

**APPROVED**

**Town of Red Hook Planning Board  
Meeting Minutes  
March 5, 2007**

**CALL TO ORDER/ DETERMINATION OF QUORUM**

The meeting was opened at 7:45 p.m. and a quorum determined present for the conduct of business.

Members present — Jennifer Fier, Charles Laing, Sam Phelan, Paul Telesca, John Hardeman, and Chair Christine Kane. David Wright was absent.

**BUSINESS SESSION**

Christine Kane said that Agra Gate farm had withdrawn its project from the evening's agenda. She also said that the order of project discussion would be changed to accommodate a professional who was due at another municipality later in the evening.

There were not enough members present who had attended the February 5, 2007 and February 12, 2007 meetings to approve those minutes, so consideration of those minutes were tabled until later.

Christine Kane announced a seminar sponsored by the Dutchess County Economic Development Corporation regarding reclamation and reuse of 'brownfields'. The seminar is scheduled for Thursday, March 29, 2007 from 7 p.m. to 9 p.m. at the Farm and Home Center in Millbrook. Credits from attendance will count toward those required for Board members.

**REGULAR SESSION (OLD BUSINESS)**

**Chris & Janice Rifenburg - 230 Guski Rd. – Special Permit**

Mark Graminski, P.E. and L.S. and Chris Rifenburg were present for a discussion of an application for Special Permit to establish an accessory apartment above a proposed garage on a 3.0-acre parcel in the RD3 Zoning District.

Mr. Graminski said that the location of the proposed garage had been revised to comply with setback requirements. He also said that he had submitted a letter attesting to the adequacy of the septic field, which he said had been designed for four (4) bedrooms. The house, he said, contained three (3) bedrooms, and the accessory apartment would contain the fourth. Waste from the apartment would drain into a separate septic tank and from there into the septic field. The water for the apartment would be supplied by an existing well.

Mr. Graminski said that the habitable space for the proposed apartment had been calculated in accordance with the NYS Building Code and, having subtracted hallways, bathrooms, closets, and any areas with ceilings below 7'6" in height as directed by the Building Code, the habitable space was found to be approximately 460 sq. ft., well within the allowed maximum.

Finally, Mr. Graminski said that the setbacks for all buildings, existing and proposed, were now shown on the map.

Mr. Rifenburg revised the EAF to reflect the revisions to the drawing.

The Board asked Mr. Rifenburg to submit the building plans for his house or a copy of the Certificate of Occupancy to verify the bedroom count in the residence. The Board then scheduled a public hearing for March 19, 2007 at 7:35 p.m.

### **REGULAR SESSION (NEW BUSINESS)**

#### **Armando D'Onofrio – Kidd Lane & Rte. 9G (Tivoli) – Site Plan**

Mark Graminski, PE and LS, and Armando D'Onofrio were present with an application for Site Plan Approval to establish a farm market on a 62.1-acre parcel in the RD5 Zoning District and the National Historic Landmarks District.

Mr. Graminski said that Mr. D'Onofrio wished to establish a farm market utilizing existing barns and was not proposing any new buildings for the business. He said that a previously submitted subdivision application for the parcel had been withdrawn and that Mr. D'Onofrio now would build one house on the portion of land within the Village of Tivoli. He said that access to the house could be from either NYS Route 9G or from Kidd Lane. Mr. Graminski offered to discuss the access to the house with the NYS Department of Transportation. The applicants and the Board agreed that access to the farm market would from Kidd Lane.

In answer to questions from the Board, Mr. D'Onofrio said that he would be both growing produce on the parcel and bringing in additional produce, although he said that the amount he was planning to bring in would be small. He said that he would be selling mostly fruits, vegetables, annuals and perennials. He said that there would be no food processing or kitchen facilities on the site. He said there might be a small cooler but not a large walk-in type cooler. He said that he was planning to have a restroom in the facility and that there was an existing septic tank from a house that had been torn down. Mr. Graminski added that the septic system would need to be evaluated. Finally, Mr. D'Onofrio said that he was planning for a seasonal business that would be open from 9 a.m. to 6 p.m., seven (7) days per week, from the beginning of May until the end of October. Mr. Graminski said that the business plan was in compliance with the definition of a Farm Market 2 in the Town's Zoning Code.

Mr. Graminski said that actual disturbance to the site would be so minimal that a stormwater pollution prevention plan would not be required.

Discussing parking, the applicants said that Town regulations require 5 parking spaces per 1,000 sq. ft. of facility floor space. They asked for an additional 5 spaces to accommodate peak hours and employees. Mr. D'Onofrio said he planned to install a gravel parking surface.

The Board noted that both Kidd Lane and NYS Rte 9G were designated scenic roads, which meant that all setbacks must be doubled. Since the proposed parking area would not meet those setbacks, alternative locations were discussed. The Board and applicants discussed moving the parking area to a location behind one of the barns,

using that building for screening. The scenic designation would also affect any signage for the farm market, and the applicants were urged to consider this fact in their planning.

The applicant was asked to locate on the map where produce would be grown, to consider landscaping around the parking area, to decide how parking spaces would be delineated, to submit details of proposed signage, to decide about lighting both for the market and for the signs, to consult the Health Department about water supply and the waste water system, to find out whether a determination by NYS Office of Parks, Recreation and Historic Preservation would be needed for any permits, and to submit a narrative describing what crops would be grown on the property and what other produce might be brought in.

The Board and Ms. Greig discussed whether the farm market would be a Type 1 or Type 2 action under SEQR. The Board decided to make that determination at the applicant's next appearance since it felt a further review of the Type 1 and Type 2 descriptions was necessary.

The applicants were asked to submit an Agricultural Data Statement.

### **REGULAR SESSION (OLD BUSINESS) continued**

#### **Ulster Savings Bank – 7296 South Broadway – Site Plan**

Architect David Souers and Terry Dodd from Ulster Savings Bank were present for a discussion of an application for Site Plan Approval to establish a 4,235 sq. ft., one-story bank with associated drive up facilities, site improvements and landscaping, on a 1.604-acre parcel in the B2 Zoning District.

As a result of discussions at previous meetings, the applicants had revised the traffic flow. Mr. Souers said that the NYS DOT had approved a 'right turn in'/'right turn out' access from NYS Route 9 to the proposed bank. The Route 9 access would also allow an armored truck to come in one driveway and go straight out another, without the necessity of turning around, which is a security issue for the bank.

Mr. Souers said that the revised plan reduced the number of parking spaces from 42 to 29, pulled the parking spaces and handicapped space closer to the building, and located all trees of 12" caliper or greater which would remain on the property.

Jennifer Fier asked whether more attractive lighting fixtures were available. Mr. Souers said that there were more attractive lighting fixtures but that many did not meet Town specifications regarding light spill and glare. He said that the Automated Teller Machine would be located under a canopy and at a distance from neighbors, so the bright lighting required for that area would not cause problems. He asked the Board to look at the lighting on other banks and note what was acceptable. Meanwhile, he would research other possible lighting fixtures.

The Board asked the applicants why the sidewalk along Metzger Road did not extend to the eastern boundary of the parcel. The applicants said that they would consider this extension. The Board and the applicants discussed whether Metzger Road could accommodate increased traffic and whether it might be necessary to upgrade and/or widen the road in the future, which could affect the sidewalk and landscaping. The Board and the applicants agreed that a traffic generation study should be done, focusing

on peak hours and daily trips. The Town Board should also be asked about its future plans for Metzger Road.

The Board and the applicants then reviewed the GreenPlan memo and discussed the proposed backlit LED signs. The Board members were encouraged to look at the Ulster Savings Bank on Washington Avenue in Kingston at night to see how this LED lighting would look.

The applicants submitted samples of proposed colors, cement board siding, roofing shingles and other siding materials. The Board asked them to submit a narrative about the proposed exterior building materials and colors which would state the brand or manufacturer of each product and the color to be used.

The Board referred the project to Dutchess County Planning for a preliminary review, asking for comments regarding the siting of the building, the parking and the traffic flow. Details would be sent to County Planning later for an in-depth review.

The Board also referred the project to the Conservation Advisory Committee, asking for comments regarding the streetscape and recommended trees for the tree lawn.

The Board determined the project to be an unlisted action under SEQR. There were several involved agencies including the NYS DEC, NYS DOT, Dutchess County Health Department, Red Hook Town Highway Department and the Town Zoning Board of Appeals. Three variances will be needed for the proposed plan. Jennifer Fier made a motion to declare the Board's intent to serve as lead agency for the SEQR review. Charlie Laing seconded the motion, and all members present voted in favor.

Paul Telesca made a motion to endorse the currently proposed sketch plan. John Hardeman seconded the motion, and all members voted in favor.

### **BUSINESS SESSION (continued)**

The Board considered the draft minutes from the February 5, 2007 meeting and those from the February 12, 2007 meeting, both of which had been sent to the members and reviewed. Charlie Laing made a motion to approve the February 6, 2007 minutes. John Hardeman seconded the motion, and all members who had attended that meeting voted in favor. Jennifer Fier abstained. Sam Phelan made a motion to approve the February 12, 2007 minutes. Jennifer Fier seconded the motion, and all members who had attended that meeting voted in favor. Paul Telesca and John Hardeman abstained.

### **REGULAR SESSION (OLD BUSINESS) continued**

#### **JAMS, LLC/Wolfson – Crestwood Road – Lot Line Alteration**

Sam and Arlene Harkins were present for a discussion of an application for Lot Line Alteration to convey 4.75 acres from the 16.02-acre Lands of OAOA, LLC to the adjoining 1.00-acre Lands of Wolfson, in the RD3 Zoning District and partially in the Certified Agricultural District.

Mr. Harkins said that he had found and submitted copies of the complete deed restrictions filed in the Dutchess County Clerk's office at the time of the OAOA, LLC/ Fraleigh farm 7-lot subdivision in 2003.

Christine Kane said that the Board now had several documents to consider:

First, the negative SEQR declaration, Description of Action, issued in August 2003, stating that "Further subdivision of any of the lots, except for lot line alteration, is also be [sic] voluntarily restricted by the Applicant".

Second, the complete deed restrictions in which the first restriction states "Said premises shall not be further divided".

Third, the SEQR Findings document, attached to the negative SEQR declaration, which states "The remaining lots (1,2,3 and 7) are the least acreage feasible to preserve the area character ...and to maximize conservation of undeveloped land, including any that may qualify as important farmland."

Fourth, note #8 of the original OAOA, LLC/Fraleigh farm subdivision map-- stamped and signed by the Planning Board chair in December 2003-- that prohibits any further subdivision of any of the lots and gives enforcement power to the Town of Red Hook Planning Board.

Fifth, the Town subdivision regulation Section 120-3 SUBDIVISION (subsection A—Lot Line Alteration) which defines a lot line alteration as a type of minor subdivision.

Sixth, the Keane & Beane opinion dated November 30, 2006 that states 1) that after a review of all the documents and 2003 Planning Board minutes, it was clear that the Planning Board wished to prohibit the creation of any additional lots, 2) that the 2003 Planning Board could not foresee that the proposed lot line change would bring the adjoining parcel into conformance with zoning, 3) that because a lot line alteration is a type of minor subdivision under the Red Hook Zoning regulations and because further subdivision of any of the lots is expressly prohibited on the plat and in the deed restrictions, "the Planning Board is not required to entertain the application for the lot line change and should do so only if it finds extraordinary circumstances."

The members generally agreed that the 2003 Planning Board wished to preclude changes in the agreed-upon subdivision configuration. Some members said that even if the phrase allowing lot line changes appeared in the SEQR neg dec, that phrase was not carried forward to the later and much more legally binding approval resolution, deed restrictions or subdivision plat map. In addition, since the 2003 Board was considering only the 7-lot subdivision plan before it, the phrase in the neg dec should not be construed as including lot line alterations involving lots outside that original subdivision.

Some members worried that granting the lot line alteration in the face of the prohibitions in the deed restrictions, approval resolution and on the plat would set a precedent for future proposed actions pertaining to that subdivision.

Christine Kane turned the Board's attention to the Keane & Beane opinion. She asked that the Board consider whether bringing the Wolfson property into compliance with zoning could or should be considered an "extraordinary circumstance".

Mr. Harkins said that Mr. Wolfson wanted to install a swimming pool, which was one reason he wished the extra acreage.

The Board members generally agreed that bringing a non-conforming lot into conformance could be an extraordinary circumstance and that they would be agreeable to granting the lot line alteration if conservation easements were placed on both the Wolfson property and Lot 1 of the OAOA subdivision. The members said that this compromise would achieve compliance with zoning as well as compliance with the 2003 Planning Board's wish to prohibit the creation of additional buildable lots and to maintain the rural character of the area, the scenic vista and the valuable agricultural soils. It would also eliminate the dubious ability of the Planning Board to enforce the deed restrictions and would eliminate future lot line alterations that might give the Wolfson property enough land to further subdivide.

Mr. Harkins said he would rather add to the deed restrictions on Lot 1 and file deed restrictions for the Wolfson property, with provisions for possibly the pool and a small agricultural building on the Wolfson property.

The Board members generally doubted the effectiveness and enforceability of deed restrictions. They were concerned about future proposals for the area. They generally agreed that conservation easements, with an accessory building envelope delineated for the proposed swimming pool and for the possible small agricultural building on the Wolfson lot, would achieve what both the applicants and the Town were striving for. Mr. Harkins said that his past history with land trusts had not been favorable but that he was willing to listen again.

The Board determined the project to be an Unlisted action under SEQR. John Hardeman made a motion to establish the Board as lead agency for the SEQR review. Charlie Laing seconded the motion, and all members present voted in favor.

The Board scheduled a public hearing for March 19, 2007 at 7:45 p.m.

## **OTHER BUSINESS**

### **Town Board meeting**

Christine Kane reminded the Board members of two topics on the agenda for the March 6, 2007 Town Board meeting. At 7:15 p.m., the Town Board would open the public hearing on the Richard Hansen application for inclusion in the Town's conservation easement program. At 8:00 p.m., the Town had requested the Planning Board's presence to discuss the reappointment of GreenPlan, Inc. as the Planning Board's professional planner.

### **Hansen conservation easement**

Christine Kane reviewed the Richard Hansen application for inclusion in the Town's conservation easement program. She then asked the Board to look over the CAC's review of the application and that committee's recommendation for inclusion. The Board agreed by consensus to recommend inclusion also. A letter to that effect will be sent to the Town Board.

### **Permanent conservation easement discussion**

The Board discussed what steps the Town could take to effectively set up and administer a permanent conservation easement program. The members agreed that since permanent easements were required in the zoning regulations, applicants should

have reasonable access to obtaining an easement. In addition, these conservation easements would benefit the community in a variety of ways. The members generally agreed that a template document could be created which could be modified to fit the individual parcel and situation. The Board further agreed that applicants should first approach other land trust agencies and should only apply to the Town program if other avenues have been exhausted.

### **ADJOURNMENT**

Since there was no more business to come before the Board, Jennifer Fier made a motion to adjourn. John Hardeman seconded the motion, and all members present voted in favor. The meeting was adjourned at 9:38 p.m.

Respectfully submitted

Paula Schoonmaker  
Assistant clerk to the Board