

APPROVED

Town of Red Hook Planning Board Meeting Minutes February 9, 2009

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:35 p.m. and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, Sam Phelan, Sam Harkins, Charlie Laing, and Paul Telesca. Planner Michele Greig was also present.

BUSINESS SESSION

Christine Kane confirmed the agenda. The January 26, 2008 draft minutes had been circulated among the members and reviewed. Sam Phelan made a motion to adopt those minutes. Charlie Laing seconded the motion and all members present voted in favor.

Christine Kane repeated the announcement that a program on Agricultural Districts and the Agricultural Assessment Program would be given from 7 pm to 9 pm on February 18, 2009 at the Farm and Home Center in Millbrook. She urged interested members to register.

Charlie Laing asked whether the Biodiversity Training Program given by Hudsonia would count toward the training required of Planning Board members. The secretary said she would find out.

PUBLIC HEARINGS

Michael Anderson- 60 Station Hill Road, Barrytown – Certificate of Appropriateness

Steve Dunning was present for the public hearing on an application for a Certificate of Appropriateness to construct a fence on a 0.85-acre parcel in the Hamlet Zoning District.

Christine Kane read the public hearing notice that appeared January 30, 2009 in the Kingston Daily Freeman. Steve Dunning explained the project to the public, saying that the fence had been installed to match a section previously put up by a neighbor, that it ended about 20 ft. back from the road, and that because it was located in a gully, it was actually below the level of the road.

Christine Kane then opened the public hearing. There were no comments from the public.

The members reviewed comments from the Hamlet/Design Review Committee. The Committee had found the project to be acceptable in the Hamlet District and endorsed the issuing of a Certificate of Appropriateness.

Christine Kane reminded the Board that the project was a Type 2 action under SEQR. There were no comments or questions from either the Board or the public. Sam Phelan made a motion to close the public hearing. Paul Telesca seconded the motion, and all members present voted in favor.

Charlie Laing then made a motion to grant the Certificate of Appropriateness for the project. Sam Harkins seconded the motion, and all members present voted in favor.

Dean Bloch & Gail Wolfe – 21 Steamboat Dock Road – Special Permit and Certificate of Appropriateness

Carlos Newcomb of Hudson Valley Clean Energy was present for the public hearing on an application for a Special Permit and a Certificate of Appropriateness to install photovoltaic solar modules on the roof of an existing garage on a 0.47-acre parcel in the Hamlet Zoning District.

Christine Kane read the public hearing notice that appeared January 30, 2009 in the Kingston Daily Freeman. Mr. Newcomb then explained the project to the public.

Christine Kane reminded Mr. Newcomb that the Board had requested photos of the proposed location from the nearest road. Mr. Newcomb supplied those photos, saying that the driveway goes up a small hill and then down to the garage and that the garage cannot be seen from the road.

Christine Kane then opened the public hearing.

Paul Stupple, chief operations officer at the Unification Theological Seminary, asked whether the system would be free-standing or whether it would feed back into the power grid. He said that he was concerned about the storage of electricity in lead acid batteries with a free-standing system. Mr. Newcomb said that the system would feed back into the power grid and that there would be no battery storage.

The Board discussed another question raised by Mr. Stupple—whether there would be enough sun for the panels on a small lot surrounded by the heavily wooded neighboring UTS property. Mr. Newcomb said yes, there would be enough. He added that the State requires that the system lose no more than 20% of the available sunlight and that the garage was located in a reasonably open area of the lot. He said that the applicants were not going to remove any trees.

Sam Phelan referred to the photos taken of the proposed site from the road. He said he wanted to make sure a visual buffer was maintained. The Board and the applicant agreed that because the garage was behind a hill, the panels would not be visible even there were no trees.

The Board reviewed comments from the Hamlet/Design Review Committee. The Committee had found the project to be acceptable in the Hamlet District and endorsed the issuing of a Certificate of Appropriateness.

Since there were no further public comments or questions, Paul Telesca made a motion to close the public hearing. Charlie Laing seconded the motion, and all members present voted in favor.

Christine Kane said that the project was a Type 2 action under SEQR and no SEQR review was required.

Sam Harkins then made a motion to grant a Certificate of Appropriateness to the project. Paul Telesca seconded the motion, and all members voted in favor.

Sam Phelan made a motion to grant the Special Permit with no conditions. Charlie Laing seconded the motion, and all members present voted in favor.

Omnipoint Communications – 2 Tower Lane – Site Plan

Attorney Matt Kerwin was present for the public hearing on an application to co-locate antennas on an existing monopole on a ± 2.0-acre parcel in the RD 3 Zoning District.

Christine Kane read the public hearing notice that appeared January 30, 2009 in the Kingston Daily Freeman. Mr. Kerwin explained the project to the public, and then Christine Kane opened the public hearing.

Frank Green, Jr., 117 Kelly Rd., read and then submitted a letter opposing the project, saying that Omnipoint's application and supporting documents were incomplete or inaccurate, citing case law that he said preserves a local municipality's authority over utilities, pointing out the lack of engineering reports detailing the current levels of radio frequency radiation, requesting that the Town Board supply certified readings for the tower with the current carriers, warning of the cumulative impact of the RF radiation from numerous carriers, enumerating health problems suffered by families located near the tower, and warning of the health risks of "electro-smog" that, he said, may already be present. Finally, he said that if the project were approved, he requested that a letter from the Town and from Omnipoint guaranteeing his family's safety. (A copy of his letter is available at the Planning Board office)

Frank Green also submitted a report from the State University of New York at Albany concerning human health and electro-magnetic fields, dated August 31, 2008.

David Rajczi, 114 Kelly Rd., said he had not been notified by the Town when the tower was installed and had never been notified when any new panels were added. He suggested that there were other locations for added panels.

Dennis Frankel, 115 Kelly Rd., said that the gate to the tower road adjoined his property. He said he, too, was not notified about the construction of the cell tower. He said that there were large amounts of debris from the construction and that workers tore up his backyard with their vehicles. He said no one fixed the damage. He also said that the tower access road has not been maintained, that trucks drive on the road any time from 5 a.m. to 11 p.m., that workers drive at unsafe speeds on the road and that he has feared for neighborhood children and pets. He said that complaints to the Town have resulted only in a suggestion to call the State police. He said that whoever plowed the access road has dumped the rock-filled snow into his yard.

David Rajczi said that most of the evergreens around the tower were now dead, and he wondered whether this was a result of the cell tower emissions.

Dale Koerner, 4584 Rte 9G, said that he lived very close to the tower lot and that when the power goes out, the generator was very loud. He also testified to the dead trees and expressed concern over possible health hazards

William and Beth Barrett Dachs, 116 Kelly Rd., also read and submitted a letter opposing the project. Their letter cited health problems and expressed concern over electro-magnetic radiation emitted from the panels. The letter also said that construction of the tower has devalued their property. Finally, the letter requested that the Town begin testing to make sure that the radiation being emitted is at acceptable levels. (A copy of their letter is available at the Town Planning Board office)

Henry Coryiat, 4588 Rte. 9G, said that his house was within 750 ft. of tower. He said that he had researched many reports about the health risks of living near a cell tower and that he believed that there was a cluster of people with atrial fibrillation and other health problems in the neighborhood. He said he was concerned about how much radiation these new panels would add to the radiation he and others in the neighborhood were already receiving.

David Rajczi asked about alternate locations. He said that if the goal was to provide service to the Bard College community, the panels could be installed on Bard property. He said that he would hold the Town responsible if he ever becomes ill from the tower radiation because he was never notified about the construction of the tower or about the addition of more panels.

Christy Koerner, 4584 Rte. 9G, asked why she was unable to subdivide her 5-acre parcel but the tower could sit on a 2-acre parcel.

Frank Green asked what the setback was for such a tower. Christine Kane said that the Board was researching that issue, also known as the "fall zone".

In answer to a question about the amount and duration of the various carriers' leases with the Town, Christine Kane said that the Town Board has jurisdiction over those contracts.

Christine Kane went on to say that the Planning Board has been charged with reviewing this application for site plan approval. She said that the Town Board had served as lead agency, with the consent of the Planning Board, for the State Environmental Quality Review and that copies of the submitted letters would be passed along to Town Board members.

In answer to a question about why this action had come before the Planning Board, Christine Kane said that a proposed change to the site, not the request for additional height to the tower, triggered the site plan review. In answer to a question about why neighborhood property owners had not received letters notifying them of the Town Board review, Christine Kane said that while certain types of land use decisions required letters to be sent, a contract negotiation did not have that requirement.

In answer to several questions about why residents had not been notified about previous changes to the site, Sam Phelan said that this was the first time that a tower project had come before the Planning Board and that the neighbors were now seeing the implementation of the regulations adhered to by the Planning Board. He said the Planning Board could not speak to previous actions because those actions had never come before the Planning Board.

In answer to why a cell tower could be erected in the RD 3 Zoning District, Ms. Greig said that there were permitted uses other than residential uses that were allowed in the residential district.

Dale Koerner asked who the neighbors could hold responsible for the cell tower.

David Rajcyz said that the Town should not put residents' health in jeopardy in order to give Bard students better cell phone reception.

Charlie Laing said that the issue that muddies all these questions is that the cell tower lot belongs to the Town and that different rules apply to municipal projects.

David Rajcyz said that the Town made him abide by a host regulations when he put an addition on his house to increase its value and yet he lives across the street from a cell tower which devalues his property and in which he has no voice.

Dan Klerner said that the fact that the Town owns the property doesn't give the Town a license to be reckless. He said that the Town should lead by example.

Christine Kane said that if anyone wished to speak to the Town Board or to ask questions, they could do so during the 15 minute public comment period at the beginning of every Town Board meeting, even if the tower project was not on the agenda. She said that the pertinent documents could also be reviewed under the Freedom of Information Law with a request to the Town Clerk.

David Rajcyz asked whether alternate locations had been investigated. Christine Kane said she understood that no other sites had been brought up. Mr. Kerwin agreed.

Frank Green said that the Omnipoint application cited a specific report and concluded that health concerns should not be an issue with this project. He said that Omnipoint had presented only half the information. He then submitted a Bioinitiative Report concerning public exposure to electromagnetic fields. (A copy of this report is available in the Planning office)

Christine Kane said that the Planning Board generally circulates draft minutes approximately one week after a meeting. She encouraged the speakers to review these minutes to make sure that their comments were correct and to send an e-mail to planning@redhook.org if a correction should be made.

Paul Telesca asked who was working on the site. Matt Kerwin said that Omnipoint could not go on the site without a building permit and that Planning Board approval was needed for the building permit.

Sam Phelan said that the Board would try to find out who was responsible for the various activities that occur on that site. Christine Kane said that the Board still needed structural analysis information and information on the concrete foundation. Charlie Laing said he would visit the site to see whether landscaping was needed. The Board generally agreed that the site was more than 500 feet from Route 9G and as a result, the project need not be referred to the Dutchess County Office of Planning and Development.

The Board and the applicant discussed the legal name for the tower access road, which had been found to be Twin Towers Road. The Board generally agreed to discuss this finding with the Town Attorney so that all documents would be consistent.

Mr. Kerwin submitted a full-sized set of plans. He said that the new set showed the lighting and the parking space. He said the light was pointed directly down, as required by Town regulations.

Ms. Greig asked Mr. Kerwin whether radio frequency levels had been included in his submission. Mr. Kerwin said yes, those levels had been presented in exhibit five. In answer to a Board request, he said that his company's engineers could calculate the cumulative radio frequency levels. Sam Phelan asked him to provide the national standards and maximum levels for radio frequency levels and also to provide information about the FCC's investigation into possible health problems resulting from exposure to radio frequency radiation.

Sam Phelan said that he thought a representative from the Town should be present at future discussions of the application, since the Town was the owner of the property, since there were concurrent multiple uses on the property and since many questions had arisen about the past and current activities at the property. The Board generally agreed that numerous health and safety issues had been raised.

The Board generally agreed to continue the public hearing to March 16, 2009 at 7:40 p.m., to refer the project to the Town Engineer and to forward the documents from the public hearing to the Town Board.

Mr. Kerwin was told that all submissions must be received by noon on Friday, March 6, 2009.

Asked the decibel level of the proposed new generator, Mr. Kerwin said that it measured 71 decibels at 23 feet. Dale Koerner said that the current generator was very noisy and that this would be an additional generator, not a replacement generator.

REGULAR SESSION - OLD BUSINESS

Red Hook Self Storage– 7320 S. Broadway – Amended Site Plan

Martin Willms was present for continued discussion of an application for amended site plan approval to construct additional metal storage buildings on a ± 4.451-acre parcel in the B1 & B2 Zoning Districts.

The Board reviewed a letter submitted by Linda Keeling at the public hearing on January 26, 2009. (A copy of that letter is available in the Planning Board office). Some of the responses came from investigations by the planning board staff and some came from Mr. Willms. The Board found that the business was a permitted use on a non-complying existing lot with adequate space between the buildings and adequate emergency access throughout the site. The coverage and open space were determined to be adequate. The members then reviewed a sample lease which prohibited the storage of any toxic substances in the buildings and were told that all the buildings were located on concrete pads with no interior drains. Mr. Willms said that he not going to pave any of the surfaces, which are now gravel or oil and stone.

The assessment of the property and previous ZBA variances were found not to be within the purview of the Planning Board.

The Board then reviewed a referral response letter from Peter Setaro of Morris Associates dated February 9, 2009. In that letter, Mr. Setaro said that from his initial review, he had found that the right of way for the proposed connector road would touch the eastern corner of the proposed self-storage building, leaving insufficient room for a traffic lane around that new storage building.

The Board generally agreed to visit the site. The members said they would focus on landscaping, the adequacy of the existing dry wells to accommodate stormwater drainage, and the location of the possible conflict between the proposed connector road and the proposed storage building.

Mr. Willms said he would try to find out the capacity of the dry wells. The Board generally agreed to visit the site on Saturday, February 14, 2009 at 11 a.m., and the project was scheduled for the March 2, 2009 agenda.

REGULAR SESSION – NEW BUSINESS

Stephen Hoffman – 19 Old Farm Rd. – Amended Site Plan

Marie Welch, L.S. and Stephen Hoffman were present with an application for amended site plan to construct a metal storage building on a ± 10.020-acre site in the B1 and R1 Zoning Districts.

Ms. Welch said that the parcel was bisected by the B1/R1 Zoning District line and that she had been careful not to extend the proposed new building more than 25 ft. into the R1 District, as allowed by Section 143-8 (D) of the Zoning regulations.

She also said that when the large parcel was originally subdivided, Roger Hoffman and Al Bulay had retained a revisionary right to swap land at some future time. She said that the setbacks for the proposed new building would allow that land swap to take place.

She said that the building is proposed where currently the drainage for the parcel is located. She said that Tom Cummings, P.E. is working on a plan to relocate the drainage.

The applicants said they were proposing no additional parking and no signage and that they would supply cut sheets for motion detector lights that would comply with the Town's exterior lighting regulations. These lights would be placed over the doors. The new building would be a pre-fabricated metal storage building with no water and no heat. The applicants said that existing arbor vitae evergreens provided a visual buffer between this property and the movie theater property.

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

Ms. Welch was asked to add the total parking spaces for both businesses located on the parcel to a revised map before the entire application package was referred to the Dutchess County Office of Planning and Development. She was also asked to supply cut sheets for the lights and to submit the new drainage plan to the Town engineer for review.

A public hearing was scheduled for 7:40 p.m. on March 16, 2009.

OTHER BUSINESS

Extensions

Paul Telesca made a motion to grant a retroactive 45-day extension to the Raython Merrihew subdivision to meet the conditions of final subdivision plat approval. Charlie Laing seconded the motion, and all members present voted in favor. The new expiration date will be March 21, 2009.

Paul Telesca made a motion to grant a retroactive 90-day extension to the Michael Lueck and Stephen Lueck subdivision to meet the conditions of final subdivision plat approval. Sam Harkins seconded the motion, and all members present voted in favor. The new expiration date will be May 8, 2009.

Charlie Laing made a motion to grant a retroactive 90-day extension to the Forest Park Section 1D subdivision (preliminary approval) to submit application for final approval. Sam Harkins

seconded the motion, and all members present voted in favor. The new expiration date will be April 10, 2009.

Sam Harkins made a motion to grant a one (1) year extension to the Devereux Campus Expansion to apply for a building permit. Paul Telesca seconded the motion, and all members present voted in favor. The new expiration date will be May 17, 2010.

Teviot

Christine Kane read a status letter from Tim Lynch, P.E. from the Chazen Companies, reporting on progress with the Phase 1 archaeological study for the Teviot site plan and special permit applications. The letter also expressed hope that the Planning Board would make a SEQR determination at the March 2 meeting, which would make it possible for the ZBA to act on March 9. Tim Lynch was also present for this discussion. He said that the heli-spot had been moved slightly to comply with the 300 ft. required setback, that the archaeologist had found that the brown cottage (slated for demolition) was modern construction, that the gardener's cottage (also slated for demolition) was a mid-twentieth century structure and not significant, and that the barn slated for demolition had some contributing features but was not significant. He said that he would forward the final report within the next week or so.

Michele Greig said that the wetlands must be flagged. Mr. Lynch said that an in-house wetlands expert had already flagged the wetlands. Ms. Greig said that they should be flagged by an independent third party, and she suggested Carol Knapp.

Linda Keeling asked whether photos would be taken and whether the Egbert Benson Historical Society could contribute to the discussion. Christine Kane said that input from the organization would be welcome.

Centers and Greenspaces Plan

The Board reviewed a draft scoping document for the Centers and Greenspaces Plan. Ms. Greig said that it was a summary of the issues surrounding the adoption of the Plan. She asked the Board members especially to look at the "Alternatives" section. She said that written comments would be received until March 16 or that Board members could attend the public scoping session on March 10.

Christine Kane suggested that members e-mail questions and comments to the Planning office. The questions and comments would be combined into one document sent from the Planning Board. She reminded the members also to read the Centers and Greenspaces Plan carefully and be ready to discuss it on March 2.

ADJOURNMENT

Since there was no further business to come before the Board, Sam Harkins made a motion to adjourn. Paul Telesca seconded the motion, and all members present voted in favor.

Respectfully submitted,

Paula Schoonmaker

Attachments

Certificate of Appropriateness for Michael Anderson

Certificate of Appropriateness and Special Permit for Dean Bloch & Gail Wolfe

Resolution Granting Special Use Permit Approval to Dean Bloch & Gail Wolfe

Name of Project: Dean Bloch & Gail Wolfe Special Use Permit

Name of Applicant: Dean Bloch & Gail Wolfe

Date: February 9, 2009

Whereas, the applicant has submitted an application for Special Use Permit Approval dated December 4, 2008 to the Town of Red Hook Planning Board to install photovoltaic solar modules on an existing garage on a \pm 0.47 acre of land located at 21 Steamboat Dock Lane (TMP# 15-6073-00-932010), in the Hamlet (H) Zoning District in the Town of Red Hook, Dutchess County, New York; and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and .5, the Planning Board has determined that Proposed Project is a 'Type II' Action that meets the thresholds in 6 NYCRR 617.5 (c) (10) and, therefore, SEQR does not apply; and

Whereas, the proposed action requires a Special Use Permit pursuant to the Town of Red Hook Zoning Law §143-30; and

Whereas, the Planning Board referred the project to the Town of Red Hook Hamlet and Design Review Committee, which determined the project to be acceptable in the Hamlet Zoning District; and

Whereas, on February 9, 2009 the Planning Board conducted a public hearing on the Special Permit application at which time all interested persons were given the opportunity to speak; and

Whereas, the Planning Board deems the intended use as described within the Application for Special Use Permit, the associated Narrative, and the site plan to satisfy both the "General Standards" for all special permit uses set forth at Zoning Law §143-51 and the 'Development Near Bodies of Water' as set forth at §143-30.

Now therefore be it resolved, that the Planning Board issues the requested Special Use Permit with the following conditions and upon compliance therewith authorizes the Building Inspector to issue a Building Permit upon the Applicant's compliance with all pertinent laws, codes, rules or regulations, including the Building Code of the State of New York, under their jurisdiction.

On a motion by Sam Phelan , seconded by Charlie Laing , and a vote of 5 in favor, 0 against, and 2 absent.

Resolution adopted on February 9, 2009

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

Betty Mae Van Parys Clerk to the Board

Date