

**Gardiner Town Planning Board**

*Meeting Minutes*

*April 17, 2018*

Present: Chairman- Paul Colucci, Vice-Chairman- Keith Libolt, Josh Verleun, Carol Richman, Ray Sokolov, Joseph Hayes, Marc Moran

Absent: John Friedle

Others Present:

- James Freiband - Principal Planner
- Dave Brennan - Legal Counsel
- Mark Millspaugh - Sterling Environmental

Meeting Called to Order: Start time- 7:04 pm Roll Call Taken

**PUBLIC HEARING**

**1. New York Land Development, 2 Lot Subdivision 2809 Route 44/55 & Bruynswick Rd SBL # 93.1-3-17**

Public Hearing Notice (on file) read by Mr. Colucci. Public Hearing held open from last month. Planning Board received Ulster County Planning Board Referral with no county impacts. Chairman Colucci asked if there are any public comments, having none Chairman Colucci held open the Public Comments until 7:35 pm.

**2. Chris Martinez – 246 Farmers Turnpike – Minor Subdivision  
SBL# 93.004-1-15.500**

Chairman Colucci reads the Public Hearing Notice and the ZBA decision from March 29 2018 (on file). Discussion if this should go to the Ulster County Planning Board for referral, Mr. Freiband does not believe this needs to go to the UCPB because there is no new access being requested.

Public Comments opened up.

Mr. Hayes asked the surveyor to refresh our memory on the mapping this project. Surveyor explained about the amount of lands above 200' contour (25-year storm) on both sides of the little stream running through Lot 2. Mr. Freiband commented that this is a small-scale development, with 75% above the 200' elevation.

Ms. Richman asked about floodplain development permit. Applicant has the permit already.

Public Hearing will be held open for 30 minutes.

## OLD BUSINESS

1. **Vals Osborne 128 Crispell Lane -Lot Line Revision and Site Plan**  
S-B-L 93.2-2-25.100 and 93.2-2-25.111

Applicant is delayed so we will move onto the next project, Heartwood

2. **HEARTWOOD – Taylor Family Partnership – Special Permit and Site Plan for a Lodging Facility –**  
Route 44/55 S-B-L 93.4-1-42.100 & 93.4-1-41.120

Chairman Colucci asks Mr. Brennan to bring us up to speed on this project.

*Mr. Brennan: We've been working towards a SEQR determination and as part of that I put together a letter in January with a list of items for clarification and additional information was requested. Applicant has been responding with two drop boxes set up with information and Mr. Millspaugh has looked at the technical aspects of it. I think we have cleared or went through the majority of item with the most recent submission that came in this afternoon, additional information on noise. Mr. Millspaugh can update us on this.*

*Mr. Millspaugh: On the issue of noise, I had asked for additional information and the revised letter from their consultant now more clearly addresses the findings, Noise study spreadsheet (on file). It shows where around the perimeter the noise measurements were taken, along 44/55 (locations 1, 2, & 3) and along the Kill (locations 4 & 5) projected and on file. Town of Gardiner has a noise ordinance that stipulates 70 decibels in the daytime and 60 decibels at the evening maximum. The information received shows that they are capable of meeting those requirements. Previous submissions stated they will be putting noise limiters on the amplifier for outdoor events.*

Mr. Millspaugh explains that the noise limiters are electronic control equipment that would not allow a decibel higher than what you set it at.

Discussion of noise at outdoor events. Mr. Rapport stated that there will be no amplified outdoor music after 10 pm.

*Mr. Millspaugh: Revised submission addresses the issues I was asking for.*

*Mr. Colucci: Mark can you go over the information about monitoring noise.*

*Mr. Millspaugh: Sometimes what puts peoples mind at ease is running a new study after the facility is built to confirm noise levels and that there is not a problem moving forward. Noise monitors are placed then you can see the levels that exist. This study does not indicate that this is necessary.*

Further discussion about a noise monitoring system that is connected to the internet, Operator can get direct feedback. Of interest here will be noise levels at the boundary that may exceed the towns noise levels. How a complaint will be handled.

*Mr. Freiband: The Operations are handled by the Special Use Permit.*

*Mr. Colucci: Want to be sure we address all the issues that have been brought up by the public so that the applicant is aware of it.*

*Ms. Richman: the noise from Heartwood is a commercial enterprise and not a residential enterprise. Likely that Tuttle town may have an event at the same time Heartwood may be having a wedding.*

Mr. Rapport and Mr. Millspaugh discuss and explain the DEC Guidance and how cumulative noise is figured.

*Mr. Millspaugh: We are looking at an existing condition and laying the project on top of that to see if the increase of noise is significant. That's the standard under SEQR does it rise to a level where mitigation may be level does not rise to the level of significance.*



2. **Chris Martinez – 246 Farmers Turnpike – Minor Subdivision**

SBL# 93.004-1-15.500

*Mr. Colucci: Gentlemen thank you for your patience. Is there a SEQR document?*

*Mr. Colucci: Is there anyone from the public that would like to comment on the Martinez Application at 246 Farmers Turnpike?*

- Motion to Close the Public Hearing - Mr. Sokolov
- Seconded - Mr. Moran                      Motion passes- unanimous approval
  
- Motion to sign SEQR Documents dated 2/21/2018 finding no significant impact – Mr. Libolt
- Seconded – Mr. Hayes                      Motion passes- unanimous approval
  
- Motion to approve the preliminary Plat waive final Conditional Approval subject to the Plat in Final form and payment of all fees – Mr. Hayes
- Seconded – Mr. Sokolov                      Motion passes – Unanimous approval

Maps needed 1 Mylar and 5 Paper copies.

*Mr. Colucci: Thank you gentlemen I appreciate your patience in going through the public hearing process.*

**OLD BUSINESS continued**

1. **Vals Osborne 128 Crispell Lane -Lot Line Revision and Site Plan**

S-B-L 93.2-2-25.100 and 93.2-2-25.111

*Mr. Colucci: We have received 2 referral responses from Ulster County Planning Board received March 20 2018 for the site plan review and the subdivision, No County Impact on the Subdivision. They have some comments on the site plan, applicant will need a wetland permit and Board of Health approval when they go for a building permit.*

Ms. Osborne gave an update on the DEC permit; public hearing will close March 21 2018. DEC permit looks to be forthcoming.

- Motion to grant lot line approval– Mr. Sokolov
- Seconded – Mr. Hayes                      Motion passes – Unanimous approval
  
- Motion to grant conditional Site Plan approval pending DEC Permit and payment of all fees  
Motion by – Mr. Verleun
- Seconded – Mr. Sokolov                      Motion passes – Unanimous approval

Applicant needs to provide a copy of the DEC Permit, 3 copies of the Site Plan, 5 copies of Lot line Revision (one mylar).

2. **HEARTWOOD – Taylor Family Partnership – Special Permit and Site Plan for a Lodging Facility –**  
Route 44/55 S-B-L 93.4-1-42.100 & 93.4-1-41.120

See Page 2 of Minutes

3. **Shaft Road LLC Preliminary Plat for 10 Lot Open Space Development** - Lands situated within the RA Zoning District along 85/91 Shaft Rd and South Mountain Road, SBL# 93.3-1-21.1

*Mr. Colucci: Discussion on Conservation Easement dated 6/13/2017*

*Mr. Colucci: Draft Conservation Easement from 6/13/2017 and Letter from Young & Sommer Letter dated 8/2/2017, these are the most documents.*

Mr. Colucci reads Young & Sommer Letter dated 8/2/2017 (on file).

Discussion of Ownership of the Conservation Easement, the Grantee of the Easement is spelled out in March 19 2017 Memo by Young & Sommer (on file), It has been agreed that the Town of Gardiner will hold the Easement.

Mr. Hayes notes Declaration #6 of restrictions, to keep livestock out of the wetlands... *” No livestock or animal grazing will be allowed in the mapped wetland areas. Any horse, cattle, sheep or goat ownership must comply with local zoning and must be fenced to prevent access into wetlands.”*

Continued discussion about enforcement of Conservation Easements. Conventional Deed Restrictions on each lot which would give the neighbors a means to enforce the conservation easement.

Discussion of Conservation Easement as a Qualified Tax Donation, no basis that tax valuation will be affected.

Ms. Richman brings up the issue of the Conservation Easement being a separate lot, the layout of the lots does not really allow this as they are spread out.

Discussion of enforcement as allowing the Grantee the rights to enter the property. Yes, they may enter property given 48 hours' notice or immediately should a harmful situation occur.

Discussion of baseline conditions of the Conservation Easement, current aerial photographs, make it part of the agreement.

#### **NEW BUSINESS**

None

#### **INFORMATIONAL**

1. Mr. Calderone - 2 Lot Subdivision Flag Lot 20 Calderone Dr. SBL# 92.4-2-14.120

John and Kimberly Calderone explained that they would like to subdivide the land into 2 lots. Board advised they need to get a surveyor, draw up plans for minor subdivision and submit an application.

#### **COUNTY PLANNING BOARD REPORT CORRESPONDENCE**

None

## ORGANIZATIONAL MEETING

Mr. Colucci reading Mr. Freiband's memo April 15 2018 (on file)

### ***SUBJECT - Organization Meeting Discussion Items- Bylaws***

1. *AS provided in the Board by-laws, April meeting includes procedural matters set forth in the bylaws. Minutes of this month are required to include the appointment dates of each member ( (1.2)*

<u>Planning Board Members Term</u>	<u>Appointment Date</u>	<u>Expiration Date</u>
Paul Colucci, Chairman	4/1/2013	4/1/2020
Keith Libolt, Vice Chairman	4/1/2016	4/1/2023
John Friedle	4/1/2012	4/1/2019
Ray Sokolov	4/1/2014	4/1/2021
Carol Richman	4/1/2015	4/1/2022
Josh Verleun	4/1/2017	4/1/2024
Joseph Hayes	4/1/2018	4/1/2025
Marc Moran- Alternate	/ 2/13/2018	

2. *The Board actions on matters before it, are to vote aye or nay and recusal. There is no "abstention" vote as the that is in effect a no vote under state law. Abstention votes also create a problem for recording Board actions: a no vote majority is required by law to set forth the basis of their determination. If an "abstention" is entered as a vote, there is no "majority of no votes" to formulate the basis of the decision. It is recommended that Section 1.7 be amended to state that a recusal or abstention established that the alternate member shall thereafter act as a voting member on said matter as provided in 75-5c.*

Discussion Mr. Freiband, Mr. Brennan, Mr. Hayes, Mr. Sokolov and Ms. Richman input and discussion of the "abstention" vote. The Planning Board By-Laws establishes its own local law. Poll the board. Table this topic and have Mr. Brennan give us a Memo on this. Amend the By-Laws at a later day, regular meeting.

3. *Section 23.1 sets the regular meeting dates for 7:30PM. This year the Board started meeting earlier, presumably to finish earlier. A review of the minutes for this year shows that meetings have not shortened. Members have also had difficulties in making beginnings of earlier meetings, and it has complicated travel for some. In either case, the Board needs to either amend the bylaws or, preferably retain the 7:30 start.*

Board has elected to amend the By-Laws to start monthly planning board meeting as set by a vote of the Board.

4. *Section 5.1 sets the dates of submission of materials to the Board in advance of the meeting dates as no Board can be presumed to be fully acquainted with matters not in their possession in advance of discussions. Recently there has been s trend for material and reports to be presented de novo at the meeting, which is*



