject to the provisions of section 143-47.

Issue #2: Is a proposed subdivision creating one (1) additional lot on a cul de sac that already contains more lots than the current maximum allowed (12 lots) under the Zoning Code prohibited?

Answer: Yes, but the Planning Board may modify the subdivision requirements to allow the creation of an additional lot in accordance with section 120-27 if the Board finds that a modification is warranted.

Analysis: Section 120-18.B(4)(a) of the Red Hook subdivision requirements provides that:

- (a) cul-de-sac streets shall not be created to provide access to residential lots except in situations where, in the view of the Planning Board, a through street cannot reasonably be provided due to the physical characteristics of the subdivision parcel and adjoining properties. Where a cul-de-sac street is authorized, either as a permanent dead-end street or as a temporary dead-end street pending completion of a through-road network, not more than twelve (12) single-family residential lots may gain access from either the initial development or extension of such cul-de-sac street.

The creation of an additional lot would be in direct violation of the requirements of section 128.B(4)(a) and is therefore prohibited. However, pursuant to section 120-27 of subdivision regulations, the Planning Board can choose to modify the subdivision regulations to allow for the creation of an additional lot. Section 120-27 provides:

§ 120-27. Modification of specific requirements.

- A. Where the Planning Board finds that compliance with this chapter would cause unusual hardship or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, area, drainage or other physical features of the site, the minimum requirements of this chapter may be

modified upon specific request and by specific resolution of the Planning Board to mitigate the hardship, provided that the public interest is protected and the development is in keeping with the general spirit and intent of this chapter and other town regulations regarding land use and development activities and the protection of the town's environmental resources.

- B. The Planning Board may additionally modify the specific requirements of this chapter where, due to the unique circumstances of a particular tract, strict application of this chapter would inhibit achievement of the town's Master Plan objectives, provided that public health, safety and welfare are protected and the requirements of Chapter 143, Zoning, are wholly met.

Therefore, the Planning Board has two (2) options. They can deny the application because the creation of another lot is prohibited or they can modify the subdivision requirements regarding cul-de-sacs to permit the creation of an additional lot.

**Town of Red Hook Planning Board
Resolution Granting Conditional Site Plan Approval in the Matter of the Bard
College Robbins House Residence Addition and Associated Improvements on
Robbins Road in the Institutional and National Historic Landmarks Districts.**

March 7, 2005

Motion made by Mary Lou Muirhead
Seconded by David Wright

The Town of Red Hook Planning Board hereby acts as follows on the February 19, 2004 Application by Bard College for Site Plan Approval for the construction of a 50,000 s.f., 162-bed, 3-story addition to the Robbins Residence Hall and associated site improvements, including the construction of a 75-car parking lot, on Robbins Road to the north of Annandale Road (CR 103) within the Bard College Campus and the Town of Red Hook Institutional (I) District and the Hudson River National Historic Landmark District, all as depicted by the following documents:

- A set of Site Plan drawings C100 through C104 prepared by Morris Associates entitled 'Renovation/Addition for Robbins Residence Hall, Bard College Dormitory', dated February 25, 2005, and revised to March 16, 2005.
- Illustrative Building Elevations prepared by Ashokan Architecture and Planning.

1. Upon review of the EAF Part 1 submitted by the Applicant, its own completion of EAF Parts 2 and 3, and consideration of both the 'criteria for determining significance' set forth at Title 6 Part 617.7.c NYCRR and a cultural resources 'sign-off' letter issued by NYSOPRHP on March 7, 2005, determines the Proposed Action, a 'Type I Action' under SEQRA due to its location in the National Historic Landmark District, will cause no potential significant adverse effects on the environment and thus issues the annexed Negative Declaration deeming an environmental impact statement to not be required.

2. Grants Site Plan Approval for the Robbins Residence Hall project as set forth within the above-cited documents and authorizes the Chair to stamp and sign the Site Plan upon the Applicant's satisfaction of each of the below requirements within the next six (6) calendar months:

- a. Satisfaction of any outstanding technical comments issued by the Town Engineer.
- b. Filing of a copy of the Storm Water Pollution Prevention Control Plan with the Town of Red Hook Planning Board Office and Building Department.

- c. Securing of an Area Variance from the Town Zoning Board of Appeals to authorize intended building height in excess of the maximum permitted height of 35 feet, which Area Variance could not be acted upon by the ZBA until the SEQRA compliance process has been completed by the Planning Board, as it will now be upon issuance of the aforementioned Negative Declaration, in its SEQRA lead agency role for required coordinated review of this Type I Action.
 - d. Payment of any outstanding fee amounts or reimbursable costs due the Town of Red Hook.
 - e. Submission of the final Site Plan drawings for stamping and signature in the number and form specified within the Town's Zoning Code.
3. Further authorizes the Town's Building and Zoning Department to issue first a Building Permit upon receipt of a copy of the Site Plan bearing the stamp of the Planning Board and signature of the Chair and subsequently a Certificate of Occupancy under the Town's Zoning Code, each upon determination by the Building and Zoning Department that the College has satisfied all other codes, laws, rules or regulations pertinent to the proposed construction and the intended occupancy.

Roll Call Vote:

Member John Hardeman	yes
Member Christine Kane	yes
Member Mary Lou Muirhead	yes
Member Sam Phelan	absent
Member Paul Telesca	yes
Member David Wright	yes
Chairman Paul Thomas	yes

Resolution declared: **APPROVED**

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

Paula Schoonmaker, Assistant Clerk to the Board Date _____

SEQR Negative Declaration
Notice of Determination of Non-Significance

March 7, 2005

Lead Agency:

Town of Red Hook Planning Board

Lead Agency Address:

Red Hook Town Hall, 7340 South Broadway, Red Hook, New York 12571

This Notice is issued pursuant to Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617, the Implementing Regulations pertaining to said Article, together known as the State Environmental Quality Review Act ("SEQRA").

The Planning Board of the Town of Red Hook, as duly designated SEQRA Lead Agency, has determined that the Proposed Action described below will not have any potential significant adverse effects on the environment and, therefore, issues this Negative Declaration deeming a Draft Environmental Impact Statement to not be required.

Title of Proposed Action:

Bard College / Robbins House Residence Hall

SEQR Status:

Type I Action,
Proposed Action located within Hudson River National Historic Landmark District

Description of Proposed Action:

The Proposed Action includes the grant of Site Plan Approval by the Town of Red Hook Planning Board and related permits, approvals and compliance determinations from other involved agencies to authorize construction by Bard College of a 50,000 s.f., 162-bed addition to the Robbins House Residence Hall and an associated 75-car expansion of a parking lot opposite the Residence Hall within Bard College's 550-acre "Educational Campus" in the Town's Institutional (I) District, all as depicted on Site Plan drawings (C100 through C 104) prepared by Morris Associates, in Building Elevations prepared by Ashokan Architecture and Planning, and the subject of an Archaeological Study by Dr. Christopher Lindner.

Location:

Robbins Road northwest of Annandale Road (CR 103), Bard College Campus, Town of Red Hook, Dutchess County

Reasons Supporting This Determination:

The Planning Board of the Town of Red Hook has reviewed the EAF Part 1, prepared and certified by the Applicant, considered the response of March 7, 2005 by NYSOPRHP with respect to the location within the Hudson River National Historic Landmarks District and the associated archaeological investigation by Dr. Lindner, and completed EAF Parts 2 and 3 in consideration of the “criteria for determining significance” set forth at Title 6 Part 617.7.c NYCRR.

The Planning Board first determined the Proposed Action to be consistent with the Updated Bard College Master Plan (November 2004) and the College’s Amended “Educational Facility” Special Use Permit, the first as accepted with conditions and the seconded as issued with conditions, by the Town Planning Board on February 7, 2005.

The Planning Board next examined the potential environmental effects of the Proposed Action and concluded the effects will be as follows:

- Although there will be some short-term construction period effects as the Robbins House Residence Hall Expansion Project and associated construction of a 75-car parking lot (hereafter collectively referred to as the “Robbins Residence Hall project”) is undertaken, there will be no substantial adverse change in existing air quality.
- Although there will be some construction period effects and a minimal increase in overall storm water runoff upon completion of the Robbins Residence Hall project, site disturbance will be limited to the extent practicable, occurring wholly within the heretofore disturbed lawn areas adjacent to the existing building, between Robbins House and Ward Manor to the north, and adjacent and east of an existing parking lot. Both short-term and long-term mitigation will occur to the extent pertinent in accordance with the EPA Phase 2 Storm Water Regulations and related NYSDEC requirements under NYSDEC Storm Water SPDES General Permit GP-03-01, including required Storm Water Pollution Prevention Plan (SWPPP) and thus, there will be no substantial change in ground or surface water quality or quantity.
- There will be no substantial adverse change in traffic or noise levels as a result of the Robbins Residence Hall project; some additional traffic and noise will however be experienced as is routine during the construction period and some traffic will be redistributed to this location from elsewhere within the Bard College Campus as the new dormitory units come on line.
- Although generation of an increased amount of solid waste as typical of a college residence hall is projected upon completion of the Robbins Residence Hall project, the increase in solid waste production will not be so substantial an increase as to have an adverse effect on the College’s or the broader community’s ability to manage such solid waste.

- The Robbins Residence Hall project will be carried out to the extent pertinent pursuant to the above-cited NYSDEC Stormwater SPDES General Permit GP-03-01 and related SWPPP requirements and will not cause a substantial increase in potential for erosion, flooding or drainage problems.
- There will be substantial removal of specimen trees, some 12 to 14 in number ranging between 30" dbh and 80" dbh, to accommodate the intended dormitory expansion component of the Robbins Residence Hall project. These removals have been examined and found to be unavoidable in consideration of the College's siting objective. Other removal of vegetation (i.e. lawn and associated landscape materials/ will occur adjacent to the existing building and within the footprints of the building expansion and the proposed parking lot. The effect of these unavoidable losses and other removals will be mitigated through execution of a landscape plan providing for the introduction of a mix of deciduous and evergreen species appropriate to the Campus setting.
- The Robbins Residence Hall project will not cause substantial interference with the movement of any resident or migratory fish or wildlife species.
- The Robbins Residence Hall project will not impact a significant natural habitat area.
- The Robbins Residence Hall project will not have significant adverse effect on threatened or endangered animal or plant species.
- The Robbins Residence Hall project will not have other significant adverse impacts on natural resources.
- The Robbins Residence Hall project will not impair the environmental characteristics of a Critical Environmental Area (CEA) as designated by NYSDEC.
- The Robbins Residence Hall project will not create a material conflict with the Town's current plans as officially approved or adopted, including but not limited to the Town Comprehensive Plan and the Town Zoning Law, as well as the Bard College Campus Master Plan which underlies the College's "Educational Campus" Special Use Permit designation pursuant to the Town's Zoning Law.
- The Robbins Residence Hall project will not impair the character or quality of important historical, archaeological, architectural or aesthetic resources or existing or community character, including nearby properties listed as "contributing structures" within the Hudson River National Historic Landmark District.
- Although the Robbins Residence Hall project will upon its completion require the use of additional energy for heating, cooling, lighting and other purposes, there will be no major change in the use of energy by either quantity or type associated with the Proposed Action.

- The Robbins Residence Hall project will not create a hazard to human health with all construction and site development activities undertaken in accordance with pertinent environmental regulations.
- The Robbins Residence Hall project, the construction of a building addition housing 162-beds and a 75-car parking lot within the 550-acre Bard College Campus, will not cause a substantial change in the use, or the intensity of use, of land including agricultural, open space or recreational resources, or in the capability of land to support these resources.
- The Robbins Residence Hall project will not encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the Proposed Action; further the Residence Hall project is principally a
- The Robbins Residence Hall project will not cause changes in two or more elements of the environment, no one of which has a significant impact on facility upgrade replacing older student accommodations elsewhere within the Bard Campus with far more modern living arrangements and not part of an overall expansion program intended to accommodate a substantially greater student population at Bard.
- The Robbins Residence Hall project will not cause the creation of a material demand for other actions that would result in one of the above consequences.
- The Robbins Residence Hall project will not cause changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial significant adverse impact on the environment.
- The Robbins Residence Hall project will not, in combination with other projects either on-going or known to be proposed within the vicinity of the Proposed Action, none of which has or would have a significant impact on the environment, cumulatively meet one or more of the criteria set forth at Title 6 Part 617.c NYCRR.

For Further Information:

Contact Person: Paul G. Thomas
Chairman, Town of Red Hook Planning Board

Address: Town Hall, 7340 So. Broadway, Red Hook, New York 12571

Telephone: (845) 758-4613 (Telephone) / (845) 758-0492 (FAX)

Distribution of Copies of This Negative Declaration:

- New York State Department of Environmental Conservation, Main Office, Regulatory Affairs, 625 Broadway, Albany, New York 12233

- New York State Department of Environmental Conservation, Region 3 Office, Division of Regulatory Affairs, 21 South Putt Corners Road, New Paltz, New York 12561
- New York State Office for Parks, Recreation and Historic Preservation, Field Services Bureau, Peebles Island Complex, P.O. Box 189, Waterford, New York 12188
- Dutchess County Health Department, Environmental Health Division, 387 Main Street, Poughkeepsie, New York 12601
- Dutchess County Department of Planning and Development, 27 High Street, Poughkeepsie, New York 12601
- Town of Red Hook ZEO / Building Inspector's Office, Town Hall, 7340 South Broadway, Red Hook, New York 12571
- Supervisor, Town of Red Hook, Town Hall, 7340 South Broadway, Red Hook, New York 12571
- Environmental Notice Bulletin, Fourth Floor, 625 Broadway, Albany, New York 12233-1750
- Bard College, Annandale-on-Hudson, New York 12504-5000 / Attn: Dr. James Brudvig, Vice President for Administration
- Morris Associates, 9 Elks Lane, Poughkeepsie, New York 12601 / Attn: Peter Setaro. P.E.

KEANE & BEANE, P.C.

445 HAMILTON AVENUE, 15TH FLOOR

WHITE PLAINS, NEW YORK 10601

(914) 946-4777

FACSIMILE (914) 946-6868

www.kblaw.com

MEMORANDUM

Attorney-Client Privileged Communication

Not Subject to FOIL

TO: Town of Red Hook Planning Board

FROM: Jennifer M. Porter, Esq.

RE: Anderson Commons – Cluster Issue

DATE: February 2, 2005

Issue: Pursuant to Section 120-24 of the subdivision regulations, can the Planning Board modify applicable zoning and or clustering requirements set forth under the Town Zoning Code?

Answer: While the Planning Board has authority pursuant to Section 120-24 of the subdivision regulations to modify general zoning requirements, such modification must be in accordance with the minimum clustering requirements set forth in Section 143-33 of the Town Zoning Code.

Analysis: Section 120-24 of the Town of Red Hook subdivision regulations provide as follows:

Pursuant to resolution of the Town Board, the Planning Board is empowered to modify to the extent provided within Chapter 143, Zoning, applicable provisions of said law in accordance with the provisions of § 281 of the Town Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to provide the opportunity for residential growth in the town while preserving to the extent practicable the rural character of the open landscape and the community's irreplaceable historic, scenic and environmental resources in accordance with certain cluster objectives and pursuant

to the development standards set forth in Chapter 143, Art. V, § 143-33, of the Code of the Town of Red Hook.

Pursuant to said paragraph, the Planning Board is empowered to modify the General Zoning requirements under Chapter 143 of the Town Code. However, such modification must be accordance with the clustering requirements and development standards set forth in Section 143-33 of the Zoning Code. Thus, if the Anderson Commons application seeks approval for a cluster development which does not meet the criteria set forth under Section 143-33, the applicant will need a variance from the ZBA. However, to the extent that the application meets or exceeds general zoning requirements, the Planning Board has the power to modify those requirements, so long as such requirements are consistent with the requirements of Section 143-33.