

Email 11/20/2018

6:07 P.M.

To Town Planning Board,

In the prior Town Planning Board Meeting October 16, 2018, the Applicant submitted an Agricultural Easement. Subsequent to the last Town Planning Board Meeting, on October 26, 2018, the Applicant submitted a revised Agricultural Easement and a Conservation Easement. Based on comments by the developer in front of the Planning Board at the last Planning Board meeting, it was made clear that the applicant is just now submitting substantive documents that changes the fundamental understanding and use of the property as a whole.

The Planning Board needs to exert its oversight over the Heartwood application now. The applicant's Agricultural Easement makes clear that the applicant's intent is to take advantage of the lack of any restrictions, place the property outside the Town Planning and Zoning oversight and have the flexibility to develop the property to the full extent allowed by the Agriculture and Markets Law.

The documents that the applicant submitted prior and subsequent to the last Planning Board October, 2018 Meeting was a significant departure from the understanding the Planning Board had prior. The Negative Declaration issued by the Planning Board p. 8 states "the applicant has offered to place land totaling approximately 54 acres into a deed restricted negative easement or a conservation easement to ensure that the land is preserved, including 20 acres along the Shawngunk Kill." It is clear that the Planning Board issued the Negative Declaration with the expectation that the applicant would be placing all 54 acres into an unobtrusive conservation. In contrast, the applicant's October 2018 Agricultural Easement and statements made by the applicant at the Planning Board meeting made it clear that the applicant's intent was to be free to utilize this acreage and engage in any activity allowed or reasonably close to the broad range of activities considered farm activities or farm operations by the Department of Agriculture and Markets under the Agriculture and Market Law (uses that were mentioned at the Planning Board Meeting included, a farm stand, agritourism, farming and/or livestock business, leasing the property, building structures including housing, barns, storage and sheds). This potential increase in activity is completely inconsistent with the Planning Board's understanding when it issued its Negative Declaration.

It is also inconsistent with the public's understanding and also what was represented to the State Departments when they were conducting their review of the project.

Procedural Issues

- The 54 acres was supposed to be placed in an unobtrusive conservation easement. Now, after all the State Departments, Reports, Testing and Public Comment is completed, the applicant significantly departs from its representations. The applicant's departure and revision at this stage has precluded the public from commenting. It has precluded the State Departments and County Committees from providing input. The tests i.e. noise, odor, visual, water, were completed prior to the revision. This is a violation of due process. It also deprives the Town Planning Board of input from the public, State Departments and County.
- There are also corresponding development, density and testing issues. The application was submitted and considered based on 141 acres. This revision places 54 acres in a different land classification that can be leased if not sold separately with water, odor, noise, transportation, usage that was not originally considered. Thus Heartwood is really not on 114 acres, but 87.

Respectfully Submitted,

Hilary Adler and
Friends of Gardiner Members

