

APPROVED

Town of Red Hook Planning Board  
Meeting Minutes  
November 3, 2008

CALL TO ORDER/DETERMINATION OF QUORUM

The meeting was opened at 7:40 P.M. and a quorum determined present for the conduct of business.

Members present: Chair Christine Kane, Charlie Laing, Sam Harkins, Wil LaBossier, Sam Phelan, John Hardeman and Paul Telesca. Planner Michele Greig was also present.

BUSINESS SESSION

Christine Kane confirmed the Agenda and proceeded to the correspondence and announcements. A letter was received from the Dept. of State indicating that they are soliciting grant applications from communities for the Brownfield Opportunity Areas Program which empowers municipalities and community organizations to undertake redevelopment planning. She announced the following conferences: a one day conference on energy efficiency and sustainability in housing and residential community development on Thursday, Nov. 13, 2008 in Central Valley, N. Y.; a series of workshops on Stormwater Management; a seminar on the Purchase and Transfer of Development Rights on Nov. 12<sup>th</sup> at the Poughkeepsie Grand Hotel; the Watershed Alliance Conference at Mohonk Mountain House and a Zoning and Planning program by the Dutchess County Planning Federation in Millbrook on Nov. 18.

PUBLIC HEARINGS

Michael Horkan – 274 Spring Lake Road – Lot Line Alteration and Minor Subdivision

Christine Kane read the Public Hearing Notice for the application for a Lot Line Alteration to convey 2.498 acres from a 25.388 acre parcel to the smaller adjoining parcel, both owned by Michael Horkan and for a Subdivision Plat approval to create from the remaining larger parcel one new residential lot of 6.6 acres and a remaining lands lot of 16.29 acres in the RD3 Zoning District. Marie Welsh was present to represent the applicant. She was asked to give a brief overview for the public. She located the parcels on the map and explained that the application is to convey the smaller, U-shaped parcel which surrounds Mr. Horkan's existing lot to become part and parcel of that lot, incorporating the existing driveway and garage and to take the remaining lands and subdivide them into two building lots, one of 6.6 acres and one of 16.29 acres.

A federal wetlands has been identified and sized and two changes have been made which will appear on the final map. Although a stream had previously been identified, it has been determined that it is not a stream. However, there are additional federal wetlands which do not extend beyond the property's existing stone wall. They are well away from the potential

building sites on the property. All of the proposed building sites and the driveways are therefore outside of the wetlands. There will be a shared driveway which will be utilized by all three parcels.

Christine Kane asked if anyone was present with questions on this property. Hearing no response, she proceeded to review the actions of the Board at the last meeting. Part II of the EAF has been approved, as well as the Negative Declaration. Sam Phelan said that two flag lots with one driveway are being created. Three lots will run off one entrance on Spring Lake Road. Charlie Laing said that the site distances for either of these flags are horrible; therefore we want to do what we can to keep strict adherence to the single driveway and not have other driveways. There is a note to this effect on the map for the northern flag. He suggested that perhaps there should also be a note for the southern flag. It does not have the same potential wetland impact, but has equally bad site distance problems. Wil LaBossier said that with a flag, if there is a dispute between the landowners, the back parcels should always be able to get out. Marie Welsh said that, because this is an existing lot, technically they could try to access through one drive or the other. They must be allowed access. By doing this, we are saying that they are going to access in the safest spot for any potential lot.

Sam Phelan asked if there is clearly a grant of an easement over this property to use the driveway. Marie Welsh said that she has put letters and notes on the map regarding use of the driveway, the easement and the driveway maintenance agreement. Charlie Laing asked if there is any plan to address the encroachment issue in the back of the property. Marie said that her understanding is that the Cokertown Gun Club is no longer going to be in operation.

Christine Kane asked if there were any further questions. Hearing none, a motion to close the Hearing was made by Paul Telesca and seconded by Sam Harkins. As all were in favor, the motion was passed. Michele Greig said that as a new lot is being created, the Board should discuss whether there are adequate areas on the property for recreation or whether a recreation fee should be required. Christine Kane asked if anyone felt that there should not be a recreation fee because there are adequate public recreation facilities. The Board expressed consensus that the recreation fee should be assessed. A motion to assess the recreation fee was made by Sam Phelan and seconded by Wil LaBossier. As all were in favor, the motion was carried.

The Resolution Granting Final Subdivision Approval was discussed. The following changes to the conditions were suggested. Condition B will state "That no building permits shall be issued until the Common Driveway Use and Maintenance Agreement is recorded with the Dutchess County Clerk and the receipt for that filing is submitted to the Planning Office. A note to that effect shall be placed on the final plat." Condition I was added, stating that "No building permit shall be issued until Board of Health approval is obtained." Condition J was added, requiring submission of a deed which includes appropriate access easement language. The full amended resolution was read by Christine Kane.

Sam Phelan ascertained that flag lots are granted by the Planning Board as opposed to being as of right. He felt that flag lots should have real flags, i.e. flagpoles that are usable. Neither pole on this site is a viable access. Christine Kane replied that since the sight distance is so

bad in the area, if the flags are unusable it was thought that this would help keep everyone on the common driveway. The wetlands issue also limits the way it can be laid out. We must assure that there is no adverse environmental impact. If the flags are in unusable areas, that will minimize any potential impacts. Charlie Laing said the present flags permit reasonable use of the subdivision tract. A discussion regarding the policy of the Board regarding flag lots ensued. It was concluded that the Planning Board should continue to assess each application on a case by case basis while attempting to be consistent and to implement the zoning laws as well as possible.

A motion to approve the Final Resolution as amended was made by Paul Telesca and seconded by John Hardeman. As all were in favor, the motion was carried.

### REGULAR SESSION (OLD BUSINESS)

#### Paul Raymond – 5098 Route 9G – Site Plan

Nevien Sidarous of the architectural firm of David Borenstein made a presentation of the application for site plan approval to expand by 100% a non-conforming use on a five acre parcel in the RD3 Zoning District in the Town of Red Hook. She said that she had information on the parking spaces, lighting and septic as the Board had requested. An investigation of the septic system has been undertaken and it has been determined that there is a 1,500 gallon tank, which is more than sufficient. However an extra dry well might be recommended. The company conducting the investigation will issue a full report which will be submitted to the Board.

Ms. Sidarous submitted a new map which delineated the parking spaces. The Board reviewed the new map. The lighting will be only for the parking area, not for any walkways. She said that the lighting for the existing house has been checked and it will be upgraded. She will submit the details as soon as they are available. It was ascertained that the ZBA Public Hearing will be held next week. Dutchess County Planning has been contacted and they responded that, in their view, it was a matter of local concern.

Michele Greig said that at the last meeting it was decided to determine whether the site was in or adjacent to the National Historic Landmarks District. This has yet to be done. She said that if it is in or adjacent to the National Historic Landmark District, this would be a Type 1 Action under SEQR and there would have to be a coordinated review. The applicant would also have to submit the long EAF form, which has not been done. Christine Kane said that as it is directly across Route 9G from the National Historic Landmark District, the Board can amend the draft Resolution to establish lead agency. The applicant was directed to submit a long EAF form to both the Board and the ZBA. Ms. Sidarous said that, as far as the site plan is concerned, the dimensions of the building and the horizontal planes have not changed. However, Christine Kane said that there are substantial changes and the building has been made larger.

A discussion of the term “substantially contiguous” ensued, i.e. does being across the road qualify as being “substantially contiguous” or must the site actually abut the District line. The Board felt that it could not do anything until that question is answered. The Clerk of the Board

will research the question. In the meantime, Christine Kane said, the Board still has to hear from the ZBA and also has to get the details of the building and parking space lighting. The landscaping was discussed at the last meeting and the consensus of the Board was that the site was self contained and the issue therefore does not have to be addressed. The case will be put on the Agenda for the November 17, 2008 meeting.

#### REGULAR SESSION (NEW BUSINESS)

Henry Launhardt/Lawrence & Allison Launhardt – 150 & 158 Rte. 199 – Lot Line Alteration  
Presentation of application to exchange two pieces of land in the R1 Zoning District, each less than one acre, between two parcels so that the owner of each resulting parcel also owns, in their entirety, the improvements benefiting that parcel. Marie Welsh was present to represent the applicants. She said that Lawrence and Allison bought a piece of property from his father to put in a pool. Now Mr. Launhardt is selling his property and an issue has come up about the driveway which is on both pieces of property. In the front of the property there is a stone wall and a concrete area which is part of Mr. Launhardt's property and which Lawrence and Allison are using. The application today is to create a boundary line change with the driveway in the back and the frame dwelling that it serves. The portion of the concrete slab and the stone wall which constitute part of Lawrence's property would become part of the land that he owns. They want to be able to own and maintain the stone wall and the concrete slab. The Board reviewed the map.

Christine Kane asked if Ms. Welsh had investigated the setback. Ms. Welsh said that they are actually making the setback a little larger on the house parcel. Christine Kane asked if they had originally gotten any variances. Ms. Welsh said that, to the best of her knowledge, they had not. Wil LaBossier said that the side yard setback was being increased. Christine Kane said that even though they are increasing the setback, they may still need a variance. Marie Welsh checked the map and determined that the garage is approximately 18 feet from the line and the house is about 23 feet from the line. Both of these measurements conform to the current code. Ms. Welsh also said that these structures may predate zoning. She will put a table on the map showing what is required and what is existing.

Christine Kane said she did not see the ownership information and asked Ms. Welsh to put that information on the map. She asked for a motion to approve the Draft Resolution to Establish Lead Agency for an Unlisted Action Undergoing Uncoordinated Review. There are no other involved or federal agencies on this matter. The motion was made by Sam Harkins and seconded by Paul Telesca. As all were in favor, the motion was carried. The Hearing was set for November 17, 2008 at 7:40 PM.

#### OTHER BUSINESS

##### Approval of Minutes

A motion to adopt the Minutes of August 3, 2008 was made by Sam Harkins and seconded by John Hardeman. As all were in favor, the motion was carried. Paul Telesca stepped out prior to this and was not present for this vote. The Minutes of the last meeting, viz. October 20, 2008, will be forwarded and considered at the next meeting.

Walsh subdivision - Maizeland Rd.

Subdivision plat approval has been given by the Village; however part of the parcel is in the Town and the County Clerk wants something in writing showing approval of the Town Planning Board. The subdivision was from two parcels to three parcels on the west side of Maizeland Rd. The property is one deed parcel which is bifurcated by the Town line. Altogether there are 16.63 acres, six of which are in the Town. They want to cut that parcel into two parcels of approximately eight acres each. Each proposed parcel now has a residence on it; so no new construction is anticipated. The third parcel is on the east side of Maizeland Road and will remain as shown on the map.

Judy Walsh, one of the children of the estate, was present to represent the applicants. She said that a letter had been sent to Sue McCann which did not get to the Planning Board. Christine Kane asked the Board if they felt that they would have made any comments. The consensus was that they would not have done so. It was determined that the Chair would send a letter to the County Clerk and to the Village Planning Board indicating that the Planning Board does not have any comments. It was determined that it was not necessary to put a stamp on the map. Paul Telesca returned to the meeting at 8:50 PM.

TKB subdivision- Fisk St.

Marie Welch, L.S., said that the same problem had arisen with the TKB minor subdivision on Fisk St. She said that the Village had approved the subdivision but since a portion of the parcel lay within the Town, the County Clerk would not accept the map until that office received a sign-off letter from the Town Planning Board. Since the portion of the parcel that lay within the Town would not be affected by the subdivision, the Board generally agreed to send a letter to the County Clerk stating that the Planning Board had not comments about the project.

Anderson Commons – Baxter Road, Fisk Street and Glen Ridge Road

Discussion of various amendments to the three approvals given in December of 2006 regarding construction, landscape phasing plans and road bond for a 51 unit development partially in the Village of Red Hook and partially in the RD1 Zoning District in the Town of Red Hook. Peter Setaro of Morris Associates was present to represent the applicant. Discussion began on the Resolution Granting Final Subdivision Plat Approval to the TKB Subdivision. Mr. Setaro explained that there has been a setback, viz. there is a new Village attorney who is unfamiliar with the case. A meeting was held with the new attorney and Chris Chale, the Town attorney. It was determined that some of the conditions from the 2006 approvals have to be changed.

At the last meeting, the Board approved delaying the posting of the road bond. There will be a note on the subdivision map. There was a discussion regarding whether or not the time frame starts again when there is an amendment. Michele Greig suggested that the matter be reviewed by Keane and Beane. Discussion then ensued regarding whether or not the recreation fee should be paid by all lots in order to satisfy the condition of the resolution, the

problem being that some lots straddle the boundary between the Town and the Village. It was decided that it will suffice to have some logical method for assessing the fee.

The Board reviewed the map submitted by Mr. Setaro and went on to consider the three draft resolutions, viz.: the Resolution Granting Final Subdivision Plat Approval to TKB Subdivision; the Resolution Granting Site Plan Approval to Anderson Commons and the Resolution Granting Approval to the Landscape Phasing Plan for Anderson Commons. Michele Greig said that there was a condition on the site plan requiring the posting of a maintenance bond. Because there is now a landscape phasing plan, this has been moved to the landscaping resolution as condition 5. It will require that prior to each phase the applicant would have to post a \$10,000 maintenance bond. As this Resolution was already adopted last week, the amended version will have to be readopted. Christine Kane asked the Board members to review the Resolutions for the next meeting. In the meantime, they will be sent to Keane and Beane for review and Michele Greig will draft two resolutions regarding the recreation fee for the next meeting.

A motion to adjourn was made by Charlie Laing and seconded by Sam Harkins. As all were in favor, the meeting was adjourned.

Minutes respectfully submitted by,

Sheila Franklin

Attachments

Resolution Granting Final Subdivision Plat Approval and Lot Line Alteration to Michael Horkan

**Resolution Granting Final Subdivision Plat and  
Lot Line Alteration Approval to  
Michael Horkan**

**Name of Project:** Michael Horkan Minor Subdivision and Lot Line Alteration

**Name of Applicant:** Michael J. Horkan

**Date of Adoption:** November 3, 2008

**Whereas,** the applicant has submitted an application for Final Subdivision Plat approval dated October 28, 2008 to the Town of Red Hook Planning Board to convey  $\pm$  2.498 acres from the 25.380-acre Land of Michael Horkan (Tax Parcel No. 6373-00-790535-0000) to an adjoining 2.27-acre parcel (Tax Parcel No. 6373-00-819628-0000), also owned by Michael Horkan, and to subdivide the larger remaining parcel into two (2) residential building lots of  $\pm$  6.600 acres and  $\pm$  16.290 acres in size; and

**Whereas,** the subject parcel is located at 274 and 284 Spring Lake Road in the RD3 Zoning District in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the applicant submitted a Final Subdivision Plat prepared by Marie Welch, L.S. dated October 19, 2007, and revised to July 23, 2008 and then to September 17, 2008; and

**Whereas,** the parcels are located within 500' of a certified agricultural district (Agricultural District 20) and the applicant submitted an Agricultural Data Statement dated October 15, 2007, which the Planning Board duly forwarded to all owners of farm operations within 500' of the subject parcels; and

**Whereas,** the Planning Board considered the comments on the Agricultural Data Statement in its review of the application; and

**Whereas,** on December 3, 2007, the Town of Red Hook Planning Board declared itself lead agency for the purpose of conducting an uncoordinated review of an Unlisted Action pursuant to SEQRA; and

**Whereas,** on October 20, 2008, the Planning Board, in consideration of the Short Environmental Assessment Form (EAF) dated September 10, 2007 and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potentially significant adverse impacts on the environment, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas,** on November 3, 2008, the Planning Board conducted a public hearing on the Final Plat application, at which time all interested persons were given the opportunity to speak; and

**Whereas,** the Planning Board now wishes to grant Final Subdivision Plat approval to Michael J. Horkan to convey  $\pm$  2.498 acres from his 25.38-acre parcel to his 2.27-acre adjoining parcel and to subdivide the larger remaining parcel into two (2) residential building lots; and

**Now therefore be it resolved,** that the Planning Board grants Final Subdivision Plat approval to Michael J. Horkan to convey  $\pm$  2.498 acres from the Land of Michael Horkan (Tax Parcel No. 6373-00-790535-0000) to an adjoining parcel (Tax Parcel No. 6373-00-819628-0000), also owned by Michael Horkan, and to subdivide the larger remaining parcel into two (2) residential building lots of  $\pm$  6.600 acres and  $\pm$  16.290 acres in size, in accordance with the plans and specifications heretofore submitted upon the following conditions:

- A. That the applicant submit a Common Use and Maintenance Agreement for the shared driveways in final form acceptable to the Planning Board.
- B. That a note be added to the final plat stating that no building permit shall be issued until the Common Use and Maintenance Agreement is recorded with the Dutchess County Clerk, the receipt for that filing is submitted to the Planning Office, and the filing date and document number are noted on signed copies of the Final Plat.
- C. That no building permit for any lot shall be issued until approval from the Dutchess County Health Department is obtained for that lot.
- D. That letters and/or numbers, locating sections of the shared driveway, be added to the map so as to match those in the Easement document
- E. That a note prohibiting driveway access on the southern flag strip be added to the map, thereby prohibiting access to any of the three lots by any driveway except the shared driveway located on the plat.
- F. That the applicant submit a deed containing language acceptable to the Planning Board regarding the driveway easement .
- G. That the applicant submit an acceptable draft of a consolidation deed intended for recording in the Dutchess County Clerk's Office immediately upon filing of the Subdivision Plat whereby the subdivided portion of the 'Lands of Horkan' would be merged with the adjacent lot identified as 'liber 1989, page 235'.
- H. That the applicant verify that the corners of the tract have been marked by monuments or steel rods, as approved by the Town Engineer.
- I. Stamping of the Subdivision Plat as a 'non-jurisdictional subdivision' or 'for filing purposes only' by the Dutchess County Health Department.

J. Payment of the recreation fee to the Town of Red Hook.

K. Payment to the Town of Red Hook of any outstanding fees due and owing for the review of this application.

L. Submission of Subdivision Plat drawings for stamping and signing in the number and form specified under the Town's Land Subdivision Regulations, including all required P.E. and L.S. stamps and signatures.

On a motion by Paul Telesca, seconded by John Hardeman, and a vote of 7 in favor, 0 against, and 0 absent,

Roll Call Vote:

Chair Christine Kane	yes
Member John Hardeman	yes
Member Sam Harkins	yes
Member Wil LaBossier	yes
Member Charlie Laing	yes
Member Sam Phelan	yes
Member Paul Telesca	yes

Resolution declared: **APPROVED** on November 3, 2008

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

\_\_\_\_\_  
Betty Mae Van Parys, Clerk to the Board

\_\_\_\_\_  
Date