

APPROVED
Town of Red Hook Planning Board
Meeting Minutes
June 15, 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 Harkins, Sam Phelan and Wil LaBossier. Planner Michele Greig was also present. Charlie Laing, Pat Kelly, and John Hardeman were absent. Alternate Kris Munn was present but did not vote.

BUSINESS SESSION

Christine Kane confirmed the agenda as printed. The June 1, 2009 draft minutes had been circulated among the members and reviewed. Sam Harkins made a motion to adopt those minutes. Wil LaBossier seconded the motion, and all members present voted in favor.

Christine Kane announced that the Dutchess Land Conservancy had sent a map showing those Town of Red Hook parcels with conservation easements held by DLC. A list of the owners and other details about those properties accompanied the map. The Board also discussed a memo from Bond, Schoeneck & King, PLLC describing the “New York Government Reorganization and Citizen Empowerment Act”.

PUBLIC HEARING

Peter & Sarah Sweeny – 28 Stonybrook Road – Special Permit

Peter Sweeny was present for a public hearing on an application for a Special Permit to establish an accessory apartment in an existing studio building on a 25.6-acre parcel in the LD (Limited Development) Zoning District.

Christine Kane read the public hearing notice that was published June 9, 2009 in the Kingston Daily Freeman. Mr. Sweeny explained the project.

Christine Kane noted that a public hearing notice had been forwarded to the Village of Tivoli in compliance with General Municipal Law 239nn and that Agricultural Data Statements had been sent to the owners of all agricultural lands within 500 ft. of the subject parcel. She also noted that Mr. Sweeny had submitted a letter certifying the adequacy of the water supply and septic for the proposed apartment. Mr. Sweeny said that the building was existing when he bought the property and that he has been using part of the space as an architectural office.

Since there was no comment from the public, Sam Harkins made a motion to close the public hearing. Wil LaBossier seconded the motion, and all members present voted in favor.

The Board completed part 2 of the EAF and then reviewed a draft negative SEQR declaration. Wil LaBossier made a motion to adopt that declaration. Sam Phelan seconded the motion, and all members present voted in favor.

Next the Board reviewed a draft resolution granting the Special Permit. There were no conditions. Wil LaBossier made a motion to adopt the resolution as written. Sam Harkins seconded the motion, and all members present voted in favor.

Sam Phelan said he was uncomfortable with the seeming inconsistency of the current Zoning regulations in that they limit the size of an accessory apartment to “650 sq. ft. of habitable space” yet limit the size of a cottage to “650 sq. ft.” Sam Harkins said that the definition of “habitable space” was taken from the NYS Building Code. Sam Phelan said that, as in this instance, a large amount of space would not count as “habitable” if the ceiling were less than 7 ft. in height and yet was certainly living space. The Board generally agreed to send a memo to the Zoning Review Committee asking that group to review this issue.

OTHER BUSINESS

Paul Raymond extension

Christine Kane read a letter from Paul Raymond requesting a 6 month extension to the deadline for meeting the conditions of a Site Plan Approval granted December 15, 2008. Mr. Raymond said that he had been unable to obtain Dutchess County Health Department approval for a new septic system. Sam Harkins made a motion to grant the extension. Sam Phelan seconded the motion, and all members present voted in favor. The Board agreed that a letter to Mr. Raymond should clearly state that the Planning Board was allowed to grant only one such extension under the Zoning regulations.

Teviot request for amended resolution approving site plan

The Board discussed condition 5 of the resolution adopted June 1, 2009 approving the site plan for the Outdoor Recreation Facility at the Teviot estate. The applicants had said sent a message saying that the final report for the required Level 3 HABS/HAER documentation of the greenhouse and the older barn would not be completed until autumn of 2009 and had asked for intermediate steps to allow for the signing of the site plan and the issuing of permits.

The Board reviewed a draft resolution which would amend the previous resolution by allowing the applicants to submit the high quality photos and measured drawings as a condition for signing the site plan and by requiring the submission of the final complete Level 3 HABS/HAER report as a condition of the issuance of a Certificate of Occupancy or a Certificate of Compliance for the new structures. After some minor changes, Wil LaBossier made a motion to adopt the revised resolution. Sam Harkins seconded the motion, and all members present voted in favor.

Referrals from the Zoning Board of Appeals

Christine Kane read a note from Nick Annas, chair of the Zoning Board of Appeals, who requested that the Planning Board review two applications for variances. The Board was pleased that communication was increasing between the two Boards.

Christine Kane outlined the first variance request, saying that Ralph and Grace Cort owned a ± 2.2-acre parcel containing an 864 sq. ft. older residence and a ± 1300 sq. ft. newer residence. She said that now the applicants wished to subdivide the parcel to give each residence its own lot. She said that the area variances would allow the creation of two substandard-sized lots in the R1.5 Zoning District and would provide relief from a number of required setbacks.

The Board generally agreed that the granting of the lot-size variance would set an undesirable precedent, opening the door to subdividing off accessory buildings such as independent accessory apartments, cottages and barn/worker housing structures onto individual lots. The Board noted that the smaller residence contained the actual floor space of some accessory apartments.

The Board agreed to include in its letter to the ZBA the strong recommendation that applicants who wish any type of subdivision should come first to the Planning Board to discuss the issues involved. The letter would further report that the Planning Board did not review the setback variances since such variances may not be granted to lots which are not in existence.

Christine Kane outlined the second application, submitted by Philip Tasciotti, which involved the request for a use variance for two adjoining parcels located at the intersection of NYS Route 9 and Rokeby Road in the Residential1.5 Zoning District. She said that the applicants had previously received a use variance to operate an antiques retail business on the first floor of the house on the corner lot, maintaining the second floor as a residence. She said that the application stated that the applicants could not sell the parcels and now wished another use variance to permit office/commercial or residential at that location.

The Board generally agreed that granting this variance would, in essence, extend the commercial zoning district into the residential district and would not be in keeping with either the current Comprehensive Plan or the proposed Centers and Greenspaces Plan, both of which discourage the establishment of businesses in a strip along a main highway. Ms. Greig said that if the variance were granted, there would be nothing to keep the landowner from demolishing the present residence and erecting a commercial building. The Board agreed that Mr. Tasciotti or a prospective buyer could amend the previously-granted use variance to allow the entire building to be used as an antiques store or to allow a residence/business such as an architect's home and office.

The Board asked the secretary to investigate the details of the previous variance and to see whether any past Planning Board approvals were connected with this property before responding to the ZBA.

Planning Board secretary position

The Board generally agreed to appoint Paula Schoonmaker to the maximum 20 hours/week Planning Board secretary position and to communicate this appointment to the Town Board.

Municipality software

Paula Schoonmaker reported that the Municipality software had been successfully installed in the Planning Board office. She said that this software would allow the offices of the Zoning Board of Appeals, the Building Inspector and the Planning Board to more quickly and easily share information.

ADJOURNMENT

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

Respectfully submitted,

Paula Schoonmaker

Attachments

Negative SEQR declaration for the Peter and Sarah Sweeny Special Permit

Resolution granting Special Permit to Peter and Sarah Sweeny

Resolution amending resolution granting Site Plan Approval for the Outdoor Recreation Facility at Teviot.

617.7

**State Environmental Quality Review (SEQR)
Negative Declaration**

Notice of Determination of Non-Significance

Date of Adoption: June 15, 2009

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Red Hook Planning Board, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Sarah & Peter Sweeny Special Use Permit

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: YES
 NO

Description of Action: The applicants propose to modify an existing studio into an accessory apartment on a ±25.60-acre parcel in the LD (Limited Development) Zoning District

Location: 28 Stony Brook Road, Town of Red Hook, Dutchess County New York

Reasons Supporting This Determination:

1. The Town of Red Hook Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).
2. The Town of Red Hook Planning Board has reviewed the proposed action against §143-66 and §143-112 of the Town of Red Hook Zoning Code, and found it to be in compliance with these provisions.
3. After reviewing the Environmental Assessment Form (EAF) for the action dated May 14, 2009, the Planning Board has concluded that environmental effects of the

proposal will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).

4. Existing water supply, septic sytem, outdoor lighting and parking will be sufficient for the adaptive re-use.

For Further Information:

Contact Person: Betty Mae Van Parys, Planning Board Clerk
Address: 7340 South Broadway
Red Hook, NY 12571
Telephone: 845-758-4613

A Copy of this Notice Filed With:

Town of Red Hook Planning Board (Lead Agency)

Red Hook Town Board

Sarah & Peter Sweeny (applicants)

Resolution Granting Special Use Permit to Sarah & Peter Sweeny

Name of Project: Sarah & Peter Sweeny Special Use Permit

Name of Applicant: Sarah & Peter Sweeny

Date of Adoption: June 15, 2009

Whereas, the Town of Red Hook Planning Board received an application dated May 14, 2009 from Sarah & Peter Sweeny for the modification of an existing studio to an accessory apartment; and

Whereas, the ± 25.60 acre parcel (TMP 134889-6175-00-688303-0000) is located at 28 Stony Brook Road in the Town of Red Hook in the LD (Limited Development) District; and

Whereas, the proposed action requires a Special Use Permit pursuant to the Town of Red Hook Zoning Law §143-66; and

Whereas, on June 1, 2009, the Town of Red Hook Planning Board declared itself the lead agency for the purpose of conducting an uncoordinated review of a Unlisted action pursuant to SEQR; and

Whereas, the Planning Board has reviewed an Application for Special Use Permit dated May 14, 2009, a Short Environmental Assessment Form (EAF), dated May 14, 2009, a site layout and floor plan (undated) for the proposed accessory apartment; and

Whereas, the parcel is located within 500 ft. of a Certified Agricultural District (Agricultural District 20) and the applicant submitted an Agricultural Data Statement dated May 14, 2009, which the Planning Board duly forwarded to all owners of farm operations within 500' of the subject parcels; and

Whereas, a notice of the scheduled public hearing was forwarded to the Village of Tivoli under General Municipal Law 239nn; and

Whereas, a public hearing was held June 15, 2009; and

Whereas, on June 15, 2009, in consideration of the Short EAF and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environment, and thus adopted a Negative Declaration deeming an environmental impact statement need not be prepared; and

Whereas, the Planning Board deems the proposed development to satisfy both the 'General Standards' for all special permit uses set forth at Zoning Law §143-51 and the 'Specific Standards' for an 'Accessory apartments through adaptive reuse of non-dwelling structures' as set forth at §143-66.

Now therefore be it resolved, that the Planning Board issues the requested Special Use Permit and authorizes the Building Inspector and/or Zoning Enforcement Officer to issue first a Building Permit and then a Certificate of Occupancy 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 Wil LaBossier, seconded by Sam Harkins, and a vote of 4 for, 0 against, and 3 absent, this resolution was adopted on June 15, 2009.

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

Betty Mae Van Parys, Clerk to the Board

Date

Amended Resolution Granting Site Plan Approval to Teviot Estate Improvements (Outdoor Recreation Facility)

Name of Project: Teviot Estate Improvements (Outdoor Recreation Facility)

Name of Applicant: Teviot Property LLC

Date Adopted: June 15, 2009

Whereas, the applicant has submitted an application for Site Plan approval dated September 8, 2008 to the Town of Red Hook Planning Board to construct an outdoor recreation facility (consisting of an inground swimming pool with deck and pool house) on a ±62.9 acre parcel of land (TMP# 6175-00-270556) located at 40 Davis Lane in the Waterfront Conservation and Historic Landmarks Overlay Zoning Districts in the Town of Red Hook, Dutchess County, New York; and

Whereas, the applicant has submitted a Site Plan prepared by The Chazen Companies (Sheets T1, SP1, SP2, SD1, SD2A, SD2B dated 12/8/08 [sic] and revised 11/5/08, 12/15/08, 2/25/09, 3/4/09; Sheet SP3 dated 12/8/08 [sic] and revised 11/5/08, 12/15/08, 2/25/09, 3/4/09, 3/26/09, and 5/18/09; Sheet SP4 dated 12/8/08 [sic] and revised 11/5/08, 12/15/08, 2/25/09, 3/4/09, 3/26/09, and 5/21/09; Sheets EC1 and EC2 dated 9/9/08 and revised 11/5/08, 3/4/09); a Landscape Plan prepared by Burton & Company dated May 2009; a Site Lighting Plan prepared by Burton & Company (Sheets L-3 and L-4) dated 12/8/08 and revised 11/5/08, 12/15/08, 2/25/09, 3/4/09; a Parcel Map and Notes, Site Plan Details, and Site Photos (Sheets 1.01, 1.02, and 2.01) prepared by Timothy A. Lynch, PE, PC dated April 6, 2009; and Pool House Elevations (Sheet A-200 and A-201) dated August 18, 2008; and

Whereas, on January 18, 2009, the Planning Board, after duly circulating the project application and Full Environmental Assessment Form (EAF) to all Involved Agencies, was designated the lead agency for the purpose of conducting a coordinated review of a Type 1 action pursuant to SEQR; and

Whereas, on June 1, 2009, the Planning Board, in consideration of the Full EAF and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed outdoor recreation facility will not cause any potential significant adverse impacts on the environment, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

Whereas, it was determined that the application required referral to the Zoning Board of Appeals since the Zoning Law prohibits customary accessory structures incidental to a permitted use in the WC Zoning District; and

Whereas, the applicant applied to the Zoning Board of Appeals for an interpretation of the Zoning Law, and on February 11, 2009, the Zoning Board of Appeals, after conducting a public hearing at which time all interested persons were given the opportunity to speak, issued its Findings and Interpretation, classifying the proposed swimming pool and

pool house as an “outdoor recreation facility,” which is a special permitted use in the WC District; and

Whereas, on March 6, 2009, the Planning Board conducted a public hearing on the Site Plan application at which time all interested persons were given the opportunity to speak; and

Whereas, on June 1, 2009, the Planning Board granted Special Permit approval to Teviot Property LLC for an outdoor recreation facility (consisting of an inground swimming pool with deck and pool house); and

Whereas, the Planning Board has reviewed the application for Site Plan approval against the policies of the Local Waterfront Revitalization Program and finds that the proposed Site Plan for the outdoor recreation facility is consistent with such policies; and

Whereas, the Planning Board had deliberated on the application and all the matters before it; and

Whereas, on June 1, 2009, the Planning Board granted Site Plan approval to Teviot Property LLC to construct an outdoor recreation facility (consisting of an inground swimming pool with deck and pool house) on a ± 62.9 acre parcel of land (TMP# 6175-00-270556) located at 40 Davis Lane in the Town of Red Hook, Dutchess County, New York; and

Whereas, the applicant subsequently requested an amendment to condition #2 in the June 1, 2009 approval resolution to allow the site plan to be signed prior to the submission of the complete Level III HABS/HAER documentation; and

Whereas, the Planning Board has considered the applicant’s request.

Now therefore be it resolved, that the Planning Board grants a revised Site Plan approval to Teviot Property LLC to construct an outdoor recreation facility (consisting of an inground swimming pool with deck and pool house) on a ± 62.9 acre parcel of land (TMP# 6175-00-270556) located at 40 Davis Lane in accordance with the plans and specifications heretofore submitted upon the following conditions:

1. That the applicant obtains the permits and approvals listed in the EAF.
2. That the applicant implements the environmental mitigation measures contained in the Negative Declaration, including but not limited to submission of a site form to OPRHP for the Phase 1 archaeological survey.
3. That the applicant submits photographs and measured drawings of the greenhouse and the dairy barn that satisfy the requirements of the Level III HABS/HAER documentation, along with a letter from the applicant’s archaeologist certifying that the above mentioned photographs and measured drawings satisfy the requirements of the Level III HABS/HAER.

4. Addition of a note to the Site Plan stating that a Certificate of Compliance will not be issued for the pool and pool house until the applicant has submitted the complete Level III HABS/HAER documentation of the greenhouse and dairy barn, including the photographs, measured drawings, and final report on the research.
5. That the site plan be revised to delete the proposed private heliport.
6. Revision of the site plan to show the area of archaeological concern in the vicinity of the proposed septic system, as identified by the applicant in consultation with the Office of Parks, Recreation and Historic Preservation.
7. Addition of a note to the site plan stating that, due to the discovery of archaeological artifacts on the property during the review of the site plan, no permit may be issued for work within the area of archaeological concern without the prior submission of a Phase II archaeological study if recommended by NYS OPRHP and, if required, a Phase III site data recovery.
8. Addition of a note to the site plan stating that the proposed orchard will be maintained organically without the use of chemical pesticides or fertilizers
9. Addition of a note to the site plan stating that the enlargement of the existing pond will be performed during the dry season when flow from the pond is minimal or non-existent.
10. Addition of a note to the site plan stating that the proposed pool will utilize a non-chemical sanitation treatment, either copper ionization or an ozone system.
11. Addition of a note to the landscaping plan indicating the size of trees and shrubs at the time of planting.
12. Revise Site Lighting Plan to show that each tree proposed to be lit will be lit with no more than the equivalent of 50 watts incandescent.
13. Payment to the Town of Red Hook of any outstanding fee amounts and reimbursement to the Town of costs incurred in reviewing the application.
14. Submission of Site Plan drawings for stamping and signing in the number and form specified under the Town's Zoning Law, including all required stamps and signatures.

In taking this action, the Planning Board has determined that no new residential building lots or dwelling unit sites will be created, and thus deems not applicable to this application the requirement for set-aside of recreation or other open space land or the alternative payment of a cash-in-lieu-of-land recreation fee.

On a motion by Wil LaBossier, seconded by Sam Harkins, and a vote of 4 for, 0 against, and 3 absent, this resolution was adopted on June 15, 2009.

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

Betty Mae Van Parys, Clerk to the Board

Date