

Gardiner Town Planning Board
January 9th 2019
Workshop Meeting Minutes

Board Members Present:

Chairman - Paul Colucci
Vice Chairman - Keith Libolt
Secretary - Carol Richman
Clerk - Grace Morrissey
Ray Sokolov
John Friedle
Joe Hayes
Marc Moran
Marc Millspaugh

Others Present:

Principle Planner - James Freiband
Sterling Environmental - Marc Millspaugh
Attorney to Town Planning Board - Allison Phillips from Young Sommer
Applicant
Attorney for Applicant - Mike Moriello

Mr. Colucci called meeting to order at 7:06pm

OLD BUSINESS: 1) Heartwood -SBL# 93.4-1-42.100 and 41.120
Documentation review of the Shinrin Yoku, LLC applicant (Heartwood) for a Lot Line Revision, Special Permit and Site Plan for a Lodging Facility on Route 44/55 and Shawangunk Kill, SBL 93.4-1-42.100 and 41.120.

Mr. Colucci: Noted that meeting should proceed in manner outlined in his email prior to meeting
Mr. Colucci: Noted Allison Phillips from Young Sommer will be taking the place of David Brennan due to his meeting date conflict.

Resolution was gone through page by page with board members voicing their specific comments if they had a comment with something on that specific page:

PAGE 1:

Mr. Moran - Clarification on the third "whereas" - document says parcel to the northwest is reserved for agricultural operation, but the easement is an open space easement that allows agriculture

Applicant - The heading is conservation easement for agricultural use

Ms. Phillips - The intent is clear, it is an open space easement that allows for agricultural use

Ms. Richman - Objection regarding the project being comprised of two parcels, due to the 33 acres being a separate project. In some cases the 141 acres is condensed, such as the case with impervious surfaces and open space, but then it's also being treated as a separate parcel that

could be sold or transferred and is not subject to impervious surface calculations. Need to decide if this is one project or not

Mr. Friedle - Only reason there is the conservation easement is because it's one project

Mr. Hayes - Can the second parcel be sold separately and remove or alter the conservation easement or will the conservation easement remain?

Mr. Colucci - It would remain

Mr. Hayes - The conservation easement would travel with title of the property.

Mr. Freiband - Application clearly states that these parcels are all part of the project, and that the parcels are for agricultural uses to be associated with the operation of the project

Mr. Colucci - Called for Straw Poll from the Board regarding the language if this is a conservation easement or separate project

Ms. Phillips - From a legal standpoint the language is accurate as written as the conservation allows for agricultural use. As for the parcel there are two tax map parcels, and it is accurate to refer to it as the parcel to the northwest for identification purposes.

Majority of board agreed with the language in the documentation

PAGE 2:

Ms. Richman - Commented about the "whereas the proposed development will be primarily and previously cleared area formerly used as agricultural lands and nursery with a number of the cabins clustered at the top of the slope up from the riverbank" - Felt that the number of cabins should be listed and noted that some of the cabins are partly down the slope

Mr. Colucci - This board has reviewed documentation and consulted with its independent engineers from the Town of Gardiner, specifically Sterling Environmental, Mr. Millspaugh, and the findings from his firm has indicated that the location of the cabins in reference to the top of the slope meets or exceeds the code, as well as the DEC permit part 666 has been reviewed, authorized, and approved by the NYS DEC. There is a unanimous opinion that it is accurate to refer to the cabins as being at the top of the slope

Mr. Hayes - We have a topographic map that shows the exactly the position of the cabins and the profiles running from the cabins down to the stream. It is exhaustively described in the application

Mr. Friedle - We should just refer to the site plan

Ms. Phillips - The site plan is included by reference into the resolution and the language is accurate as written. If the majority of the board wants to revise what is said about the cabins clustered as shown on the proposed site plan it could be done - this is semantics.

Mr. Sokolov - Wanted to explain his agreement with the language due to it's phrasing that "a number" of the cabins are clustered, not all of them.

Ms. Richman - Issue with Paragraph 5 beginning, "Whereas the project is located in the RA zoning district in the town of Gardiner..." Issue with the zoning enforcement officer, stated town code restricts having a new building for a restaurant in the RA District, as opposed to an old one or an ancillary building for the lodge. Grievance with the town zoning officer issuing an opinion confirming that the use was allowed including the use of the restaurant as an ancillary unit.

Ms. Phillips - The way our laws are set up is that the zoning enforcement officer is the one who is tasked with interpreting the code and those decisions can be appealed to the ZBA, that is something that has already happened in this case. The code enforcement officer determined the use as described by the applicant applied as a lodging facility and that was

appealed to the ZBA. That determination was not overturned, so we are constrained by that ruling in our review of the application.

Ms. Richman - Argued that the code enforcement officer may have made a determination based on an ambiguous document

Mr. Libolt - I don't disagree with Ms. Richman about the vague wording, so I specifically called and spoke to him at length about this before the time to appeal this was over, because you only have 30 days. I clarified with him to make sure he knew what he was saying, and went over with him that based on occupancy you can put a lot of people in the restaurant based on the square feet, and he stood by his determination. I've been liaising with the building department and specifically brought this up with him.

PAGE 3 - no comments

PAGE 4 - no comments

PAGE 5 -

Ms. Richman - Issue with section beginning, "whereas on Oct 16th, 2018 the Board discussed public comments and technical reviews." Not accurate, no discussion about the public comments only discussion about issue with Yom Kippur - would like it be stricken.

Mr. Colucci - Straw Vote if agree with the statement in the document

Mr. Moran - Yes

Mr. Hayes - Yes

Mr. Libolt - Don't recall

Mr. Friedle - Yes

Mr. Sokolov - Absent that meeting

Ms. Richman - No

PAGES 6/7- Starts out with the findings - Findings were read by Mr. Colucci

Ms. Richman - Issue regarding section beginning, "While the lot line revision was included in the public hearing process the public relied on applicants assurances that the northwest parcel would be set aside as open space - Page 10 of negative declaration issued by the board states more than 52.4 acres of the project site will remain as a voluntary mitigation measure protected from development in perpetuity by a conservation easement. This is a gross material change to the preliminary plat and requires a public hearing, by proposing to waive the public hearing the board is effectively rewarding the applicant for deceptive behavior in not revealing until after the public comment its intent to farm the northwest parcel and to put in structures"

Mr. Moriello - There wasn't anything deceptive, the agricultural easement has been since the inception of the project, in addition there are 3 easement areas, 2 written easements with three separate easement areas, all of which are very restrictive. Two of which allow barely anything and the agricultural easement was severely circumscribed to something more akin of an open space easement, but the applicant agreed with its consultants and mitigated that impact and allowed this. It's just wrong to describe the applicant as deceptive in any manner.

Applicant - Read quote from the submitted official transcript from the stenographer from the public hearing that preceded the neg. dec. - "One of the pretty significant changes that I think you'll be happy to hear is that we are committed to putting this second 33 acre parcel into a conservation easement for agricultural use only to ensure a future owner doesn't try to develop that land and to ensure it stays agricultural.

Mr. Moran - Agreed that there was no deception - looking at the record, the neg dec doesn't say anything about agriculture, it talks about open space, but the agricultural easement doesn't say anything about any buildings on those 33 acres. Concerned from a technical standpoint that the neg dec, doesn't say anything about agricultural use.

Mr. Friedle - Noted the agricultural aspect was included on the site plan

Mr. Moriello - Agriculture under SEQR is type 2, its precluded from SEQR review completely

Mr. Moran - Questioned if in retrospect the neg dec that was adopted was faulty in any way?

Ms. Phillips - During the SEQR review the negative declaration creates a project envelope where we've identified impacts and analyzed those impacts. The neg dec reflects the fact that area will be preserved in perpetuity. I think it's accurate to refer to it as an open space agricultural easement because there are open space agricultural easements that permit agricultural operations and those are common in the Town of Gardiner. This project is within the envelope of what we reviewed during SEQR and determined would not have a significant adverse impact.

Mr. Colucci - What was brought to our attention was the fact that there was going to be numerous outbuildings and that was never understood, but we have spoken with the applicant and the outbuildings were problematic because of the outviews and events, however if you go back to the SEQR document it always said some of the area would be used for vegetable farming.

PAGE 8:

Mr. Colucci - Read findings under special permit

Ms. Richman - Grievance with 22-11, 6000 sq ft limits not being complied with. The maximum footprint for non-residential structures is 6000 ft. The event hall and the restaurant and all the other ancillary buildings are over the square footage.

Mr. Frieband - Referenced correspondence with Mr. Moreillo dated Jan 2, determination of the building inspector is past the deadline for contesting the size of the building (5830ft)

Typographical error - noted by Ms. Phillips and will be changed to "in addition"

Mr. Colucci - Requested that Ms. Phillips strike "no existing farm operations in close proximity to the site" due to there being one probably less than ½ mile to the west

Section in reference to noise limiters and quiet hours

Mr. Moran - In reference to his previous memo- Amplified noise is the single most important issue with the project, but uncomfortable with amount of noise still allowed, urged board to be more conservative in regards to restrictions about amplified noise so that the project would not disturb or put undue burden on neighbors in the surrounding area. Move to prohibit or further limit amplified noise outside, allow for amplified noise inside the event venue. Major concern about outdoor concerts, weddings, etc. Proposed a prohibition on outdoor amplified sound.

Mr. Hayes - Disagreed with prohibition on outdoor amplified sound. Absence of noise is not a condition for a new project, only absence of impact on neighbors. Limiting noise is reasonable and should be a condition. But, not allowing any amplified music outdoors, I disagree with that.

Mr. Friedle - Also disagreed with prohibition on outdoor amplified sound

Mr. Moriello - Applicant did do a study regarding the noise limiter

Applicant - We have limited the location where amplified outdoor noise would occur, specifically outdoor amplified music. We have also limited the decibel level in a way that per all town code and DEC guidelines, which are more restrictive than town code, and solved for the level where the sound gets to our most restrictive property line to make sure it would not increase the existing ambient noise level. We feel that people using leaf blowers and lawn mowers is going to increase noise level more then what we've proposed with the limits we've proposed.

Ms. Richman - But you've never truth tested this

Applicant - Yes we did on site

Mr. Colucci - The thing that I've wrestled with the most in thinking about this is when I think about the Yogi Bear campground, and I fast forward to now and there's very limited ability for the Town to monitor their noise levels. Especially from listening to the public's issues with the Lazy River Campground. You're here now with your project and your good faith statements and efforts, but there's no guarantee that this won't change ownership down the road. I really feel like we need some meat in this special permit, and it may feel like a hardship, but listening to the public's comments over the past two years, the noise is going to be an issue. I feel like exterior amplified music, in the summertime when your venue becomes a viable profitable operation and you book weddings once a week with 500-600 people and have amplified music from 4pm-10pm, is going to be problematic. We need to look at the neighboring properties, the traffic dies at night and the music reverberates through the community. I recognize that these events are part of your business model - I'm trying to figure out what's fair for everyone involved.

Mr. Libolt - People should be able to enjoy music and have an event, but by code that restaurant can have 600 people in it by the square foot allowance, and I just want to be sensitive to the surrounding community. This is a well thought through good plan, but I don't know... if this turns into a larger business model, what are we going to have to amplify so that 400 people can hear adequately? The noise compliances set by the town are too lenient to protect the neighbors, I can sit in the parking lot next to my office and lay on my horn and still be in compliance with noise level ordinances at my property line, and im 150 ft from my neighbor.

Mr. Colucci - There's no doubt in my mind that you could stay within the town noise code

Applicant - What we've proposed is much more restrictive than the town code, the code is in our opinion pretty lenient, and the DEC has several levels of recommendation, the most restrictive of which is not raising the ambient noise level at the property line more than 0-3 decibels. What we've proposed is at the lower end of that range with the cut off we've employed with the limiters, the DEC's next level which is 3-6 decibels, has no impact under SEQR. The town code just has a limit about how much sound is emanating from the property, and we're nowhere near that limit based on our proposal to stick to the strictest DEC recommended level- which they call no appreciable impact. We did this to be extra conservative. We calculated the noise level increase at our property line not at that of the neighboring homes which would give us an additional buffer. We're solving for no appreciable increase at our property line, so by the time it gets to a neighboring property, our receptor, it would be even lower. We do want to live in harmony with members of the community. No amplified music is extremely business limiting certainly we do intend to have weddings and other events. Part of the setting limits rather than flat out restriction on the ability to play amplified music, is so we can have music playing by the

pool at a reasonable level, and amplified instruction for a yoga retreat. In order to make this profitable we need flexibility.

Mr. Colucci - Suggested the word amplified be defined, I don't see us restricting an amplified microphone in the yoga studio, our concern more than anything is the amplified music that carries.

Joe Hayes - Are there time limits on the amplified music? What are they?

Applicant - Yes there are 10pm quiet hours, and we also have the sound limiting hardware. There already has been levels of ratcheting down the sound that have made their way into the resolution

Ms. Richman - If there is no appreciable increase in sound at the property line, then why is there a time limit?

Applicant - There's been some confusion about the zero appreciable and no major impact, you may be able to hear some of the sound during the day from the music

Ms. Richman - You say there's been a test, did you notify the public about when this test was taking place

Applicant - We had an independent sound consultant visit the site and there's physics of how far sound can travel under perfect conditions. These are less than perfect conditions because of trees and such, and what they calculated was under perfect conditions the maximum amount of volume would be left after the decay of sound over that distance and what we solved for was extremely conservative between the 0-3 decibel increase at our property line not at the receptors. In terms of the 10pm cut off we volunteered that because there is more sensitivity in the evening and that it was more in vision with the site to just cut it off completely after 10pm. There was a test done at each of the property lines to measure the ambient noise levels

Ms. Richman - They did a test for ambient noise, not the level of sound they intend to produce at the site. They only solved for the baseline, they have never gone out and tested their hypothesis on this study.

Mr. Millspaugh - Source noise behaves as a pressure, so it adheres to mathematical properties, it's basically the surface of a sphere, so the further out you get the less pressure there is. After they have the baseline defined they can place a source noise on the map and precisely measure at the various perimeter locations based on the mathematical properties of sound, and what they've shown through their study is there is no appreciable increase at the property lines.

Mr. Friedband - There is a way for the board to handle this without it being an issue, the applicant is voluntarily placing a noise limiting device. Once this is in place the planning board can require the condition that a test be done generating 125 db at the source, where all the amplified music is restricted and measuring and actually reduce the limiting so that on the shortest site its below the threshold of the ambient.

Majority consensus with Mr. Friedband about this idea

Mr. Sokolov - There's going to be various forms of amplified sound during the day, presumably everyday. What concerns me is that in a place where its raison d'être is the idea of quiet contemplative getting away from the hubbub of the city, you are planning, in order to make money, to generate sound throughout the day until 10pm. Whether or not you have a scientific sphere that satisfies you, it doesn't satisfy me because certainly people within 2 miles of this area are going to be able to hear it and be bothered by it all day. The 600 people just talking outside is going to be audible, so the amplified music until 10pm, will be audible, and there has been no test done to see what this is actually going to sound like. I am in favor of the most extreme restriction possible at the other end of this.

Mr. Friedle - Question about the 600 people

Applicant - Only 156 parking spaces, and the maximum occupancy of the restaurant is much lower

Mr. Libolt - Called the building department and said if you have a 4600 ft building how many people can you allow on site and they said divide by 7, so 600. The code says 1 person for every 7 feet.

Mr. Frieband - The area isn't 4600 ft, the area for service is less than half of that.

Mr. Libolt - I just asked him the overall size of the commercial building

**Mr. Colucci* - Called for straw vote about Mr. Moran's proposal to limit amplified music on the exterior*

Mr. Moran - Wanted to clarify "amplified", technically anything could be construed as amplified, the problem is that the material in front of me does not set a limit that would address the concern of loud music, a band playing, etc. I would be perfectly happy if I had the technical basis, something short of a prohibition, but still a stringent restriction on amplified outdoor sound. The acoustic expert only set a baseline on the weekday morning and afternoon - I have no dispute with what was done, they set the baseline and calculated back the amount of noise that could be at the source and still be within the more stringent standard of the town code. It's an exact calculation, but 125db is not a conservative calculation under any circumstance.

Applicant - What about lowering those levels to a number you do feel is conservative, but not having a blanket prohibition. We appreciate that this is a major concern for the project, and what we've tried to do is create a limit where we can demonstrate with physics that been corroborated by your own consultants. This is a major business issue for us as well.

Ms. Richman - In the special permit you are prohibited from making any off site disturbance as of right, but they wouldn't be having amplified music with as many events.

Mr. Colucci - What is the distance from the nearest property of the potential exterior amplified music?

Applicant - The closest property line would be Tuttle town which is 985ft, which is not our most sensitive neighbor in regards to noise.

Mr. Hayes - What is the back calculated decibel limit?

Applicant - There were two guidelines: before 8pm its 125db, between 8pm-10pm its 115. This decibel level is at the source, not the property line.

Mr. Colucci - I'm more comfortable with Mr. Frieband's idea. Is there a condition in the special permit that would allow us to adjust this matter, as a legal mechanism once the operation is up and running?

Mr. Frieband - You could impose that condition and require that the building inspector complete that before issuing a certificate of occupancy. They would set up a noise source there with a calibrated value to see if it complies. We would have to wait until the structure is there, because it's going to affect the noise levels, they're going to be reduced by the construction and landscaping

Mr. Colucci - Maybe, we need to hone in on the landscape plan, and have a professional engineer or landscape architect review the possibility of rearranging some of the landscaping, so there is some type of interference between where the noise is originating and the property line.

Mr. Libolt - Once the construction is done, you test to see if their baseline is accurate and you dial the limit down or up so that at the property line there is ambient level.

Mr. Millspaugh - The analysis that was done was with no buffering, your code as you go through the evaluation site plan and special conditions lets you take into account buffering.

There will be noise shattering because of the buildings, the event area if its a courtyard with speakers facing the people could be taking into consideration as well. When this went through the SEQR evaluation the threshold of sound pressure increase at the property line of 0-3 decibels is not perceptible to barely perceptible from an environmental analysis perspective, so it didn't warrant mitigation. That is under SEQR, in the site plan there are things that could be considered like an acoustic wall, a hedge row, or a berm, but it's not necessary from an environmental impact evaluation standpoint.

Ms. Phillips - I agree with Mr. Millspaugh's explanation of the analysis when we are doing our review under SEQR. When we are looking at specific criteria in our code for the special use permit and the site plan it is somewhat of a different standard. We had the ability to impose conditions that are rationally related to that criteria, so I can put some language together with some of the alternatives we talked about tonight as far a conditions for the special use permit criteria.

Mr. Colucci - Ms. Phillips and Mr. Moran can work together to craft some language that can go into the special permit

Mr. Colucci Took a straw poll regarding the attorney drafting language that will impose some type of additional conditions pertaining to the outside amplified music and Mr. Friebands proposal

Mr. Moran -No - insufficiently conservative, it's a one time test that will measure ambient noise and impact on ambient noise at that specific time. Recommended some type of modified prohibition or alternatively and analysis that allows for lower source noise, not 125db that the current analysis requires

Mr. Hayes - A reduction in deducible setting - 125 is quite loud at the source, and a required further sound level test

Mr. Libolt - Fine with either Mr. Moran's or Mr. Hayes' suggestion

Mr. Friedle - Need to reduce decibel level at the source and also perform test

Mr. Sokolov - Agreed with what Ms. Phillips is going to do

Ms. Richman - Agrees with Mr. Moran and his proposal.

Mr. Colucci agreed with Mr. Haye's suggestion.

Ms. Phillips - Going to craft language for each of the alternatives the board discussed. At the next meeting members can determine by consensus what are the appropriate conditions to include.

PAGE 9:

Mr. Moran - Issue with the third sentence under Planning Board Findings, "The lodging facilities site has 2 conservation easements covering 54 acres," but the 2 conservation easements total 21 acres, so 54 needs to be changed to 21

Ms. Phillips - Noted change. No other comments.

PAGE 10:

Ms. Richman - Stated objection to section in paragraph 1, referencing complying with the code. The code's intent and purpose is to uphold the comprehensive plan, which discusses the importance of the Shwangunk and this project is going to impact the riparian region of the Swangunkill.

Mr. Millspaugh - The town went through a significant upgrade of its comprehensive plan in 2004, and the open space plan was adopted in 2007, the zoning code has been updated multiple times since then cognisant of the comprehensive and open space plans, both of which speak to the towns opportunity to update its code, only the code is legally enforceable. No further comments.

PAGE 11:

Mr. Moran - Question about quiet hours being defined

Mr. Frieband - The quiet hours is part of the study

Applicant - It's not defined in the document, when use that phrase it refers to the 10pm cut off of amplified music

Ms. Phillips - It is in the site plan

Mr. Colucci - Requested it be added specifically into the resolution
No further comments

PAGE 12: No Comment

PAGE 13:

Ms. Richman - Objection to section board findings beginning, "no potential impacts to the swangunkill, use of groundwater impacting plants and animals, the projects was extensively studied in respect to plants and animals" - only endangered and threatened species were discussed and there are other potential impacts on the swangunkill

Ms. Richman - Issue with groundwater usage on the 141 acres, when there is agriculture on the 33 acre parcel, now we don't know what the consumption will be

Mr. Moran - Potentially a fair point if you're going to have a vegetable farm. No other comments.

Mr. Frieband - The water supply is strictly for that facility. Water supply is sufficient as determined by the U.C. D.O. H.

PAGE 14: No Comment

PAGE 15:

Ms. Richman - Issue with Item 12 beginning, "if the property is an SP or RA..." because there has never been an "as of right" determination. Never discussed how many homes could be cited there. There should have been an analysis of an "as of right" alternative. Environmentally sensitive land of the riparian forest makes it important.

PAGE 16:

Mr. Moran - Issue with the code language "is to the max extent practical... cabins have been located away from the Shwangunkill to the maximum extent practical" code language is not really accurate

Ms. Richman - Commented about terrible precedent to allow living structures in the riparian forest. No other comments.

PAGE 17: No Comments

PAGE 18: No Comments

PAGE 19:

Ms. Richman - no assurances to provide protection of the native riparian forest - extensive tree trimming and removal will occur due to insurance requirements, further human activity will damage soil and wildlife. No other comments.

PAGE 20: No Comment

PAGE 21:

Ms. Richman - Issue regarding section c.) Off Street Parking. No other comments.

PAGE 22: No Comments

PAGE 23: No Comments

PAGE 24: No Comments

PAGE 25: No Comments

PAGE 26: No Comments

PAGE 27:

Ms. Richman - Issue with Section H.) regarding impervious surfaces on 141 Acres - would like them to be separated out into the 108 acres and 33 acres in order to determine the percentage calculations. No other comments.

PAGE 28: No Comments

PAGE 29: No Comments

PAGE 30: No Comments

Ms. Richman - Issue with Section E.) regarding fertilizer. No other comments.

PAGE 31: No Comments

PAGE 32: No Comments

PAGE 33:

Mr. Moran - confused about language in line beginning “ In addition the majority of cabins being located at the edge of a large stand of trees the typifies the area..” The majority of cabins are outside of the trees. Second thought about typifying the area from the bank of the kill and beyond

Mr. Hayes - Place period after large stand of trees and get rid of rest of the sentence

Ms. Phillips - Noted and will change language

Mr. Colucci - Have we determined number of trees to be removed

Applicant - Goal is to remove least amount of trees, used phrasing limited amount in case a few need to be removed

Mr. Colucci - Need to identify which trees will be removed. Need to take into consideration the fact that no trees over a certain size should be removed, and cabins may need to be moved if it is going to conflict with a tree. Need to quantify what size tree cannot be removed and put it in resolution. This language is what the code enforcement officer is going to be using in evaluating the site plan, and the size of the trees should be noted in both this document and the site plan. Problem with the phrasing “very limited number of trees to be removed” need it to state how many and how big of a tree

Mr. Freiband - Any tree over 6 inches in diameter at breast height could not be removed

Mr. Friedle - Except for dead, dying or decaying trees. Question regarding the 6 inch diameter

Ms. Phillips: Going to include a specific condition limiting the size of the trees that can be removed- info to come from neg. Dec.

PAGE 34: No Comments

PAGE 35:

Mr. Moran - Change 54 acres to 21 acres - noted by Ms. Phillips. No other comments.

PAGE 36: No Comments

PAGE 37: No Comments

PAGE 38: No Comments

PAGE 39:

Mr. Moran - Question regarding noise and event frequency for Ms. Phillips about line "The planning board notes this item is of particular importance... should the facility act out of compliance or should the conditions imposed not protect the neighborhood from noise levels that are disruptive the planing board retains the right to revoke the special permit"

Mr. Friedle - Similar concern as Mr. Moran - can only revoke permit during construction

Ms. Phillips - Going to have a discussion with Mr. Brennan regarding the language - in agreement that there should be a clear condition in the special permit so the applicant knows what he'll be held to, so there are no issues of expectations or enforcement

Mr. Freiband - provision 220-40 allows the inspectors a lot of leeway in regards to noise for citations, and under provision 220-60E under conditions of site plan approval, the approval can be revoked by the planning board after the building inspector process

Ms. Richman - Question of how to protect the Riparian zone, because the permit doesn't say much about specifics.

Mr. Colucci - Possibly agree on some form of statement that the applicant has made a good faith statement they will protect the riparian forest and add it to the resolution

Ms. Phillips - Part of imposing conditions on a use is thinking of it as an enforcement perspective if there is a violation, specific noise mitigation measures can be included as explicit conditions in the permit. Need to have clear conditions for the applicant and for enforcement. Will talk to Mr. Brennan about language about a revision to add a period after compliance

Mr. Freiband - Suggested condition to resolve the issue, tree trimming and clearing can be done in the presence of a licensed arborist

Mr. Millspaugh - No tree removal except for those determined to be dead or diseased, with the opinion of the arborist taken down, except for example storm damage or a snag.

Mr. Colucci - Log with pictures all the storm damage you have out there now so there is clear documentation for the inspector

Applicant - Have not done an exhaustive look at the trees thus far, flexibility if there is an unforeseen tree needing to be removed

Mr. Freiband - Potentially require that they come back to the board if there are any significant tree removal changes

Mr. Colucci - Board needs to have control about the removal of trees because of the sensitive environmental area

Mr. Moran - Need to have very clear conditions so there can be enforcement

Board in Agreement about the Condition about the Arborist

PAGE 39: No Comments

PAGE 40: No Comments

PAGE 41: Starts Condition of approval

Mr. Colucci - Read conditions of approval

Condition 2 Comments:

Mr. Millspaugh need to make specific reference to site plan revision

Mr. Freiband - Comment about specific performance having legal meaning

Mr. Colucci - Attorney going to make changes

Additional Condition Comments

Ms. Richman - the conservation easement regarding 33 acres finalization? There's going to be more development if parking, etc. is added. The parking is going to be separate and aside from the 12 acre parcel, we have not sufficiently removed that easement, could potentially be more than 12 acres set aside.

Mr. Colucci - Conservation has not yet been approved - in red line form

Mr. Friedle - The parking lot would be included in the 12 acre envelope

Mr. Moreillo - No large impervious surface from the parking lot

Mr. Libolt - Anything regarding the easements has to be approved by the planning board attorney and thus by the planning board in order for them to be in final form

Mr. Hayes- We are recommending the easements to the town board for their consideration

Mr. Frieband - If the town board wont except it then a third party would be approached, its being drafted for them as an easement to the town

Ms. Phillips - The easements and the covenants and restrictions as approved by the board attorney, they are required by the board, the requirements could be put into deep covenant if necessary

Mr. Moriello - Town Board defers to the expertise of the planning board.

ADDITIONAL CONDITIONS ADDED BY BOARD

15.) Tree size to be specified

16.) Noise proposal

Ms. Richman - Suggested there should be a third condition added regarding herbicide, pesticide, pest mitigation condition to protect riparian forest

MOTION TO ADJOURN made by *Mr. Colucci* at 10:20pm

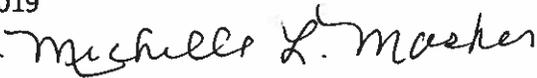
Motion seconded by *Mr. Friedle*

Written by: Grace Morrissey

Submitted: Mariela Roman



Approved: 3/19/2019

Filed: 3/21/2019 - 

Approved By: _____