

Town of Gardiner Planning Board
Heartwood Workshop Meeting Minutes
November 15, 2017
Gardiner Town Hall

Call to Order by Chairman Paul Colucci

7:35pm

Attendee Roll Call:

- Josh Verleun- Member
- Warren Wiegard- Member
- Joseph Hayes- Member
- Paul Colucci - Chairman
- John Friedle- Member
- Carol Richman- Member
- Donna Smith-Clerk
- Grace Morrissey-Intern
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- Mark Millspaugh - Consultant from Sterling Environmental Engineering P.C.
- David Brennan – Planning Board Counsel
- Jim Freiband – Town Planning Consultant
- Barry Medenbach, PE for applicant
- Cayley Lambur (Electric Bowery) - Applicant
- Lucia Bartholomew (Electric Bowery)-Applicant
- Phil Rapoport-Applicant
- Mike Moriello Attorney for applicant

Absent:

- Ray Sokolov
- Keith Libolt

Chairman Colucci – Advised Public that this workshop session would not involve public participation - Please E-mail or contact via phone with any questions or concerns

Mark Millspaugh – Introduced by the chairman representing Sterling Environmental Engineering

- Retained by the board to review the Heartwood application and provide document review
- Submitted series of letters to the board regarding inconsistencies and incomplete information in the materials provided by the applicant (on file)
- Applicants have since refined submission and responded to comments from Sterling Environmental and the New York State Department of Environmental Conservation, providing supplementary materials. Responses on file.
- *Mr. Millspaugh* stated that the current application material before the board is adequate for the purpose of proceeding with SEQR - complete with respect to the elements and information required in the Environmental Assessment Form.

- Barry Medenbach and Phil Rapoport provided additional information/clarification on changes made with regards to the trail going down the slope to the river bank, wood chip trails now located in an

area where the slope is less than 15%. Stone platform by the riverbank was removed. Location of cabins in the wooded area adjusted to have minimum disturbance. Creation of a twenty-one acre conservation easement in the area over the steep slope, entire area adjacent to the Kill and area around 44/55 as a buffer. Additionally, thirty-three acres of agricultural parcel, specified for agricultural use, going into conservation easement. Total of 53 acres of restricted land.

- *Mr. Moriello* – On the Board’s question as to the required easement, it is for the Town to determine a holder and enforcement of the conservation easement – he suggests that Town of Gardiner as the holder of the easement - could use a combination of the conservation easement and the deed restrictions and see which one would be most effective in minimizing disturbances
 - Phil Rapoport– On the question of waterfront disturbance said - light pruning and clearing of brush along the beachfront they may require a safe space to dock means of recreation, etc. DEC also had requested signage. (on file)
 - Applicant has provided DEC with a delineation report on ponds and wetlands (on file) in regards to the development - only very small percentage of site drainage goes into the pond.
 - Applicant added substantial detail to the site’s drainage system plans in order to provide clarification for the DEC and Planning Board
 - *Mr. Millspaugh* - Most recent submission also included Storm Water Pollution Prevention Plan – members addressed one of Sterling’s completeness comments - DEC also requires it to show completeness for final permitting.
 - *Ms. Richmond* had questions regarding Sterling Environmental’s latest letter in regard to their wildlife assessment not going beyond rare threatened and endangered species - Extended discussion followed regarding the impact on wildlife in the area, the *Hudsonia* (**Eric Kiviat Report onfile*) prepared in regards to the development, and their proposed 535 foot buffer to minimize the disturbance of development on the Shawangunk Kill. Mr. Wiegand noted that the Town Board had not approved or adopted that proposal. Also, that the *Hudsonia* recommendation is far in excess of NYS DEC Part 666 standards for the Kill. Mr. Freiband noted that the draft full assessment under review addresses the impacts based on the FEAF Part 1 while the *Hudsonia* report simply checked most of the listing as “moderate to large” irrespective of the Part 1 information.
 - After extended discussion the Board concluded that the documentation presented at the hearing or otherwise did not identify any significantly impacted species within the mature tree area to be developed, and conservation easement protects the steep 15% slopes from severe impact.
 - *Ms. Richman* asked *Mr. Brennan* for litigation hold be placed on the tape from the last workshop on August 28th 2017 - so that the tape be readily available and not altered in anyway. The Chairman noted that the request was out of order and not pertinent to the workshop. It would be referred to the Board’s attorney.
 - Revised EAF provided earlier by the applicant was reviewed by *Mr. Millspaugh* and *Mr. Freiband* *Mr. Freiband*. The Board agreed to begin evaluation of the FEAF Part II regarding the Heartwood Lodge development’s environmental impacts.
 - *Mr. Brennan* - Final analysis of impacts will determine the Board’s negative or positive declaration as to a significant adverse impact; in the instance of a positive declaration the applicant must prepare an environmental impact statement through the EIS process. He clarified the proper review criteria for FEAF Part II pursuant to NYCRR Part 617.
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- Chairman Colucci* recommended proceeding with the FEAF Part II review discussion and completion. Part II of the Full Environmental Assessment Form - Identification of the Potential Project Impacts
- Consensus of the board members present to continue forward. During the meeting it was discussed that the Town’s consultants would take note of the discussions and would be preparing a

summary of determination and the Board's consensus on each FEAF question number and subquestion assessments.

Part II of Environmental Impact Form (Document on file)

Mr. Freiband recommended that the Board start their review on items now identified as "no impact" based on the criteria in Part I so that the Board could concentrate on items on with a potential impact, (Report on file)

Page 4 of 10 - Item 6 - Impact on Air

Freiband recommendation based on listed evaluation (part I Questions) data on file "No Impact"

Comments on sub-questions were therefore N/A

Board members were individually polled: consensus: "No" to numbered question.

Page 7 of 10 - Item 12 - Impact on Air

Freiband discussed recommendation based on listed evaluation criteria from Part I "No Impact"

Comments on sub-questions: N/A - the development is not in a CEA area

Board members were individually polled: consensus: "No" to numbered question.

Page 8 - Item 13 - Impact on Transportation

Freiband discussed recommended finding "No Impact"

Comments on sub-questions: a.) N/A, b.) N/A, c.) N/A, d.) N/A, f.) *Ms. Richman* - concerned that the documents submitted by applicant do not accurately reflects the amount of traffic — Extended Discussion about the effect of transportation - Applicant and Professional Consultants responded with information from DOT resources - only a 5% change in the existing amount of traffic

Board members were individually polled: consensus: "No" to numbered question.

Page 9 - Item 16 - Impact on Human Health

Freiband discussed recommended finding "No Impact"

Comments on sub-questions: N/A

Board members were individually polled: consensus: "No" to numbered question.

Page 10 - Item 17 - Consistency with Community Character

Freiband discussed recommended finding "No Impact"

Comments on sub-questions: a.) N/A, b.) N/A, c.) *Ms. Richman* - Development is not consistent with community plans- discrepancies with the town zoning - Extended Discussion about ZBA related definition of use and comments, d.) N/A, e.) N/A, f.) N/A

Board members were individually polled: consensus: "No" to numbered question.

Page 10 - Item 18 - Consistency With Community Character

Freiband discussed recommended finding of "No Impact" to numbered question.

Comments on sub-questions: a.) N/A, b.) *Mr. Wiegand*- Potential for additional community services (ambulance, police, fire) - Applicant addressed potential need for additional fire resources, and discussed a specific remediation plan to minimize impact on fire dept. with Superintendent of Highways Brian Stiscia - provided planning board with letter, c.) N/A, d.) N/A, e.) N/A, f.) *Ms. Richman*- concerns regarding the development causing inconsistency with the existing natural landscape - disturbing the trees and natural habitats along the Shawangunk Kill

Board members were individually polled:

Board Consensus: "yes" to numbered question., "no or small impact" to each subquestion

REVIEW OF FEAF PART II NUMBERED QUESTIONS REQUIRING SUBSECTION EVALUATION

Page 1 - Item 1 - Impact on Land

Freiband recommended “yes” to numbered question.

Comments on sub-questions: a.) N/A, b.) Development may involve construction on slopes of 15% or greater - no longer an issue - remedied in their application, only small footpaths on the steep slopes - consensus by *Mr. Millspaugh*, c.) Construction on land where bedrock is exposed - extended discussion - applicant development map discussed, applicant has placed conserved area into the conservation easement, d.) Pool excavation - but no removal from site, e.) N/A, f.) DEC Stormwater Pollution Prevention Plan addressed this issue, g.) N/A, h.) *Ms. Richman*- voiced concerns about erosion caused by people walking on the cliff face- extended discussion on the steep erodible slopes, *Mr. Millspaugh* - noted applicant’s efforts to minimize their impact on slope erosion - no buildings in the area, only wood chip footpaths - *Mr. Freiband* commented in response to *Ms. Richman*’s remarks regarding destabilization - Board indicated that the applicant should create a boundary to prevent disturbance and destabilization on the slopes.

Board members were individually polled: consensus: “Yes” overall impact, “No or Small Impact” in response to all sub-questions

The Board then began review of the items preliminarily determined to have an impact.

Page 2 - Item 2 - Impact on Geological Features

“*Freiband* discussed recommended finding of Yes” to numbered question.

Comments on sub-questions: a.) Small impact indicated on Shawangunk kill, b.) N/A, c.) Some changes to the topography of the site, however applicant ultimately preserving the area

Board members were individually polled: consensus: “Yes” overall impact, “No or Small Impact” in response to all sub-questions

Page 2 - Item 3 - Impacts on Surface Water

Freiband discussed recommended finding of “Yes” to numbered question.

Comments on sub-questions: a.) N/A, b.) N/A, c.) Wetlands, Shawangunk kill), d.) N/A, e.) Turbidity added during construction - existing run off picking up disturbed soil -applicant addressed this issue in the Stormwater Management Plan through a bioretention zone, f.) N/A, g.) N/A, h.) Debris carried downstream, i.) Any development would change the water quality

Board members were individually polled: consensus: “Yes” overall impact, “No or Small Impact” in response to all sub-questions

Page 3 - Item 4 -Impacts on Groundwater

Freiband discussed recommended finding of “Yes” to numbered question.

Comments on sub-questions: a.) Increased demand for water 12,000 gal/day, b.) *Mr. Millspaugh* noted the applicant completed a 24 hour pump test as recommended by the Ulster County Dept. of Health - *Ms. Richman* voiced concerns about the methodology used in performing the 24 hour pump test and its legitimacy - *Millspaugh* response that the Ulster County Dept. of Health deemed the test adequate and yielded sufficient water - Extended Discussion based on the 24hour pump test that was performed at the

site by the professional hydrogeologist and well driller, d.) - Application found to have sufficient plan for wastewater disposal, e.) N/A, f.) N/A, g.) N/A

Board members were individually polled: consensus: "Yes" overall impact, "No or Small Impact" in response to all sub-questions

Page 3 - Item 5 - Impact on Flooding

"Y *Freiband* discussed recommended finding of "Yes" to numbered question.

Comments on sub-questions: a.) Construction of the pathways interferes with FEMA designated floodway- applicant removed stone platform that was previously in the flood plane, b.) N/A, c.) N/A, d.) drainage patterns are preserved by the developmental plan

Board members were individually polled: consensus: "Yes" to numbered question., "No or Small Impact" in response to all sub-questions

Page 4 - Item 7 - Impact on Plants and Animals

Freiband discussed recommended finding of "Yes" to numbered question.

Comments on sub-questions - a.) Addressed by *Mr. Millspaugh* earlier, "no or small impact" on threatened / endangered species - *Ms. Richmond*- concerned about the trees along the riparian area of the stream that would be affected by the development, recommendation by town that the development not be closer than 500 feet to the Shawangunk kill - *Mr. Verleun*- question to the identification of any threatened or endangered species in the area, - No impact or taking of any endangered or threatened species habitats, c.)N/A or d.)N/A

Extended discussion regarding Sub-questions (a-j)

Board members were individually polled: consensus: "Yes" to numbered question., "No or Small Impact" in response to all sub-questions

Page 5 - Item 8 - Impact on Agricultural Resources

Mr Freiband discussed recommended finding of "Yes" to numbered question. - Area was previously farmland.

Comments on sub-questions: a.) N/A- not classified as high value farmland, b.) Site does not bisect an agricultural area, c.) Site is not active agricultural land, d.) Preservation of 33 agricultural acres, e.) N/A, f.) N/A - development is recreational, g.) No Farmland Protection Plan - similar document included in SEQR application, h.) Continuing agricultural commitment on the property even though the land is currently foul.

Board members were individually polled: consensus: "Yes" to numbered question., "No or Small Impact" in response to all sub-questions

Page 6 - Item 9 - Impact on Aesthetic Resources

Mr. Freiband discussed recommended finding of recommended "yes" to numbered question.

Comments on sub-questions: a.) Photographs have been included in applicant's report, b.) No obstruction, c.) Cannot view site from the Gunks - even during winter months, d.) Development cannot be seen by those routinely traveling 44/55, yes- recreational tourism based activities, e.) Public comment regarding diminishment, however the entire corridor has been cleared of trees (*Ms. Richman* expressed concerns about the beltway of trees along the river being diminished and lights from cabins disturbing the area), f.) Within the 1/2-3 mile range the distillery and campground are visible

Board members were individually polled: consensus: "Yes" to numbered question., "No or Small Impact" in response to all sub-questions

Page 6- Item 10 - Impact on Historic and Archeological Resources

Mr. *Freiband* discussed recommended finding of “Yes” to numbered question.

Comments on sub-questions: a.), b.), c.) The Gristmill property is adjacent- SHPA signed off - Applicant has hired Joe Diamond PhD to look into the historical impacts, he is currently compiling a report. *Mike Moriello* - noted that the applicant is also conferring with Allan Dumas. Additional information will be addressed in December after the completion of Mr. Diamond’s report.

im Board members were individually polled: consensus: “Yes” to numbered question., - *waiting to hear more from Diamond and Dumas in Dec. Report*

Page 7 - Item 11 - Impact on Open Space and Recreation

Freiband discussed recommended finding of “yes” to numbered question.- Some natural resources affected - although minimally

Comments on sub-questions: a.) Impact, but quantified to a very small extent- *Ms. Richman* expressed her disagreement- the development significantly impacts and disturbs wildlife and contiguous woods in the corridor - , b.) It is a recreational resource, c.) N/A, d.) N/A, e.) Based on the applicants development documents this is augmenting the community’s recreational activities

Board members were individually polled: consensus: “Yes” to numbered question., “No or Small Impact” in response to all sub-questions

Page 8 - Item 14 - Impact on Energy

Freiband discussed recommended finding of Yes- no significant adverse impact

Comment on sub-questions: a.)N/A, b.) N/A, c.) N/A, d.) N/A

The Board members were individually polled: consensus: “Yes” to numbered question., “No or Small Impact” in response to all sub-questions

Page 8 - Item 15 - Impact on Noise, Oder, and Light

Freiband discussed recommended finding of” “[Yes” to numbered question.

Comments on sub-questions: a.) Nothing in the proposed use that is above the maximum noise level - *Mr. Friedle* questioned banning outdoor amplified music after a certain time - extensive board discussion concerning the issue - resulting consensus (5-1) was to permit outdoor amplified music as long as the decibel level complied with town ordinances, b.) N/A, c.) N/A, d.) Small to moderate impact, applicant noted that all of the lighting to be used at the facility is dark sky compliant, e.) Area is fully shielded.

Board members were individually polled: consensus: “Yes” to numbered question., “No or Small Impact” in response to all sub-questions

Closing Statements:

David Brennan - Next step is to complete Part 3, for every question in Part 2 where the impact has been identified as moderate to large or there is a need to explain why a certain section will not have a significant impact - Mr. Brennan and Mr. *Freiband* going to work in conjunction to summarize discussion and consensus into a single document - commit to finalized report for December meeting

Mr. Verleun - Motion to Adjourn - Seconded by *Chairman Colucci* and *Ms. Richman*

RESPECTFULLY SUBMITTED

Donna Smith, Planning Board Clerk

APPROVED DECEMBER 19, 2017