

Planning Board Meeting – Wednesday, May 4, 2011

Board Members Present: French, Groom, Machiz, Rosenstreich, Silver and Chair Walters

Town Board Members Present: Peter Nelson, Sr., and Larry VanBrunt

Runyan & Sullivan
Tax Parcel ID# 102-1-14.112

Runyan and Sullivan are neighbors who have agreed to a lot line adjustment. They would like to combine their two properties – one parcel is 6.803 acres and the other is 6.019 acres. This is not a subdivision. Looking to get maps re-stamped.

Motion made by French, seconded by Rosenstreich to re-stamp maps. All in favor. Maps were stamped for approval.

Public Hearings

Bardes / Kilpatrick
Tax Parcel ID# 92.0-02-50
Lot Line Adjustment

Presented by Cindy Elliott, Land Surveyor. Property is on Ostrander Road. There is a small cape cod style house on the property. The current owners own a triangular shaped 1.4 acres piece of property. The next-door neighbor will deed a small parcel to Bardes so they can meet setback requirements.

Motion made by Machiz, seconded by French to open the public hearing. All approved.

No comments from the public.

Motion made by Silver, seconded by French to close the public hearing. All approved.

No environmental impact, no SEQR required.

Motion made by Machiz, seconded by Groom to approve lot line adjustment.

Machiz: approved, simple request, nice neighbors.

Groom: approve, zoning & master plan requirements met.

Rosenstreich: approve, no reason to oppose.

Silver: approve, no reason to oppose.

French: approve, nice deal between neighbors.

Walters: approve, zoning & master plan requirements met.

Maps were stamped for approval.

Francis / Eldering
Tax Parcel ID# 73.00-01-14.111/19
Lot line adjustment

Presented by Peter VanAlsne, Land Surveyor. Mr. Francis would like to add 3.0 acres of land to an existing parcel owned by Switzer of 2.3 acres. It is a mix of residential and open lands.

Motion made by French, seconded by Silver to open public hearing. All approved.

No comments from the public.

Motion made by French, seconded by Machiz to close public hearing. All approved.

No SEQR required, no environmental impact of this lot line adjustment.

Motion made by French, seconded by Silver to approve lot line adjustment.

Machiz: approve, nice neighbors.

Rosenstreich: approve, simple lot line adjustment.

Silver: approve, in keeping with master plan.

French: approve, meets zoning & master plan requirements.

Groom: approve, meets zoning & master plan requirements.

Walters: approve, meets zoning & master plan requirements.

Maps were stamped for approval.

Nature Institute
Tax Parcel ID# 104-1-30
Site Plan Review

(Board member Machiz recues himself from this portion of the meeting.)

Public hearing is continued from last Planning Board meeting. Ted Guterman will need time to review all materials submitted to him from the Natures Institute attorney, Cheryl Roberts.

Ms. Roberts addressed the materials she has submitted to the Town re: Natures Institute. Natures Institute believes the conditional approval granted at the February 9, 2011 meeting should be enough. Natures Institute would like to move forward with their addition to the building, and request a written response within one week from this meeting. They also request that no new materials be submitted regarding this matter.

Ted Guterman – the planning Board did re-open the public hearing. He will review materials submitted by Nature Institute and will forward his response as quickly as he can.

Ms. Roberts stated that Nature Institute was hoping to start construction by May 1.

Chair Walters asked about the status of the letter from the May Hill Road Association regarding overflow parking.

Ms. Roberts stated that the condition of providing that letter was not included in the original motion that granted approval to Natures Institute. She stated that the road owner had given permission to Natures Institute to use the road for overflow parking when it becomes necessary.

Joe Castleline, attorney for Clark/Lefkowitz: stated there is no letter from the May Hill Road Association. He states that the applicant submitted false materials. At the last meeting, the planning board suggested that the May Hill Road neighbors and the Natures Institute people get together to discuss this issue to see if a compromise can be reached. His clients tried to meet and their request was ignored.

Ms. Roberts stated that misinformation is rampant.

Mr. Guterman asked is a special use permit would be required.

Ms. Roberts answered that the ZEO should request an amendment to the special use permit if it is required, which it is not.

Larry Van Brunt, Town Board Member: asked why the town is involved in this of the property in question is on a private road with an owners association.

Chair Walters answered that the property is in the Town of Ghent. Then he asked if the public hearing should be continued now, or have Ted Guterman review the materials from the applicant's attorney and neighbor's attorney as expeditiously as possible.

Board member Silver stated he would like to continue the public hearing if there is anything new to add.

Mr. Guterman would like to continue the public hearing at a later date.

Ms. Roberts stated that there has already been too much delay; Nature Institute is concerned with the construction schedule.

Chair Walters stated that he is skeptical any new information will come forward.

Mr. Guterman – the planning board reserves the right to take input and suggests continuing the public hearing.

Ms. Roberts requested a special meeting before the next regularly scheduled Planning Board meeting in June.

Motion was made by French, seconded by Silver to table this issue pending legal review. All approved.

Vincent and Lisa Molinari
Tax Parcel ID# 103-1-22.112
Special Use Permit

Presented by Francis Bossolini, PE.

Property is located on Carpenter Road. The Molinaris propose to build a recreational pond on their property. They have previously applied for a special use permit. The original application submitted to the Planning Board has been revised because it expired. The NYSDEC mining permit has been approved and is effective for a five-year period.

Chair Walters stated that the NYSDEC has jurisdiction on site.

Mr. Bossolini stated that surface and subsurface tests have been completed on Carpenter road and have shown the road to be adequate for the proposed use.

Board member Groom pointed out that there are new members on the Planning Board since the application was originally submitted, and asked Mr. Bossolini to review hours of operation, etc.

Mr. Bossolini stated that according to the Planning Board resolution of August 2009, hours of operation will be Monday through Friday, 7am until 5pm. They will be closed on Saturday and Sunday, and all federal holidays.

Ray Jurkowski stated that the applicant and their engineer have set stipulations regarding truck traffic. It has been estimated that there will be no more than 12 trucks per day on average.

Board member Machiz asked if there would be some sort of device employed that will log the number of truck trips each day. Applicant answered in the affirmative.

Mr. Jurkowski stated that there will be a log onsite for the Zoning Enforcement Officer to review whenever he visits the property.

Board member Rosenstreich asked if road improvements had been discussed previously.

Mr. Jurkowski answered that a \$5,000 security deposit for repairs would be in place, and money would be removed as needed. The balance must remain at least \$5,000 for the life of the mining permit.

Mr. Bossolini stated that the permit was issued by NYSDEC in 2009 and expires in 2014.

Board member Rosenstreich asked what acreage amount the pond would be when completed. Mr. Bossolini answered that it will be six surface area acres. He also stated that when the digging for the pond is complete, so is all mining.

Board member Groom stated that the Town classified this as a mining operation.

Board member Machiz asked about indemnity. Chair Walters stated that Ghent law requires applicant to pay for any repairs needed. Mr. Guterman stated that the fund must be replenished instantly as it is used.

Board member French stated the NYSDEC has a bond to use for reclamation if the permit is pulled.

Ray Jurkowski reviewed the recommendations he made in correspondence dated May 4 that was submitted to the Planning Board.

Board member Machiz asked if the \$5,000 indemnifies the town. Answered that the Molinaris will be responsible for enough money to fix anything that may be needed.

Board member French asked if a certificate of insurance has been issued which names to Town as an additional insured. Ted Guterman is not sure because it is not Town property.

Board member Rosenstreich asked if noise has been considered. Chair Walters answered that a noise study was completed and indicates no unreasonable noise will spill off-site. The Planning Board has also asked for berming and planting to help keep noise levels down.

Mr. Bossolini stated that there will be no idling trucks prior to 7am waiting to get onsite. Steps will also be taken to minimize the sounding of back up alarms. The NYSDEC said the only alarms necessary when the trucks are in reverse if motion is detected to the rear of the truck.

Chair Walters suggested setting up the on-site flow in such a manner that the truck can only move in a forward direction.

Board member Groom asked if there are any requirements for the trucks that will come on site. Mr. Bossolini answered that the trucks must be in a road ready condition (e.g., inspected).

Mr. Bossolini stated that berms and landscaping have been required by the permit issued by NYSDEC.

Board member Rosenstreich asked if the NYSDEC would be onsite for the entire operation. Chair Walters answered that there will not be a person physically onsite at all times. Ray Jurkowski stated that NYSDEC is the SEQR lead agency on this project and has the right to inspect the operation at any time.

Board member Groom asked if the NYSDEC requested a specific traffic pattern to use on site. Mr. Bossolini answered no, and stated that it would depend on how the mining operation progresses.

Board member Machiz asked if an operator had been engaged or if Mr. Molinari would be doing it himself. Mr. Bossolini answered that Mr. and Mrs. Molinari are the permit holders and will probably hire a contractor to do machine operations.

Ted Guterman asked that all Planning Board members be provided with prior approval information.

Mr. Bossolini read a brief letter from Mr. Molinari. The letter explained his plans for use of the pond he would like to build on his property and states that he hopes it will improve his property. Mr. Molinari also thanked the Planning Board with their patience in this matter.

Motion made by Silver, seconded by Groom to open the public hearing. All approved.

DeWayne Powell, adjacent land owner: new planning board member is not properly prepared for this meeting re: safety and road issues. FOIL request was made for all applicants materials – not received anything yet. Bonding required for the site, not the Road. Indemnity question brought up by Board member Machiz was a good one. Indemnity by Molinari's should be required. Has heard that the Molinari's are trying to sell their property. Stated that the NYSDEC mining permit goes with the land, not the owner, so it would be easy for any potential new owner to change the purpose of the permit. Stated that Mr. Molinari is entertaining offers on his property. NYSDEC permit is good for a five (5) year term, but is almost automatically renewed. He fears that if a mining operator was to buy the Molinari property, mining could continue forever.

Chair Walters asked what the permit said. Mr. Bossolini answered that the permit can be altered/revise.

Board member Machiz asked if the permit from the Town of Ghent has a time limit, what happens if the Molinari's sell the land, what exactly the Planning Board should be considering.

DeWayne Powell answered that the Molinari's could sell the property to a commercial mining company and the mining could continue forever. The truck traffic each day is expected to be 12 round trips per day – that is 24 total. The safety issue has not been discussed yet – the entrance is at the crest of a hill. Engineers have tested stopping distances and speed limits on that part of the Road. Many vehicles travel too fast on the road.

Chair Walters stated that a traffic study was done on Carpenter Road for three recent years. At that time, there were three (3) car/deer accidents.

Board member Silver asked if the NYSDOT has been brought in to approve an entrance onto the Molinari property. Chair Walters answered that Carpenter Road is a Town Road, not under NYSDOT control. The NYSDOT can be asked to lower the posted speed limit on the road.

Mr. Bossolini suggested that speeding is an enforcement issue that should be addressed by the proper authorities (e.g., Sheriff's Dept. and State Police).

Marcy Hines – The Molinari property is near a blind turn on the road, a narrow bridge, and inclines from both directions. States there are many vehicles that speed on the road. School buses travel the road four (4) times everyday.

Board member Machiz asked if the traffic study reported on speed on the road. Mr. Powell answered no.

Board member Machiz asked if two (2) vehicles can pass each other on the bridge. Mr. Powell answered no, not safely.

Joe Castleline – requested a copy of updated information that has been added to the Molinari’s application.

Board member Silver asked if NYSDOT standards are used. Mr. Powell answered that ASHTO standards were used.

Mr. Powell stated that a new traffic study will be done on the road as the last one was completed in 2007.

Board member Rosenstreich asked if bridge integrity has been discussed. Ray Jurkowski answered that an inspection was completed in 2005.

Ted Guterman asked whose jurisdiction the bridge is under. Answered that the bridge is under NYSDOT jurisdiction.

Town Board member Larry Van Brunt asked if language could be added to the special use permit that would stop Town of Ghent residents from having to pay for any expenses associated with road repairs. Chair Walters answered yes. Board member Machiz stated that the escrow account is important to use for all minor repairs needed on the road.

Jeff Robinson – asks that the Molinari’s be required to submit a new special use permit application. Brief discussion on the three (3) lawsuits that happened the last time this application was brought before the Planning Board. Results have too many “adequate” definitions – he would like to see more detailed answers. Asked how the sight distance could be ignored. Stated that the road “fails” in two (2) spots – there is not stopping distance by the bridge, and the corners are dangerous, particularly for speeding vehicles. FOIL request submitted by neighbors has been ignored. The applicant should pay to have the sight distance study done. Accident history on the road doesn’t play a big role in this – the big truck traffic will change all of that. Stated that there is no traffic on the road right now, it is not a thru-road.

Mr. Robinson asked the Planning Board to hold off on a final decision for the special use permit until all pending court cases have reached a conclusion. He stated that he thinks the Town is in favor of granting approval and is working in favor of the applicant.

Board member Rosenstreich stated that this is the only mining application that has been submitted to the Town.

Mr. Robinson asked why the Planning Board can't put a time limit on the special use permit. Ted Guterman answered that the Town Board can be recommended as lead agency.

Mr. Powell asked what it means that the Town can request lead agency.

Mr. Robinson stated that the FOIL request has been ignored. The limit of 12 trucks per day should be reduced. Suggests that the mining operation could last up to 12 years just to get all of the tonage out when digging for the pond.

Board member Machiz asked Mr. Robinson what he would prefer. Mr. Robinson would like to see a time limit on the mining permit and a limit on the trucks per day.

Mr. Powell stated that he has a stenographer present at this meeting. He would like truck limitations to be discussed. Stated that indemnity is a good idea. Brief explanation of history in Chatham with road damage. Asks that the special use permit not be transferable if the Molinari's sell the land. Asked that the special use permit identify the operator who will be doing the excavating.

Town Board Member Larry Van Brunt – takes exception to what has been said about the Town Board. He does not know the Molinari's personally. The Town Board has tried to do right by the Town, they are not bending over to accommodate the applicant.

Mr. Robinson stated the road requirements are already in place, set forth by the Town Highway Department. It sounds like the requirements could change whenever an applicant needs them to. States that the law was changed last time.

Len Surgeon – asked how this will be a recreational pond. Mr. Molinari lives on Long Island. There are no buildings on the property. He thinks this is just a commercial mining operation. Stated that smaller trucks do not have the same motion detectors/back-up sounds as larger trucks. The excavating equipment used will make much more noise than the trucks.

Co-Chair Groom would like to see the FOIL request from the neighbors. The neighbors should be given an opportunity to respond after they have seen all of the submitted material.

Mr. Bossolini stated that a new special use permit was submitted by the Molinari's. While the excavation is happening, all top soil will stay onsite. There are 131,000 yards to be removed. They will work approximately 180 days per year. The excavation/pond should be completed in about 4 ½ years.

Board member Machiz asked if the neighbors would want to accelerate the rate of removal so that the project is completed sooner. Mr. Robinson answered that he would like the project to be completed as soon as possible.

Mr. Bossolini stated that the NYSDEC specifies the life of a mining area and the amount that can be removed. A new owner would have to apply for a new permit from the NYSDEC and this Planning Board.

Ted Guterman stated that the NYSDEC regulates the mine. The Town can not regulate the NYSDEC requirements.

Board member Rosenstreich wants to see the FOIL request from the neighbors, and asked that they be given time to review the materials. Chair Walter answered that he would get all information to Mr. Robinson and the neighbors as soon as possible.

Mr. Robinson asked if there are time constraints for the permit application.

Mr. Powell stated that he has no information about the condition of the road.

Mr. Robinson stated that Ted Guterman supplied the neighbors with a copy of the application but no tonnage to be removed is noted on the application.

Mr. Powell stated that a road survey can be completed within three to four weeks.

Board member Rosenstreich asked if the neighbors would get a new report after all new information/FOIL request is completed/obtained.

Board member Machiz stated that there are core samples in the new data. Asked if the neighbors company will be doing new core sampling. Mr. Powell answered no, just reviewing material.

Mr. Bossolini objects to keeping public hearing open for an unspecified amount of time. The Molinari's submitted a complete application and should not have to wait for the opposition to review the materials.

Board member French stated that Empire Geology did the testing and obtained the core samples. The neighbors requested copies of sample reports.

Board member Machiz asked if the public hearing can be continued to the June 1, 2011 meeting.

Ted Guterman stated need to get all information to neighbors as soon as possible – maps, tests, application, everything.

Ray Jurkowski asked to provide neighbors will both old information and new information.

Mr. Castleline asked where the water for the pond is coming from.

Motion made by Rosenstreich, seconded by Silver to continue this public hearing at the next Planning Board meeting scheduled to be held Wednesday, June 1, 2011. All approved.

Updates

Kinderhook Sportsmen Club – public hearing is closed. They are going to the ZBA on May 11 to get an area variance. The site plan decision needs to be done. The Planning Board needs to decide if hours of operation should be limited. General discussion of NRA rules, NYS laws, etc.

Price Chopper – has received NYSDEC approval on their septic system. Their attorney has asked for a special meeting with the Village of Chatham and this planning board to informally discuss all issues to date. Ted Guterman recommended not granting this meeting request. Chair Walters is asking Price Chopper to attend the regularly scheduled June 1 meeting. Ted Guterman stated that the Town Engineer needs to know all test results. Chair Walters will suggest that Price Chopper have their complete application in on time for the June 1 meeting.

NYSEG Power Line – Town of Ghent is trying to get lead agency status on this project.

Doctors office – enforcement of lights on this site. Walt Simonsmeier said the NYS Building Code requires outside lighting. The Doctor has stated that he will put hoods over the existing lights to dim them down. The NYS Building Code doesn't say lights have to be on a building. What is on this property is far beyond NYS lighting requirements.

Minutes

Minutes from the April meeting were reviewed. Changes noted. Motion to accept minutes with noted changes made by Silver, seconded by Machiz. Board members French and Groom abstained, all others approved.

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