

Town of Ghent Planning Board Meeting – Wednesday, July 6, 2011

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

Also Present: Town Attorney Ted Guterman, Town Engineer Ray Jurkowski, Carl Matuszek

New Applications

Jon David Schools
Minor Subdivision
Tax Parcel ID# 74.0-01-17.211

Presented by Cynthia Elliott, PLS, Land Surveyor

Showed maps of property. A two lot subdivision was approved in 1995. Map was never filed on approval in 1995. Owner is trying to get a mortgage on Parcel 1, so subdivision needs to be applied for again. "No further subdivisions" is condition on prior approval. SEQR short form is needed for next meeting. The property is in RA-1 Zone. Area is primarily wooded on that portion of Fowler Lake Road. Limited access onto property would prevent further subdivisions.

Board member Machiz would require a roadway maintenance agreement if the owner ever sold to someone else, as the two parcels currently share the same driveway.

Ms. Elliott stated that both parcels have electric and the owner will not ask for any further subdivisions in the future.

Board member Groom stated this would be a conservation subdivision because the parcel is over 30 acres. Property owner may want to request exemption from conservation subdivision rules. Electric on Parcel 2 currently goes in to a barn located on the property. Asked if there is enough voltage on Parcel 2 to reach the entire parcel. Ms. Elliott answered that there are no plans for further buildings on this property. A large portion of the lands is wetlands. Stressed again that the owner will not ask for further subdivisions.

Motion made by Silver, seconded by French to waive conservation subdivision. All approved.

Motion made by Silver, seconded by French to have public hearing on August 3. All approved.

Szafran
Minor Subdivision
Tax Parcel ID# 92.00-01-03.221

Presented by Jeff Plass, Surveyor and Owner Paul Szafran

Parcel spans Petty Road. There are currently five property owners on Petty Road. Other owners have a deeded right-of-way. Mr. Szafran maintains all costs for Road maintenance. Thinks other owners will sign a Road maintenance agreement. He would like it if they could reach an agreement without making it mandatory.

Review of maps and proposed building sites. Original parcel is 34.315 acres. The 60' deeded right-of-way is on both sides of the road. If property is subdivided, Mr. Szafran intends to add 10' width to the entire Road.

Planning Board would like to visit the property before scheduling a public hearing.

**Walt & Jane Blank
Lot Line Adjustment
Tax Parcel ID# 74.00-01-27**

Presented by Jim Tomaso, Land Surveyor

Would like to join 3 acres of Blank land to McNeil property. Unlisted action does not require SEQR.

Motion made by French, seconded by Groom to waive SEQR. All approve.

Motion made by French, seconded by Machiz to open Public Hearing. All approved.

Motion made by Silver, seconded by French to close Public Hearing. All approved.

Motion made by French, seconded by Machiz to approve application as presented.

Machiz: approve, in accordance with code and good for both property owners.

Silver: approve, in accordance with code.

Rosenstreich: approve, good neighbors.

French: approve, no impact.

Groom: approve, in accordance with code.

Walters: approve, in accordance with code.

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

Presented by Francis Bossolini, Engineer

Vincent and Lisa Molinari want to build a recreational pond on their property which requires a special use permit. They would like to dig a pond that will be six acres in size. The NYSDEC has issued the applicant a mining permit. The Town of

Ghent had issued a permit which was overturned in Court, so they are submitting a new application. The NYSDEC permit is still valid.

Applicant submitted Road testing results – core samples were taken, and Road survey have been completed. Town of Ghent Highway Superintendent Mike Losa submits that the Road is adequate for the trucks that will be used for the mining operation. Screening and bonds required will be put in place before the operation begins.

Board member Machiz asked who the operator will be. Mr. Bossolini answered that the Molinari's are the operators. They may hire a contractor to do the work.

Board member Machiz asked if the sub-contractor had to be approved by the Planning Board. Ted Guterman replied that the operator would be responsible for any sub-contractor. Mr. Bossolini stated that Vincent and Lisa are co-owners of the property, and as such are co-operators. Ray Jurkowski asked for a copy of the NYSDEC application with the operators listed.

Town of Ghent code section 190.78 covers the special use permit being applied for. Each section was discussed and reviewed by the Planning Board.

Board member Rosenstreich brought up the escrow account that was established by the Molinari's. Stated that a \$5,000 balance is required at all times in the account.

Board member Rosenstreich asked about buffering. The noise study was completed before she became a member of this Planning Board. Mr. Bossolini answered that all digging will take place at least 600' from any property boundary. The NYSDEC addresses noise and hours of operation. There will be no work on the property on Saturdays, Sundays or federal holidays. There will be no trucks idling. The truck will not have standard back-up sensors – only motion detected back-up sensors. There are muffler requirements for all equipment that will be used. The site will be screened with berms on the Road side of the property. The berms will be completed before any digging starts, if this application is approved. Trees will be planted on top of the earthen berms.

Mr. Guterman stated that there are unpaid taxes on the property. That counts as a lien on the property.

Board member Silver asked about traffic plans onto the property. Referring to both 190-75 and 190-76G, "the applicant must demonstrate...routes to and from the state highway...minimize to the greatest extent possible such traffic passing through residential areas." Board member Silver says an adequate site plan has not been submitted. Mr. Bossolini showed traffic flow on Carpenter Road. Traffic flow will be conditioned on final approval maps.

Board member Groom made a motion that the application is complete and should go to public hearing. Board member Silver seconded this motion.

DeWayne Powell asked how the application can be complete if there is a tax lien on the property. He doesn't think the Planning Board can consider this application as complete.

Marcy Hines asked where is the Molinari residence on this property. Mr. Bossolini showed residence on map.

Ms. Hines stated that Mr. Molinari has said he would not be present on the site while the mining operation is taking place and asked how he can be considered the operator.

Kathryn Jennings asked who will monitor the traffic onto the site and the hours of operation. Chair Walters answered that the Zoning Enforcement Officer will be responsible for monitoring both of those things. Any complaints by the neighbors should be called in to the Town. A Cease & Desist order will be issued immediately if the conditions of the permit are not followed. Ms. Jennings asked how long the order would take to be put in to effect. Mr. Bossolini stated that the NYSDEC has the right to inspect the property at any time. Chair Walters stated that Mr. Molinari is listed as the operator on the application.

Mr. Powell sent a list of questions and comments to Chair Walters and asked if it was seen/reviewed by the entire Planning Board. Chair Walters stated that the e-mail was forwarded to all members of the Planning Board.

Ms. Jennings expressed her concern of Jacobys Creek which cuts through the Molinari property. Overflow from the pond would flow to the Creek. The Creek is full of water year-round and floods about 70' wide. Her residence is close to the high water mark. The wetland area floods high every spring. Eagle Rock Road routinely washes out every spring from the Creek overflow. Thinks the cost to repair the Road is much higher than the \$5,000. She asked where the water would go if significant flooding were to occur. If gravel is removed from the Molinari site and a pond is built, existing wetlands could be washed away and flooding could become more extensive on a large portion of Carpenter Road. Ms. Jennings sent a letter to the NYSDEC asking them to look into this. The Army Corps of Engineers should be involved also. Ms. Jennings asked that the Towns liability would be if major flooding occurs around the Creek area.

Ray Jurkowski asked when the letter was sent to the NYSDEC. Ms. Jennings sent the letter last week and gave a copy to Chair Walters. Mr. Jurkowski will take her comments into consideration.

Jeff Robinson does not agree with the definition of "operator." The \$5,000 escrow account to be used for possible Road repair is only for a 50' section of the Road where trucks pull in and out of the Molinari property. Mr. Robinson would like his own engineer to look at all FOIL'd documents. The neighbors have

hired a new firm to review the documents about the Road condition. He doesn't think "substantially complete" application is good enough, as Mr. Guterman seems to think. Mr. Guterman said at prior meetings that the Town would take lead agency status for this application. Mr. Robinson asked if the applicant should have to pay for all testing to be done.

Bodie Brizandine stated that Carpenter Road is a residential area that is home to many.

Mr. Powell stated that the original permit was issued by NYSDEC on August 25, 2009 and that there is almost three years left on it. The NYSDEC mined-use-plan maps are not up-to-date and asks that the application submit new maps. He stressed his belief that accurate maps are needed. He urges the Planning Board to get a detailed traffic plan. As to the issue of transferability of permit – he would like a definite answer. He believes it is not transferable if the property would be sold. Asked how Mr. Molinari could be replied upon to keep a \$5,000.⁰⁰ balance in an escrow account is he has been late paying his property taxes two years running. He questions whether this is really about building a pond. Mr. Powell urges the Planning Board to make the permit non-transferable if the property is sold.

Joe Hailey thanks the Planning Board for providing him with an easement on Carpenter Road. His main concern is the five year length of the NYSDEC permit. There is a big difference between a bearable hardship and ruining a neighborhood. Asks that a five year moratorium on all mining in the Town be put in place, with the exception only on property off state highways. Carpenter Road is very residential with hikers, biking and walking every day.

Marcy Hines discussed bridge traffic on Carpenter Road. She would not like to see a traffic light installed. Her main concern is safety issues – there are four to five bus runs on Carpenter Road every day. There is not enough room for school buses and trucks to pass each other safely.

Board member Machiz asked about the traffic study that was completed on Carpenter Road. Mr. Robinson stated that it has been submitted to the planning Board. Mr. Powell stated that core samples were submitted. The neighbors engineers are reviewing new results.

Mr. Powell recently followed a tractor on Carpenter Road earlier today. The tractor had trouble staying in its own lane on the Road. As the tractor approached the bridge, it would have been a problem if a truck had been coming in the other direction.

Ms. Hines stated that overgrown vegetation on the sides of the Road makes visibility worse.

Mr. Robinson would like the planning Board to look at the old traffic study they had completed and review the traffic on the Road.

Ms. Jennings asked what the Town's liability would be if there were an accident on the bridge, or flooding on the Road. She also asked if the Town would be liable for any costs to repair damage to Eagle Rock Road because of flooding. Ted Guterman answered that because they are Town Roads, the Town would be responsible to maintain them, depending on the circumstances. Ms. Jennings stressed that the Town should consider all negatives that could happen because of this mining operation.

Mr. Robinson volunteered to loan the Town two large trucks to run a "test" – to see if two full trucks meet at the bridge at prescribed weight limits and speeds on Carpenter Road.

Chair Walter recommends closing Public Hearing with the exception to wait for the results from the neighbors review of FOIL'd items. He recommends a July 20th deadline for written comments to be submitted. Mr. Bossolini is against extending the time period for the application.

Motion made by French, seconded by Rosenstreich to close the public hearing but to accept written comments until July 15, 2011. All approved.

A public hearing for this application has been scheduled for July 27, 2011.

Updates

Price Chopper

Applicant will be revising EAF and has asked that a public Hearing not be scheduled yet. The Village of Chatham would like to lead agency status on this application. The Town has 30 days to answer. The Town of Ghent has already started the SEQR process.

Board member Silver asked who the lead agency should be legally. Ted Guterman stated that all involved parties must agree who will have lead agency status.

Mr. Guterman asked if the Town of Ghent Planning Board wanted lead agency status. All answered yes. This matter has already been decided – the Village of Chatham already sent a letter stating that the Town of Ghent

planning Board would be lead agency. The building is almost entirely in the Town of Ghent – approximately 98% is in Ghent.

Bill Better, Hampshire Companies – asked why the Planning Board does not have the revised application that was submitted after June 16. The Town of Ghent needs to issue variances. The applicant is starting all over again and delays are happening. The planning Board does not have the new application, so they shouldn't be arguing over lead agency status.

Mr. Guterman stated that this project most effects the Town of Ghent, not the Village of Chatham.

Motion made by French, seconded by Groom for the Town of Ghent Planning Board to seek lead agency status as this is a Town of Ghent project. All approved.

Board member Machiz asked if any changes have been made in the last two months. Mitchell Koshrova answered that sidewalks have been added to the project.

The applicant asked that the joint meeting previously scheduled for tonight be postponed.

Ted Guterman will answer letter about Town of Ghent Planning Board seeking lead agency status. He will compose a letter stating the desire of this Planning Board to acquire lead agency status. Board member French asked if the Village of Chatham can object. Mr. Guterman answered yes, which would require NYSDEC to determine lead agency.

Chair Walter stated that this Planning Board has the new EAF and most recent plans for the proposed new store. Engineer Carl Matuszek has the most updated plans for this proposed project.

Chair Walters asked if this project has been coordinated with the Department of Parks. Mr. Khosrova answered this is in progress.

Nature Institute

Chair Walters read letter from Attorney Cheryl Roberts asking the Planning Board to stop application for 60 days.

Ted Guterman stated that the neighbors filed a lawsuit against the Town over this project. They say the Planning Board is not following proper procedures and

the applicant should be required to get a special use permit. The lawsuit has been adjourned.

Chair Walters stated that no additional comments were received by the date set at the last meeting. ZEO Gil Raab said no new special use permit was required. There has been a lawsuit filed against ZEO Raab's decision as well.

General discussion of dates to suspend application.

Previous Minutes

May 4 – approved with changes.

June 1 – approved with changes.

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