APPROVED
Town of Red Hook Planning Board
Meeting Minutes
May 5, 2014

CALL TO ORDER AND DETERMINATION OF QUORUM

Christine Kane opened the meeting at 7:30 pm. A quorum was determined present for the conduct of business.

Members present — Sarah Gilbert, Sam Phelan, Sam Harkins, Brian Walker, Charlie Laing and Christine Kane. Also present was planning consultant Michele Greig.

Ms. Kane announced one change to the agenda, which was the adjournment of continued review of the Preserves At Lakeskill major subdivision until May 19.

Approval of the minutes for April 21 was tabled until all board members have a chance to review them.

NEW BUSINESS

Kent/Feller Lot line Alteration, Feller-Newmark Road, Sketch plan approval

Presentation of application for lot line alteration between Dean Kent, owner of a 93.29 acre parcel, and the estate of John Feller, owner of an adjacent 139 acre parcel, to convey 10 acres of land from the Feller estate to the Kent property.

Dean and Linda Kent were present to discuss the project. Mr. Kent said that he plans to purchase 10.9 acre field adjoining the rear of his land currently owned by the Feller estate. He said he plans to eventually plant fruit trees on the newly acquired land. Sarah Gilbert asked if they are currently farming. He replied that they have apple and peach trees that they farm together with Dave Fraileigh.

Charlie Laing asked if there were any physical features, such as a stone wall, which would delineate. Mr. Kent said no, the adjustment is a straight line from one pin to another. He said eventually he would fence it. He said all the property involved is under Scenic Hudson conservation easement.

The board reviewed a memo from planning consultant Greenplan, which suggested some revisions to the Agricultural Data Statement and the EAF.

The board generally agreed to approve the sketch plan, and asked that the applicants revise the Ag Data Statement and the EAF to comply with the Greenplan suggestions, and update the maps submitted with liber and page information, and note that the project is a minor subdivision on the plat.

Charlie Laing noted that the Conservation Easement agreement between Feller and Scenic Hudson contains a Right of First Refusal clause (8.16) to the Grantee (Scenic Hudson) and the Town of Red Hook. Sam Harkins noted, however, that the section immediately following the Right of First Refusal (8.16.A) states that the right of first refusal “shall not apply to any sale of the property to a responsible person or persons who…demonstrate an intent to conduct farming on the property”, which the Kents do.

The board generally agreed therefore that the Feller Estate's should contact Scenic Hudson and the Town of Red Hook to notify them of the intent to transfer lands and explain that their Right to First Refusal is negated by the fact that the buyer intends to farm the land. An acknowledgement should be requested for the record.

Ms. Kane advised the applicants to submit all the changes requested to the EAF and Ag Data Statement, and if possible provide responses from the town and Scenic Hudson regarding the right to first refusal. In the meantime, the survey submitted at the meeting would be reviewed by the planning consultant and discussed further at the next meeting. If all went well, she said, a public hearing could be scheduled for June 2, and approval could be granted at that meeting if all goes smoothly.

OTHER BUSINESS

Doug Angona was present for a continued pre-application conference regarding property he is interested in purchasing at 245 Lasher Road.

Christine Kane reviewed for board members not present at the last meeting that Mr. Angona had appeared before the board to inquire about establishing a hotel at the site, but hotels are not allowed in the AB district, where the property lies. The property is currently a non-conforming Alternate Care Facility (ACF) use.

Mr. Angona explained that he wanted to continue the established Alternate Care Facility (ACF) use and was now proposing to house parolees who would participate in Bard College's Prison Initiative program, and collaborate also with the Re-Entry Program in Columbia County. He said he was seeking the planning board's opinion on whether that would be considered and ACF.

Ms. Kane and the board reviewed the zoning code section 143-4, which contains descriptions of ACFs. Mr. Angona said he felt that his proposal would fall under 143-1 (4), "A supportive living facility providing responsible supervision of residents."

Ms. Kane said she felt that it would hinge addressing the general definition of ACF which defines clients as "those persons who are unable to work and live independently at a particular time, and providing for his or her specific needs." She wondered if parolees fit that description.

Sam Phelan asked about the nature of the Bard Prison Initiative (BPI) Program. Sarah Gilbert said that the program is carried out in the prisons, where inmates can earn a degree while incarcerated.

After considerable discussion, Charlie Laing said he felt that the board should seek professional guidance on whether parolees fit the definition of persons unable to live and work independently. Brian Walker added that supervision seem to be and important aspect of an ACF as well, and wondered if there were other facilities similar to the one Mr. Angona was proposing, and how they are defined. Mr. Angona said that he does not know of any other facility like the one he is proposing.

Ms Kane read from section 143-125-C, which states that "A nonconforming use shall not be changed to another nonconforming use without prior approval by the Board of Appeals and then only to a use which…is of the same or more restricted nature. Such change shall also be preceded by site plan review and approval by the Planning Board."

Sam Phelan suggested Mr. Angona get an interpretation of the zoning code from the Zoning Board of Appeals. Ms. Kane said she agreed that makes the most sense. Mr. Phelan said that what he was hearing from Mr. Angona was not the definition of a program, but rather the aspirations of a program. He said that until the program itself was more clearly defined, it would be difficult for the ZBA to distinguish whether it was a hotel where people stay vs being a "care program". He said it didn't sound like Mr. Agnona had a plan to provide care, and without that component, he was essentially a hotel for parolees. He asked where the supervision would come from.

Mr. Angona asked the board if he were able to get letters from Bard and Re-Entry stating they would provide services for the parolees, would that then meet the definition of ACF.

Michele Greig said she felt the larger issue is supervision, and asked who would provide it. Mr. Angona said the parole officers would.

Mr. Phelan said that with no viable plan for care services or supervision, it sounded like a hotel to him.

Eventually, the board came to consensus that they could not determine whether the proposed program could fit under the definition of ACF. Ms. Kane explained that the planning board implements the zoning code; it is the job of the ZBA to interpret the code. Board members generally agreed that there was no concrete program being put forth, that makes the decision hard to arrive at for the planning board, and will probably make it difficult for the ZBA as well.

The board advised Mr. Angona to apply to the ZBA for interpretation.

OTHER BUSINESS

Christine Kane announced that a letter has been received from Kearney Realty, the applicant for Anderson Commons, waiving the 45-day time limit for the board to take action on the site plan and special permit.

She also said that a preliminary report on the site visit to the Teviot property by Stephen Yarabeck of Hudson Pacific Landscape Design had been received and would be circulated for review by board members.

ADJOURNMENT

There being no further business before the board, Charlie Laing made a motion to adjourn. Sam Harkins seconded and all members voted in favor. The meeting was adjourned at 8:50 pm.

Respectfully submitted,

Kathleen Flood
Secretary