

APPROVED
Town of Red Hook Planning Board
Meeting Minutes
January 14, 2008

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:39 p.m. and a quorum determined present for the conduct of business.

Members present — Acting Chair Charlie Laing, David Wright, Sam Harkins, and Paul Telesca, Christine Kane, and John Hardeman. Planner Michele Greig was also present.

BUSINESS SESSION

Charlie Laing announced that the American Farmland Trust would be holding a training session in Saratoga on February 28, 2008. Members were advised to contact Pat Kelly if they were interested in attending.

The minutes of the December 17, 2007 meeting had been sent to members for review. Sam Harkins moved to adopt the minutes as written. Paul Telesca seconded the motion, and all present voted in favor.

REGULAR SESSION (OLD BUSINESS)

Flandreau Subdivision – 176 Whalesback Road- Minor Subdivision

Kurt Schollmeyer, PE, David Vogel, PE, attorney Scott Volkman, and applicants Scott and Jackie Flandreau were present for discussion of an application for Subdivision Plat Approval (Sketch Plan) to create one (1) residential building lot of 3.216 acres, with a remaining lot of 4.193 acres, all from a 7.409-acre parcel in the RD1.5 Zoning District.

At this time John Hardeman arrived.

Charlie Laing asked if Board members had been able to conduct the scheduled site visit. Sam Harkins replied that he and Sam Phelan had attended.

Mr. Schollmeyer reviewed the project for the Board, stating that it was a proposed flag lot subdivision with one common driveway. He stated that he was unsure if Lot 2 would utilize a well or public water as Lot 1 does, and that there would be approximately 0.3 acres of Army Corps of Engineers regulated wetlands to be filled, with proposed mitigation measures.

At this time Christine Kane and Town Board member Jim Ross arrived.

Charlie Laing asked if the mitigation would consist only of revegetation, or if it also included wetland creation. Mr. Schollmeyer replied that the proposed area of mitigation would act as wetland creation, but that this land area was currently "high and dry."

Sam Harkins noted that there was considerable lichen growth on the trees, and that he felt they looked unhealthy.

A copy of a memo from GreenPlan dated January 14, 2008, was given to the applicants.

Ms. Greig stated that the Army Corps of Engineers was taking jurisdiction of the wetlands on the property. She said that due to the volume of applications they were receiving, they had not been able to review the project within the allowed 45-day period, and therefore they had not actually reviewed the mitigation measures, nor had they issued a jurisdictional determination verifying the wetlands boundary.

David Wright asked if the Army Corps was still planning on looking at the application in the future. Ms. Greig said that they were not, and advised the Board that they should therefore seek third party verification of the wetlands delineation and of the proposed mitigation.

Mr. Schollmeyer stated that the wetland delineation had already been performed by Michael Nowicke and he didn't see why it had to be verified.

Mr. Volkman noted that if the applicants were installing a driveway, the wetland fill could take place without any review or approval from the Town.

Charlie Laing stated that that may be the case, but that in the present instance, the applicant has applied to the Planning Board for a subdivision and the Board must therefore review the application for consistency with the Town's regulations and SEQR. He stated that the issue for the Planning Board was regarding whether the proposal was consistent with the Town's flag lot regulations. He also noted the issue of the calculation of minimum lot acreage. Ms. Greig stated that the Zoning Law permits only 25% of the wetland area to be included in the calculation of minimum lot acreage, and that the calculations should be provided, and verification required by the Board.

Christine Kane asked whether both lots must meet the requirements for the calculation of minimum lot acreage. Ms. Greig confirmed that this was the case, and added that the "pole" of the flag lot could not be included in the acreage calculation.

Mr. Schollmeyer stated that if the current proposal did not meet the requirements, the lot lines could be adjusted slightly to make up for any deficiencies.

Mr. Volkman noted that third party verification of the wetlands delineation was not a requirement under the Town's Zoning Law. Ms. Greig responded that the Planning Board is obligated to take a "hard look" at potentially significant adverse impacts under SEQR when reviewing a project, and therefore recommended that the delineation be verified by an independent third party, particularly since a jurisdictional determination had not been issued. John Hardeman agreed.

Mr. Volkman stated that under the Town Code, for sketch plan purposes, it is stated that a project must be determined to meet the objectives of the subdivision regulations. He asked that the Board focus on the requirements for sketch plan endorsement, with the knowledge that the applicants understood the flag lot issue would come up during the SEQR review. Charlie Laing responded that the Planning Board needed to first ensure that the project was consistent with the Zoning Law.

Mr. Schollmeyer asked if the Town had a grading ordinance. Christine Kane responded that to the best of her knowledge, an ordinance was in place only for driveways. Mr. Schollmeyer noted that any property owner could therefore undertake the proposed wetlands measures without approval from the Planning Board. Charlie Laing replied that this situation was different because the applicant was requesting a subdivision.

Christine Kane noted that to issue sketch plan endorsement is an agreement that the Board accepts the concept of the development as proposed.

Mr. Schollmeyer asked if the Board would be comfortable with the project if there was no wetland disturbance. Christine Kane responded that as it was a different situation, the Board should not give an opinion on hypothetical scenarios. Paul Telesca agreed that he was not comfortable giving an opinion on the question, since in the present application, wetlands did exist.

Mr. Volkman stated that as data on the wetlands had been submitted, he did not see why third party verification would be required. Christine Kane responded that if sketch endorsement was given, the third party verification would still be required in the final review. Mr. Volkman responded that he did not feel it was necessary.

Sam Harkins asked if the Town Engineer had seen the proposal. Christine Kane stated that he had not, as the project had not gotten past sketch proposal.

Mr. Schollmeyer asked who the Board used for third party verification. Ms. Greig responded that the Board uses Hickory Creek Consulting. Mr. Schollmeyer expressed concern that this would add considerable cost to the process. Charlie Laing responded that he understood there had been significant cost so far, but felt that it would have been lessened if the applicant had not undertaken costly engineering work before receiving sketch plan endorsement.

Mr. Volkman stated that according to the Town Code, sketch plan must be given or denied with 45 days of an application being submitted.

Paul Telesca recommended that the Chair call for consensus discussion on whether the Board felt the project was consistent with the Zoning and could grant sketch plan endorsement to the application.

Mr. Volkman reviewed the language in the Code allowing for flag lots. He stated that as the only reasonable use of a subdivision tract would be to subdivide it, and that as the environmental impact was not adverse due to mitigation, it was his opinion that the flag lots should be allowed.

Charlie Laing asked for the sense of the Board. He stated that in the interest of dealing consistently with all applications, and in consideration of the environmental impact of filling 0.3 acres of wetlands, he did not feel a flag lot could be allowed under these circumstances.

Christine Kane stated her opinion that as the property was bought as a house lot and had one house on it already so it could already be considered being under a reasonable use, and given that zoning states that flag lots should be allowed only in limited number of occurrences where there are no adverse impacts and that this property has environmental constraints due to wetlands, slopes, and frontage, she did not feel that a flag lot could be supported.

Paul Telesca stated that he agreed with Christine Kane regarding the environmental constraints.

Sam Harkins noted that the proposed project was in the RD1.5 zone, and asked how much total dry land there was. Mr. Schollmeyer responded that there was 3.7 acres of dry land. Sam Harkins noted that it was only dry land, there would be enough acreage for two lots, but that given the question of frontage, he was unsure of the environmental impacts, and would want to see it again himself or have an engineer look at it.

David Wright stated that he felt the environmental impact and constraint of the flag lots created too high of an obstacle to sketch endorsement.

John Hardeman stated that he felt the term "limited number of occurrences" within the flag lot regulations was meant to address a larger project, and that it was not meant for small projects throughout the town. He stated that there was always room for mitigation, but that he felt third party verification would be necessary before making a determination.

Charlie Laing stated that it seemed to be the consensus of the Board that the project was not consistent with the requirements of the zoning law regarding flag lots.

Paul Telesca asked if the Board wanted to consider third party verification of the wetlands. Charlie Laing responded that given the further cost to the applicant, he did not know if it would be a fair and reasonable request.

Scott Flandreau asked if third party verification would satisfy the Board. Charlie Laing replied that given what he was hearing from the Board, there would likely still be concerns. John Hardeman stated that he was hearing there were not enough votes to move forward with the process. Christine Kane noted that if the Board was going to deny further review of the application, a motion to this effect should be made. Ms. Greig noted that the motion would be regarding whether the application is consistent with the flag lot requirements of the zoning law.

Christine Kane moved to deny further review of the application on the grounds that the Planning Board had found it did not meet the requirements of the Zoning Law Sec. 143-21C.

Charlie Laing seconded the motion.

Mr. Volkman stated that he was not hearing a definition of reasonable use and asked for further justification. He stated that he did not feel the Board had always applied the flag lot regulations equally, and that he could demonstrate this with five cases he had with him.

Christine Kane noted that, in addition to reasons already stated, there would be removal of habitat trees. Mr. Volkman replied that the mitigation for this impact would be the removal of trees only during certain times of the year.

Christine Kane noted that flag lots were not an as-of-right subdivision. Mr. Volkman expressed concern that the language of the law could be improved. Christine Kane noted that there was still a motion on the table.

Charlie Laing called for a vote. John Hardeman and Sam Harkins voted against the motion. David Wright, Paul Telesca, Christine Kane, and Charlie Laing voted in favor of the motion.

Jackie Flandreau asked the Board to consider that Sam Phelan was not present, and that the circumstances were different if the property was seen in person. Charlie Laing apologized that more Board members could not attend the site visit, but noted that there was also significant snow cover at the time of the site visit.

At this point, Acting Chair Charlie Laing handed the meeting over to the Chair Christine Kane.

Red Hook Estates, LLC/Gordon Taylor – Route 9G – Subdivision Plat

Pete Setaro, PE, was present for discussion of application for subdivision plat (sketch plan) approval to subdivide an approximately 13.45-acre lot into three (3) residential building lots, in the RD3 Zoning District and the National Historic Landmarks District.

Christine Kane informed Mr. Setaro that local emergency services had requested that the name of the subdivision be changed, so as to avoid confusion with the Red Hook Estates development in the Village of Red Hook. Mr. Setaro replied that he would discuss the matter with his clients. He then informed the Board that, as previously discussed, the application had been amended to be a 3-lot subdivision, with no flag lot involved.

Sam Harkins asked if the remaining driveway already existed. Mr. Setaro responded that it was currently a wooded road, and would require some cutting to make usable. He stated that conceptual approval had been received from NYS DOT, and submitted to the Board.

In regards to signage, Christine Kane referred to the GreenPlan memo dated 01/11/08, and asked if a sign was in fact required for the common drive. Sam Harkins stated that it was his understanding that for three lots or more it was mandatory.

Ms. Greig asked the applicant to verify that Lot 2 meets the requirements of Sec. 143-23 of the Zoning Law, that only 25% of wetlands be considered when calculating the minimum lot acreage. Mr. Setaro replied that he would verify this and, if necessary, the lot line could be adjusted slightly to bring the lot into compliance.

Michele Greig noted that SEQR was initiated on 07/16/07. Mr. Setaro stated that he would submit a revised EAF to reflect the amended application, and that he would like to update the EAF before the Board took further action on SEQR.

The Board generally agreed to grant sketch endorsement of the project.

Michele Greig noted that the Board should conclude SEQR before the public hearing.

At this time, the Board discussed meeting dates in February. As the regularly scheduled meeting for February 18th would fall on a holiday, it was decided to hold only one meeting in the month of February, on the 11th, at which time a public hearing for Red Hook Estates would be held.

Frank and Catherine Vosburgh – 181 Middle Road – Minor Subdivision

Bob Zimmerman was present for discussion of application for Subdivision Plat Approval (Sketch Plan) to create three (3) residential building lots ranging from approximately 3.142-acres to 5.473-acres, in the RD3 Zoning District and Certified Agricultural District.

At this time David Wright recused himself and left the room.

Mr. Zimmerman stated that a few minor changes to the lot lines and acreage had been made. Christine Kane noted that the frontage for Lots 1 and 2 had changed, but that Lot 1 still met the frontage requirements for the subdivision regulations.

Christine Kane asked if Mr. Zimmerman had included the pole of the flag lot when calculating frontage. Mr. Zimmerman confirmed that he had not done so.

Christine Kane asked that the next set of maps include a schedule indicating acreage with and without poles.

Mr. Zimmerman stated that the applicant had a DEC verification of the on-site wetlands delineation which had technically expired, but that the DEC had subsequently changed the deadline to ten years, and had therefore indicated that they would still sign off on the previous delineation. He stated that it was Heather Gierloff at the DEC who told him this.

Ms. Greig asked that the applicant amend the short EAF regarding the need for Dutchess County Department of Health approval. Mr. Zimmerman amended and initialed the form.

Christine Kane asked the applicant to show where the paved driveway ends. Mr. Zimmerman stated that he would do so on the next set of maps.

Charlie Laing made a motion to establish the Planning Board as the lead agency in the SEQR review of the project as an Unlisted Action undergoing uncoordinated review. Sam Harkins seconded the motion, and all present voted in favor.

The Board reviewed the Part 2 EAF and did not identify any potentially significant adverse environmental impacts.

Christine Kane noted that sketch endorsement had been granted at the last meeting. She asked the Board if, given the minor changes made, they felt it needed to be done again. The Board generally agreed that the changes were minimal.

The Board reviewed a draft negative declaration under SEQR.

Charlie Laing asked if the field notes from the soil survey had been received. Christine Kane replied that they had not. The Board decided that they would review the negative declaration further at the next meeting.

A public hearing was tentatively set for 02/11/08, pending submission of the requested changes by 02/01/08.

Michael and Stephan Lueck – South Side of Budds Corners – Minor Subdivision and Lot Line Alteration

Marie Welch, LS, and Michael and Stephen Lueck were in attendance for presentation of application for Lot Line Alteration and Minor Subdivision Approval to convey approximately 2.633 acres from adjoining lands of the same owner, and to create two (2) residential building lots ranging from approximately 3.021-acres to 5.058-acres, all from two parcels totaling 15.588-acres in the RD3 Zoning District.

Ms. Greig stated that there were two applications from the Luecks in close proximity to each other, and therefore the Board should consider cumulative impacts of the two projects for SEQR purposes.

Ms. Welch stated that the application was intended to bring Parcel I into conformance with the zoning, and that the lots had been shown to be feasible for house, well, and septic. She said that effectively the project would make four lots out of an existing two lots.

Charlie Laing noted that one of the proposed lots would be a flag lot. Ms. Welch replied that it had 52' of frontage.

Ms. Welch noted that there would be a driveway agreement for Lots 2 and 3, but that Lot 1 would require its own access so as to avoid crossing over septic locations.

Christine Kane asked if the applicants had any intention to subdivide their other parcels in the same vicinity. The applicants stated that they did not intend to do so.

Ms. Welch stated that there were no wetlands on the property, and that preliminary discussions had been held with the Department of Transportation regarding Lot 1. The applicants noted that many of the nearby lots accessed off of Guski and Moose Pond Roads. Ms. Greig advised that the Board should review the application against the proposed trails network.

Christine Kane asked Michael Lueck for an overview of his application. Mr. Lueck replied that the intention of his project was to convey the back of his lot to a neighbor, as it could not be accessed from his parcel.

Christine Kane asked if the Board was concerned about segmentation, and if they felt the projects should be reviewed together. The Board generally agreed that this was not a concern.

The Board generally agreed to grant sketch endorsement to the subdivision and lot line alteration of Stephan and Michael Lueck.

Ms. Welch noted that there were soils of statewide importance. Christine Kane asked the Board if they felt an organized site visit was necessary, or if they were comfortable just checking the property when they were in the area. The Board generally agreed to the latter approach.

Christine Kane noted that the Important Farmlands Law would not apply, even though there were soils of statewide importance, as the property was not in the Certified Agricultural District. She stated that the Board would still need to consider if this constituted an adverse environmental impact under the flag lot law. The Board did not think so.

Pending submission of a preliminary plat and conceptual approval from the Department of Transportation by 02/01/08, a public hearing was set for 02/11/08.

Michael Lueck – North Side of Budds Corners – Lot Line Alteration

Michael Lueck was in attendance for presentation of application for Lot Line Alteration to convey approximately 9.385-acres from a 14.567-acre parcel, to the adjoining 1.197-acre parcel belonging to Pat Treu, on Budds Corners Road in the RD3 Zoning District.

Mr. Lueck stated that D.F. Wheeler was the engineer for the project, and that an agreement was already in the deed that vegetation would not be removed adjacent to Sean McLaughlin's property. He stated that his parcel would be left with approximately 5.182-acres.

Christine Kane informed the applicant that he would need to submit a surveyed plat map with contours, slopes, and a building envelope, and that the requirements were in the subdivision regulations.

Ms. Greig requested that the applicant provide a letter from their engineer stating that there was adequate siting for well and septic if they were not seeking approval from the Dutchess County Health Department. Mr. Lueck stated that he would be pursuing the latter course.

Pending submission of the surveyed plat map by 02/01/08, a public hearing on the application was tentatively scheduled for 02/11/08.

OTHER BUSINESS

Focus the Nation

Christine Kane announced that a national event would be taking place on January 31, 2008, called Focus the Nation. She stated that colleges and non-profits around the country would be participating in events regarding Global Warming, and that at Bard College there would be a showing of "The Two Percent Solution", focusing on individual solutions to climate change.

Trainings

Christine Kane informed the Board that if everyone on the Board took the online training courses offered by Pace, the Board could be officially certified. She noted that the sessions counted toward state-mandated training requirements. Ms. Greig suggested that it could be a Planning Board policy that all members be certified through Pace. Christine Kane suggested that it be a goal of the Board in 2008 to become certified.

ADJOURNMENT

Since there was no further business to come before the Board, Paul Telesca made a motion to adjourn. Sam Harkins seconded the motion, and all present voted in favor. The meeting was adjourned at 10:05.

Respectfully submitted,

Patrick Kelly

Assistant Clerk to the Planning Board.

Attachments:

Resolution Establishing Lead Agency Under SEQR for the Frank and Catherine Vosburgh Minor Subdivision

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Frank and Catherine Vosburgh Subdivision

Whereas, the Town of Red Hook Planning Board is considering action on a proposed Subdivision application by Frank and Catherine Vosburgh for a ± 12.24 acre parcel of land located at Middle Road, Town of Red Hook, Dutchess County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated August 7, 2007 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply, and

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter including the Dutchess County Department of Health.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all reasonably necessary information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

On a motion by Charlie Laing, seconded by Sam Harkins, and a vote of 5 for, and 0 against, and 2 absent, this resolution was adopted on January 14, 2008.