

Meeting of the Planning Board of the Town of Lewisboro held at the Town House, 11 Main Street, South Salem, New York on Tuesday March 24, 2009 at 7:30 P.M.

Present: P.J. Rossi, Chairman
John Gusmano
Richard Ellrodt
Maureen Maguire
John Johannessen, AICP, Kellard Sessions Consulting, Planning Consultant
Bruce Barber, Interim Wetland Inspector
Margaret Clark, Esq.
Janet Andersen, CAC Chairwoman
Aimee Hodges, Planning Board Secretary

Absent: Joseph Decaminada

The Chairman called the meeting to order at 7:30 PM and introduced the Board and its consultants.

I. DECISIONS

Three Lakes Council, Inc., P. O. Box, 241, South Salem - Application for Wetland Activity Permit Approval – Cal. # 90-08 W.P.

Janet Andersen and Paul Lewis were present representing the applicant.

Mr. Barber reviewed the draft resolution he prepared for the Board's consideration.

On a motion made by Mr. Gusmano, seconded by Mr. Ellrodt the resolution Three Lakes Council, Inc., Negative Declaration, Wetland Activity Permit Approval, Cal. #90-08 W.P. was adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

Twin Lakes Water Works Corp., P. O. Box 258, South Salem - Application for Wetland Activity Permit Approval – SEQR Determination - Cal. #82-08 W.P.

Paul Lewis and Janet Andersen were present representing the applicant.

Mr. Barber reviewed the draft resolution he prepared for the Board's consideration.

On a motion made by Ms. Maguire, seconded by Mr. Gusmano the resolution Twin Lakes Waterworks, Inc., Negative Declaration, Cal. #82-08 W.P. was adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

Town of Lewisboro - Fox Valley Park, Indian Hill Road, Goldens Bridge, New York. – Application for Site Development Plan Approval - Cal. #2-09 P.B.

Dana Mayclim, Superintendent of Recreation was present with Randy Price, Parks Foreman.

Mr. Rossi advised that the Board had asked Mr. Johannessen to visit the site and provide a memo detailing his observations. Given the concerns expressed by the neighbors he advised that he too walked the site with Mr. Ellrodt and concurred with Mr. Johannessen's findings.

Mr. Johannessen reviewed his memo to the Board dated March 18, 2009 and noted the attached photographs taken at the site. Two adjacent neighbors met at the site with him, as well as Mr. Barber, Ms. Mayclim and Mr. Price. The proposed pavilion is located more than 650 feet away from any residences and he noted the significant stand of trees along the property line on the upper field. Beyond the upper fields there is another buffer before the pavilion location. In addition, the grade of the proposed pavilion is approximately five to six feet lower than the top of the existing stonewall. He advised that it was difficult to see the existing residences from the proposed pavilion location.

Mr. Johannessen reviewed the draft resolution he prepared for the Board's consideration.

On a motion made by Mr. Ellrodt, seconded by Ms. Maguire the resolution Site Development Plan Approval, Fox Valley Pavilion, SEQRA-Type II Action, Cal. #2-09 P.B. was adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

II. REQUESTS FOR EXTENSION OF TIME

Charles & Helen Mara, 33 Conant Valley Road, Pound Ridge – Application for Wetland Activity Permit Approval – Cal. #65-03 W.P.

Helen Mara was present.

Mr. Rossi noted that the applicant had not complied with the condition of the approval requiring the submission of the erosion control reports. There had also been some concern with the condition of the site.

Mrs. Mara indicated that Mr. Barber had her permission to visit the site and noted that she had believed that he had in fact been out to the site. There is an area of the site which is open because they are waiting for AT&T to move the lines prior to finishing the driveway. The garage has been completed as well as the associated landscaping. She was not sure why the documentation had not been completed; her contractor Paul Bauts was supposed to be present this evening but had another meeting.

Mr. Rossi advised that he had spoken with Mr. Bauts at the Planning Board office about the deficiencies. In response to Mrs. Mara's question as to how they could reconcile if the reports had not been done, Mr. Rossi advised that he would like the wetland inspector to visit the site and provide a report to the Board ensuring that the site is stabilized. Given that the wetland inspector had been inspecting the site during the construction it would be a benefit. He noted that there was a reason why these reports were required in that there is a gully behind the garage and a special technique was being utilized during the construction. The details of how this is to be addressed can be worked out between the contractor and the wetland inspector. Mr. Rossi advised that the Board wished to ensure that this project comes to a conclusion. Without the required documentation, the Certificate of Occupancy cannot be issued.

Mrs. Mara advised that the infiltrator had been installed and that the silt fences were in place. She advised that a further extension was necessary as that they had gotten a four to six month delay in starting the construction as their contractor did not have his New York State license. Construction began February 14, 2007. She further noted that due to the economy her husband's business is slow and they wanted to ensure that they could cover their expenses.

Mr. Rossi asked that she provide a letter for the file detailing briefly the need for the extension so that the record is clear that this Board is not continually approving this application on a never ending basis and that there is a conclusion.

Mr. Barber advised that he sat down with Mr. Bauts and reviewed the outstanding items. It was his impression that Mr. Bauts left the meeting with a clear understanding of what was needed to be submitted to obtain the Certificate of Occupancy.

Mrs. Mara indicated that she would like a six month extension of time.

On a motion made by Mr. Gusmano, seconded by Ms. Maguire the Planning Board granted Charles and Helen Mara an additional 180 days to Wetland Activity Permit 65-03 WP dated January 16, 2006 conditional upon receipt of a written explanation as to the reasoning for the further extension.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

Ronald & Nancy Melagrano, 49 Benedict Road, South Salem – Joint Applications for Wetland Activity Permit Approval and Preliminary Subdivision Plat Approval pertaining to a two-lot subdivision known as “Cedar Knolls” – Cal. #4-08 P.B.

On a motion made by Mr. Ellrodt, seconded by Ms. Maguire the Planning Board granted the March 3, 2009 request of Leslie N. Simon, Esq. for a six month extension of time to the resolution granting Preliminary Plat Subdivision Approval dated October 14, 2008.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

“Oakridge Gardens”, Smith Ridge Housing, LLC., Smith Ridge Road (NYS Route 123), Vista – Application for Site Development Plan Approval & Wetland Activity Permit Approval – Cal. #6-02 P.B.

Philip Pine, member of Smith Ridge Housing, LLC was present with the project landscape architect James DeLalla, ASLA.

Mr. Rossi advised that Mr. Pine's attorney, John Arons, Esq. had satisfied Mr. Praga in terms of the ownership issue. Mr. Rossi suggested that all of three of the deadlines contained in the Site Development Plan Approval Expiration section in the resolutions be extended by six months.

On a motion made by Ms. Maguire, seconded by Mr. Gusmano the Planning Board granted the March 10, 2009 request of Philip Pine for a six month extension of time to the Planning Board's resolutions dated May 19, 2008 and October 14, 2008.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

III. PROJECT REVIEW

Claude K. & Jennifer Amadeo, Silver Spring Road, Lewisboro – Application for Lot Line Change Approval with parcel located in Wilton, Connecticut – Cal. #1-09 P.B.

Alan Densmore, LS, Ryan & Faulds, LLC Land Surveyors was present representing the applicant.

Mr. Densmore displayed the proposed plan and noted that he had received the consultant comments. He noted the concern regarding the fencing and advised that the fencing had been removed after the survey had been completed. He advised that they had the septic system as-built for the new structure and are working on obtaining the septic as-built for the older residence. He noted that wetlands shown on the proposed plans are from the original subdivision which included lands in New York State and questioned whether it would be necessary to have them redelineated.

Mr. Barber recommended that the applicant fill out a wetland clearance form. He would then go out to the site and determine if there are wetlands that are jurisdictional to Lewisboro.

Mr. Densmore questioned the requested note on the plat which would prohibit the construction of any structures within the Lewisboro portion of the site.

Mr. Johannessen advised that it had been suggested to him that he review a similar application that had been approved by this Board several years ago. This note was taken from that particular subdivision. He believed that the rationale for this note was that there would be an accessory structure without a primary residence. In response to a statement of Mr. Gusmano he advised that there may be a distinction between tax lots and parcel as to whether the accessory structure provision would be relevant. He will seek clarification from Mr. Praga.

Mr. Johannessen reviewed the March 20, 2009 memo from Kellard Sessions Consulting, PC.

Ms. Andersen reviewed the March 18, 2009 memo prepared by the CAC and questioned whether there was a purpose they needed to understand for the application. Absent this, there did not appear to be any environmental concerns.

Mr. Barber reviewed his March 17, 2009 memo to the Board.

The Board members agreed to the scheduling of a site visit. The Secretary will contact the applicant's representative with the date and time.

Mr. Rossi questioned whether the Town of Wilton required any approvals relative to this action. He further requested that this matter be placed on future agendas when counsel for the Planning Board was present.

Mr. Johannessen advised that he would contact the Town of Wilton planner. He believed that an approval would also be required by the Town of Wilton.

On a motion made by Ms. Maguire, seconded by Mr. Gusmano the resolution establishing a full escrow deposit in the amount of \$3000 was adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

IV. SKETCH PLAN REVIEW

“Cross River Cell on Wheels”, New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant (Town of Lewisboro, owner of record) –Town of Lewisboro, 1065 Route 35, South Salem – Application for Special Use Permit

Keith Betensky, Esq. and Zac Pearson, PE of Insite Engineering were present representing the applicant.

Mr. Betensky reviewed the application for a temporary Cell on Wheels to be located behind the Lewisboro Town Park. He advised that previously they had requested an exemption for the COW pursuant to Section 220-41.1 K of the Zoning Ordinance specific to temporary facilities for emergency services. Given the Planning Board’s concerns that in theory this temporary structure could remain indefinitely if the permanent structure is not constructed, the applicant is amending their application to limit the timeframe of the COW for 18 months and requested that the Board grant the exemption this evening.

Mr. Rossi advised that the specific purpose of this meeting to was to set the parameters for the visual impact assessment and advised that there would be no exemptions granted this evening. The Board will review the memo prepared by Mr. Johannessen. He acknowledged that the applicant had provided dates which do not work given the upcoming holidays. This Board is sensitive to the fact that they had asked the applicant to move this as quickly as they could and with that in mind he would like to get the dates set for the visual assessment as well direction as to what this Board is looking for in terms of the assessment. To be efficient this Board would like to have this test done once encompassing the application for the COW as well as for the permanent tower which would save time. He advised that he wanted to get the visual impacts done now and address the legal issues at a later period. In response to Mr. Betensky’s statement that they would move forward with the visual assessment with the caveat that the applicant was looking for several waivers, Mr. Rossi noted that Margaret Clark’s March 12, 2009 correspondence to Leslie Snyder, Esq. defined the narrow scope of this meeting. This Board did not come prepared to discuss waivers and exemptions, but came prepared to discuss what they were looking to see on a visual study.

Mr. Betensky advised that the resolution relative to the issues relating to the waiver and exemption requests may affect Verizon Wireless’ decision to move forward on the visual analysis.

Mr. Rossi questioned whether Verizon Wireless would decide not to build the tower if the Planning Board denied the waiver.

Mr. Betensky advised that this is possible; there are several different waivers in the code; some are not applicable to a temporary cell on wheels. If Verizon Wireless is required to prepare a topographical survey on the whole property it would require a lengthy period of time.

Mr. Rossi questioned whether or not this information would be necessary for a permanent site.

Mr. Betensky agreed that they would but added that there is no application for a permanent site at this time.

Mr. Rossi advised that this Board was asked by the applicant to use as much from this application to apply to an application for a permanent site. In response to Mr. Betensky's statement that this was not the case, Mr. Rossi advised that the applicant had represented that they would imminently have an approval with the Town Board to build a permanent site. If this is the case, a permanent site is coming down the pike.

Mr. Betensky advised that this is the hope and that the only application at this time is for a temporary cell on wheels.

Mr. Johannessen reviewed his memo to the Board dated March 20, 2009 advising that it was his opinion that it would require a tremendous effort to get the crane up the hill and that the more viable alternative for the visual assessment is a balloon test. He noted the previous requirements of the Board with respect to informing the public of the visual assessment. He noted the March 17, 2009 memo prepared by the Antenna Advisory Board regarding the height of the COW and the permanent tower. It was the opinion of the AAB as well as his own that the applicant be required to fly a balloon at 160 feet the maximum potential height of a permanent tower.

There was some discussion as to whether there should be three balloons at 80 feet, 120 feet and 160 feet. Mr. Rossi advised that the test should be held for at minimum a five hour span of time, not two hours as suggested by the applicant.

Ms. Maguire questioned how the applicant would get the COW up the hill if the crane could not as suggested by Mr. Johannessen.

Mr. Johannessen advised that he believed that improvements would be required to the road.

Mr. Rossi noted that the applicant had represented that there would not be any disturbance to the site in getting the crane to its proposed location utilizing the existing road.

Ms. Maguire believed that perception would be vastly different in utilizing the balloon in lieu of the crane; she questioned how the COW could be located at the top of the hill without any disturbance but the crane could not.

Mr. Barber advised that he had walked the site with Mr. Coyne and concurred with Mr. Johannessen's analysis that it did not appear feasible that any vehicle or structure would be able to get up the road

without any improvement noting that the road is not in good condition. He suggested that the balloon heights being represented should be as clear as possible for the Board as well as the public. He advised that the wind and temperature can have an effect on the balloons. He advised that they would begin to see significant leaf cover within three weeks to a month. In response to a question of Mr. Ellrodt, Mr. Barber reviewed the planned route up the hill advising it was approximately 1000 to 1500 SF of road.

Mr. Betensky noted the Board's concerns with the balloon tests and advised that they would submit a full explanation as to the methodology. He advised that their visual expert had taken an aerial map and chose a viewpoint representing each area. He advised that Verizon Wireless could not send their consultants on private property without some sort of written agreement. He asked that if there were any residents who wanted a photograph from their property that the applicant was notified in advance, allowing the Verizon consultants to come up with a route on the day of the visual assessment.

Mr. Rossi stated that it had been requested that the applicant send the public notice certified mail and provide a phone number where the interested parties can call so that they could advise the homeowners what is needed. In addition it was noted that a cell number would be included in the notice so that any homeowner could call on the day of the visual assessment.

Mr. Betensky advised that they would provide the cell number so that if anyone sees the balloon they could call; they would do their best to respond to the request.

Mr. Rossi noted that the Board in the past drove through the area during the balloon/crane test and if a particular location merited a photograph they were able to call.

The preferred date for the assessment is April 18th. Two inclement weather dates were scheduled on April 25 and May 2nd.

Mr. Johannessen suggested that the applicant provide information to the Board as to what weather condition would trigger a cancellation.

Mr. Rossi advised that although the crane is this Board's first choice, they would like the applicant to provide the details regarding the color of the balloon. In addition, the preference is for the applicant to simulate three heights.

Given the concerns with access the Board requested that the Town's consultants meet with the applicant's engineer prior to the visual assessment to prevent any problems on the day of the assessment.

Mr. Betensky advised that he would provide more detail with regard to getting the COW to the proposed location. He further advised that they needed an answer regarding the waiver requests prior to the visual assessment as it would affect Verizon Wireless's decision as to whether they will pursue the Cell on Wheels.

Ms. Clark advised that the applicant has heard the Board's decision. In hearing that if the applicant cannot obtain certain specific waivers that they may not proceed with the application, she requested that the applicant provide in writing exactly what the waivers were so that she could review them.

Mr. Betensky advised that they had submitted in a writing the twelve waivers requested. In response to a question of Ms. Clark he advised that he was not stating that if the Board did not grant the twelve waivers that they would not proceed. He advised that he needed to understand which waivers would not be granted.

Mr. Rossi advised that the applicant must get their letter to the Board explaining specifically what they are looking for. As the time period for the notices would go by quickly, he advised that he would like to move this along. The Board is okay with the methodology as long as the three heights are simulated with color balloons for seven hours utilizing the best practices utilized by the industry.

Mr. Barber suggested that the site visit be scheduled in one week for the purposes of conducting a site inspection as well as for a technical meeting to help ascertain why the applicant's consultants believe that there will not be any site disturbance.

Mr. Betensky advised that they would be requesting to be placed on the April 14th agenda for a decision regarding the waivers.

Mr. Rossi advised that he did not have an issue with this request but would have to check to see what is on the agenda as typically there is a 30 day requirement to submit materials for an agenda. He asked that the applicant submit their requests in writing and the Board would then do the best they could in accommodating the request.

On a motion made by Mr. Gusmano, seconded by Ms. Maguire the resolution establishing a full escrow deposit in the amount of \$6000 was adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

At the conclusion of her services for the evening, Ms. Clark exited the meeting at 8:45 P.M.

Seth & Brooke Christian, 99 Chapel Road, Waccabuc – Application for Wetland Activity Permit Approval – Cal. #94-09 W.P.

Seth & Brooke Christian were present with the project architect Carol Kurth and environmental consultant Paul Jaehnig.

Ms. Kurth displayed the proposed plan, photos and aerials of the site. Ms. Kurth advised that she had met with Mr. Barber and determined that this property is located within the NYSDEC check zone one of the thresholds for making an application to the Planning Board. The NYSDEC has been contacted. The bedroom count is not being changed. She advised that there is a manmade pond on the site. She further advised that the applicant is proposing a phased application all under the threshold. Ms. Kurth reviewed the site and advised that phase one of the proposal is to create a new front entry. Phase two includes an addition and patio in the rear.

Mr. Barber reviewed his memo to the Board dated March 19, 2009. He advised that Deputy Building Inspector Paul Bauer had written two memos February 4 and March 18, 2009 advising that all plans comply with the zoning requirements and that it was his opinion that this project did not require a

review by the Westchester County Department of Health. He advised that the proposed disturbance falls completely within a previously disturbed wetland buffer. He recommended that the Planning Board conduct a site inspection.

Ms. Andersen reviewed the March 19, 2009 memo prepared by the CAC.

With regard to the CAC concern regarding the patio, Ms. Kurth advised that they were thinking in terms of a flagstone patio with stone dust. In addition they had been contemplating integrating a drainage plan.

In response to a question of Mr. Ellrodt, Ms. Kurth advised that the proposal includes a sitting area within the master bedroom suite as well as a second sitting area in the children's section.

Mr. Barber advised that given the expanse of the lawn area with its potentiality for plantings that he did not believe that any structural approaches to stormwater treatment would be necessary. If it were to be considered, this project would then be referred to the town engineer. The applicant is looking to minimize the impacts with a permeable patio surface. He further suggested that if this project were to be approved that the Board consider adding this property to the septic system maintenance program.

In answer to a question of Ms. Maguire, Ms. Kurth advised that the house is a three bedroom house. In addition, the existing garage has a playroom which could be turned into an apartment given that the septic system is sized for a four bedroom residence.

Mr. Rossi suggested that the Board schedule a site visit for April 18th.

Ms. Kurth advised that she would prepare the calculations in anticipation of getting back onto the Board's agenda on April 28th.

Mr. Rossi requested that the applicant submit in writing a definition of what the applicant was looking to do in terms of phasing the project. In addition, it was requested that they quantify in dates when the planting mitigation is installed. It was requested that this information is submitted prior to the April 18th site walk. This project could then be scheduled for a public hearing on May 12th, if in fact the materials submitted are insufficient, the Planning Board can adjourn the hearing.

**Timothy Engle, 193 Todd Road & Lawrence Gold, 189 Todd Road, Katonah, NY –
Proposed driveway relocation & Wetland Activity Permit Approval**

At the request of Mr. Engle's attorney this matter had been removed from the agenda this evening. Mr. Rossi questioned whether a site visit for the 18th of April be scheduled as well. The Secretary was directed to forward the application package to the Highway Superintendent with a request that he review it. In addition, it was requested that he too attend the site walk.

V. CORRESPONDENCE & GENERAL BUSINESS

The Board scheduled site visits for April 18: Engle at 7:30 AM, Christian at 8 AM and Amadeo at 8:45 AM. The Secretary will contact the representative for each applicant.

Zaia

Mr. Barber reviewed the application in effect at the time of the Board's site visit. After the site visit, Mr. Zaia met with him and reviewed some changes to the plan. Mr. Barber reviewed the changes and noted the Board had authorized him to issue the wetland activity permit previously with the caveat that if there were any changes that it would require the review and approval of the Planning Board. In response to a question of Mr. Rossi, Mr. Barber advised that he had only just received the calculations this evening and has not had an opportunity to review them. It was not clear how changing the driveway surface from the proposed permeable pavers to asphalt would reduce the runoff. It was noted that maybe it was a reduction from what currently exists. Mr. Barber was instructed to not only review the numbers but to review how the plan would now work in terms of stormwater treatment.

VI. MINUTES OF March 10, 2009

On a motion made by Mr. Gusmano, seconded by Mr. Ellrodt the minutes of March 10, 2009 were adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

On a motion made by Ms. Maguire, seconded by Mr. Ellrodt the meeting was adjourned at 9:20 P.M.

Respectfully submitted,

Aimee M. Hodges
Planning Board Secretary