

## Town of Ghent Planning Board Meeting – Wednesday, June 1, 2011

**Board Members Present:** French, Groom, Machiz, Silver and Walters

**Also Present:** Town Board Member Peter Nelson, Sr., Town Attorney Ted Guterman, Town Engineer Ray Jurkowski

**Town of Chatham:** Planning Board Chair Dan Herrick; Joanne Del Rossi, Deputy Mayor; Aaron Gaylord, Village Planning Board member; Tom Curran, Mayor of Chatham and Lael Locke, Chatham Village Trustee.

### Old Business

#### Price Chopper

Steve Duffy, VP Store Planning & Design

Price Chopper would like to build a new, larger store. The proposed building is 45,000 square feet. They plan to have greater offerings in the store. It will be an energy efficient, LEED store. Some concerns of expanding the existing facility – expansion not worthwhile financially; great inconvenience to customers to have construction going on; and existing parking is too limited.

Mike Tucker, Infinigy Engineering

All inclusive package has been submitted to both Village of Chatham and town of Ghent Planning Boards and engineers.

There has been extensive landscaping and screening changes. NYSDEC wetlands permitting is in progress. Wastewater treatment plans have changed, and are being reviewed by DEC. Signage plans have been submitted to Town of Ghent ZBA. ZEO Gil Raab says proposed signs are over the town's square footage limit—Price Chopper has submitted an application to the ZBA for an area variance. There has been a reduction in parking to increase green space and to keep parking out of wetlands buffer zones. A geotechnical study of the parcel has been completed. Price Chopper will submit an application to the Planning Board to have their parcel subdivided from Fairpoint Communications. Price Chopper is anticipating final NYSDEC approval shortly. The building height did not change on the new plans. According to Price Chopper's engineers, their storm water pollution prevention plan will result in less runoff from the site after construction than occurs now. It has been designed to handle 100 year events. Current owners of Chatham Mall and new property owner will build a connector to the new property at some point in the future. Connector will not be built right away.

Steve Duffy

Showed drawings with proposed façade, signage and colors. Traffic flow for the drive-thru pharmacy was discussed. Signs have been downsized after previous

discussion. LED illumination, external gooseneck from above. Parking lot lights all down-lit. Timing of the lights varies with time of night. LED lights are highly efficient and very focused. The proposed light poles are 20 feet high, down from 30 feet.

Aaron Gaylord, Village of Chatham Planning Board, asked how traffic and traffic flow will affect traffic in the Village. Mr. Duffy said that most deliveries will be done during the day. Parked trucks will be behind screening. Traffic will be about the same as with the current store.

Rear buffer has additional landscaping and screening. Mr. Duffy also indicated the proposed path of the Harlem Valley Rail Trail through the property.

Dan Herrick, Chair, Village of Chatham Planning Board asked what material will be used on the rail trail. Stated that many people walk to the store from the Village. Answered that the rail trail is still a work in progress. Chair Walters stated that if and when approval is granted for a new Price Chopper store, one condition of approval will be that Price Chopper will accommodate the rail trail over its' property.

Mike Tucker will send lighting cut-sheets to the Planning Board for review.

Chair Walters asked if a traffic study has been completed since the proposed changes to the driveway into the property. Mike Tucker answered yes.

Motion: To hold a joint public hearing on Wednesday, July 6 with the Village of Chatham Planning Board, Town of Ghent Planning Board, the Town of Ghent Zoning Board of Appeals, and the Village of Chatham Trustees. The public hearing will be held to review the site plan, the subdivision of the property, an area variance for signage on the façade of the buildings, and area variance for the building setback, and an interpretation on ZEO determination on placards.

Motion made by French, seconded by Silver. Approved by all.

**Kinderhook Sportsmens Club**

Site Plan Review

Tax Parcel ID# 64-1-28

The public hearing has been closed. The ZBA approved an area variance for proposed expansion on existing club house. Planning Board has made no determination on site plan yet.

The main issue at the public hearing had to do with hours of operation and noise. Tried to get club and neighbors to work things out on their own.

Tim Nugent, Esq., for the Kinderhook Sportsmen's Club February minutes from this planning board should say the proposed extension is 450 square feet, not 650 square feet. The club would like to do a 10 foot extension on a building that is 45 feet in length. The addition will be used for storage only. The Planning Board should not consider other factors. Believes the scope of the application is limited.

Chair Walters stated that the Planning Board has suggestions for hours of operation.

Board Member Machiz says that it bothers him that the Kinderhook Sportsmens Club won't adapt policies to be more sensitive to the concerns of their neighbors. He downloaded *The Range Source Book* from the NRA website – noise abatement is discussed in the book. Activities at the club have increased/changed over time. Not unfair to ask the club to change over time as well.

Tim Nugent – no one said the club isn't willing to change.

Board member Machiz – the club should be willing to work with the neighbors.

Kinderhook Sportmens Club Board Member Rick Olivo – decibel readings were submitted at the last Planning Board meeting. The Board should not just take the word of the neighbors.

Sylvester Brasswell, engineer for the club – the club has asked to expand the building, not the use of the property.

Chair Walters asked if the Planning Board wants to regulate the hours of the club.

Ted Guterman read from the site plan review instructions. They are not very clear. The club attorney argues that they are not appropriate. Any conditions imposed must be reasonable and justifiable. The club says there will be no increase in activity, just a bigger building.

Chair Walters reiterated that the club house would be made bigger.

Chair Walters asked if the Planning Board had any proposed new hours. He would suggest no semi-automatic fire after 5pm; no shooting on Easter Sunday, Thanksgiving or Christmas Day; and no Sunday shooting after 5pm.

Board member Silver asked if the application is rejected, can the club come back again. Answer: application options: approve; approve with conditions or

the club can withdraw their application and just redo the roof on the existing building.

Board member Machiz stated that Mr. Nugent has a narrow view of the site plan review. Thinks it should be more thorough and show concern for the entire town, including days and hours of operation.

Ted Guterman – Tough judgment call, if you can reasonable relate it to the application, then regulating hours and days of operation can be done.

Board member French – in the past, site plan review was treated as a completely new application. Everything was open to review.

Ted Guterman – this is different because the club is a prior non-conforming use property. The Planning Board needs to proceed with care.

Co-Chair Groom – need to ensure public safety of the Town of Ghent. Waiving lots of regulations because it's a prior non-conforming use. The site plan review waives everything except hours of operation.

Motion made by Groom, seconded by Silver to discuss hours of operation for Kinderhook Sportsmens Club.

Suggestions:  
no semi-auto fire after 5pm, except 1 or 2 days per week.  
no shooting after 5pm.  
no shooting after sunset.  
no shooting on Easter Sunday, Thanksgiving or Christmas Day.

Tim Nugent – the club is against being regulated when not authorized by law. Doesn't think the Planning Board has the authority to regulate hours when only building expansion is being questioned. Hours of operation should be a club decision, not a Planning Board decision.

Board member Machiz – read info from the NRA booklet. It suggest conducting noise abatement tests prior to opening ranges; sound levels should be checked; suggests developing good relations with neighbors and Town Boards; the club should show themselves as good for the community.

Rick Olivo – the club provided sound level data to the Planning Board already. Test results are far below state standards.

Motion made by French to approve site plan review as presented for a 10 foot by 45 foot expansion on the existing clubhouse. No impact on site. No restrictions to be imposed. No second on the motion. Motion FAILED.

Motion made by Machiz, seconded by Groom to reject the application with further request that the applicant resubmit it to include noise abatement proposals and time limits.

Machiz: approve, for reasons previously expressed..

Groom: approve, applicant hasn't provided the Planning Board with any suggested hours of operation.

Silver: approve, would like to see the club come back with limited hours and encourages the club to work with their neighbors.

French: disapprove, because regulation of club hours is not within the Town purview.

Walters: disapprove, suggested that the proposed expansion is too small a change to open the question of hours of operation. Disappointed that the club isn't willing to work with the neighbors and the Planning Board to come up with some reasonable limits.

Motion FAILED, based on a lack of a 4-member majority.

Time limit discussed – if there is no motion made, the application is automatically considered “approved” 62 days after the date of the public hearing.

### **Vincent and Lisa Molinari**

Tax Parcel ID# 103-1-22.112

Special Use Permit

Motion made by French, seconded by Groom to continue Public Hearing on Molinari on consent of the applicant. All approved.

### **Nature Institute**

Site Plan Review

Tax Parcel ID# 104-1-30

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

Public Hearing continues from May 4 meeting:

Joe Castleline, Esq., for Chris Clark and Rina Lefkowitz

Discussion of Planning Board powers on site plan application. Nature Institute applied for a site plan review. In February, a public hearing was held. Read from the February minutes – Planning Board motioned for conditional approval dependent upon verification of overflow parking agreement with the May Hill Road Association. Nature Institute application has changed or been added to since then. 48 spot parking lot is proposed. Plans haven't been

changed to address flooding that may occur. Landscaping/screening – no plans have been submitted. Would like to see applicant submit full and complete application before a decision is reached by the Planning Board. Septic concerns – original application said 4-5 people on the property, now asking for up to 70 people. State building codes – NYSDEC regulations apply to wastewater/septic. Fire safety – asked if the fire department, police department or EMS services were contacted. Special Use Permit – ZEO didn't request one. Thinks Nature Institute should be required to submit an amended Special Use Permit because of expanded use of the property.

Cheryl Roberts, Esq., for Nature's Institute

Worked with Chair Walters to address neighbors' issues. Applicant has been willing to work with the Planning Board and with the neighbors.

A full EAF has been submitted by Nature Institute.

Applicants engineer provided a report which addresses all issues. Ms. Roberts read a letter from Crawford Engineering which addressed points brought up:

- SEQR – type 2 action, no SEQR compliance is required.
- Crawford requested a revised site plan be submitted.
- Land grading/erosion was addressed.
- Numbers of anticipated attendance was discussed. There are currently 3-4 employees on site. In the future Nature's Institute expects to have 6 employees.

Chair Walters received a complete application today. It includes:

- Limits on time, noise and number of events.
- County Health Dept. will inspect sewer as requested by the Planning Board.
- Erosion control.
- Site plan includes parking surface information.
- Two handicapped parking spots must be included.
- Handicapped access to the building – shown on plans.
- Culvert removed – not needed for drainage.
- Recommended lighting plan and ISO footprint provided.
- Scheduling has been addressed.
- Site Plan has been extensively labeled.

Joe Castleline asked Planning Board not to grant approval as complete application was just submitted. Thinks Planning Board, not the building inspector, has the power to regulate the use of the property. Planning Board has been vested with the power to ensure health and safety of the entire town. Requests time to review all plans submitted today. Parking and overflow parking is still not addresses properly.

Ms Roberts stressed that this is a Type II action, and as such is SEQR exempt.

Ted Guterman asked if the proposed building expansion is less than 4,000 square feet. Ms. Roberts answered yes.

Mr. Castleline stressed that overflow parking should be more clearly defined.

Board member French stated that there are many differences between the first site plan and the second site plan submitted today. Asked if SEQR needs to be re-done. Mr. Guterman answered yes, long form SEQR must be completed. Ms. Roberts asked is it would have to be an uncoordinated review, or a coordinated review. Ray Jurkowski answered that would have to be decided by the Planning Board.

Board member French asked when the long form SEQR was originally completed. Mr. Jurkowski answered that the form was completed last week. He has not had time to review everything that was submitted.

Ms. Roberts stated that her client is not trying to hide anything. They completed the application very quickly and would happily accept conditional approval tonight.

Mr. Castleline read a letter from ZEO Gil Raab from 2002 which granted approval for Nature's Institute to operate. He contends that the Nature Institute has far exceeded the original Special Use Permit that was submitted.

Ms. Roberts stated that the ZBA should decide that, not the Planning Board.

Rochelle Bartolo, May Hill Road Resident – discussed the 50 foot right of way on the road. February approval was contingent upon the May Hill Road Association overflow parking agreement. Does not want precedent of overflow parking for anyone on the road.

Mr. Guterman stated that the revised site plan does not show any overflow parking allowed on May Hill Road, and that the Board would not approve a site plan showing parking on this road.

Chair Walters stressed that there would be no overflow parking allowed on May Hill Road.

Rina Lefkowitz, neighbor on May Hill Road – impact of the plan on neighbors has not been addressed; noise, glare and objectionable use. Asked why the same standards have not been addressed on this issue, as were previously addressed on the same issues for the Kinderhook Sportsmens Club. Mitigation of sound,

lights, and odors from cars have not been addressed. The numbers submitted by the applicant have been too vague – both attendees and events. There have been no definite/clear numbers. Would like to see applicant submit definite numbers for both attendance and events.

Craig Holdrege, Nature's Institute Executive Director – originally submitted application to include overflow parking. They currently have six every day parking spots, and 20 spots for event parking on the property. They are trying to address future needs. In a letter from January 10, 2011, Nature's Institute addressed the number of events they would like to hold and the anticipated attendance numbers. The application was very clear about intended expansion.

Chair Walter provided updated letter with number of proposed events and expected attendance. Nature's Institute would like to grow in the future and does not want to limit themselves.

Ms. Roberts strenuously objects to prior advertising materials being submitted. The Clarks/Lefkowitz' bought their house after the original Special Use Permit was submitted. Would like to request that the public hearing be closed.

Ms. Lefkowitz asked the planning Board if Nature Institute has an event for 75 people, but only 48 parking spots, where will overflow parking be.

Ms. Bartolo – thinks a poor precedent will be set for parking lots being created on private roads.

Mr. Castleline – objects to closing the public hearing at this time. The application needs to be reviewed and the hearing should be continued.

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

Silver – yes

French – yes

Walters – yes

Groom – no, wants to give everyone a chance to review the application and get more input if needed.

Motion FAILED, no majority.

Motion made by French, seconded by Groom to close the public hearing with the understanding that anyone can submit written materials up to 7 days before the next meeting. All approve.

Motion made by French, seconded by Silver to refer applicant to County Planning Board under section 239m. All approved.

Motion made by French, seconded by Silver to refer applicant to County Health Dept. to review septic system and be included with report from the Town engineer. All approved.

Comments from town engineer and comments from the applicants engineer will be reviewed by this Planning Board.

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