

APPROVED
Town of Red Hook Planning Board
Meeting Minutes
September 7, 2010

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:38 p.m., and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, members Kris Munn, Sam Phelan, Pat Kelly, Wil LaBossier, Charlie Laing and alternate Brian Walker. Sam Harkins was absent.

BUSINESS SESSION

Christine Kane said there was one announcement. Assemblyman Marc Molinaro and Assemblyman Joel Miller were sponsoring a community forum on the future of the Hudson River and its watershed, scheduled for September 21, 2010 at the Cornell Boathouse, Marist College.

The draft minutes from the August 16, 2010 meeting had been circulated and reviewed. Charlie Laing made a motion to approve the minutes as written. Pat Kelly seconded the motion, and all members present voted in favor.

PUBLIC HEARING

**CSX / Classical American Homes Preservation Trust – Dock Road, Barrytown –
Minor Subdivision Plat Approval**

Marie Welch, L.S., was present with an application to subdivide a ± 1.787-acre lot from a ± 79.9-acre parcel owned by CSX Transportation in the H (Hamlet) Zoning District.

Christine Kane read the public hearing notice that appeared on August 31, 2010 in the Kingston Daily Freeman. Ms. Welch then explained the project saying that the CSX railroad would keep its usual 60 ft. right of way on each side of the tracks but that it had agreed to sell the extra land, which is currently wooded, to the Preservation Trust. She said that the ZBA had granted a variance to allow for the substandard size of the proposed lot and that use of the land would be restricted to landscaping or perhaps in the future a small parking area.

Christine Kane asked if there were any comments or questions from the public. There were none.

Christine Kane then read a letter dated September 3, 2010 from Hudson River Heritage. President Warren Temple Smith said that the organization supported the goals of the subdivision, that there would be no adverse impacts on the hamlet or on the riverfront and that HRH recommended that the Board grant the subdivision.

The Board discussed the reverter clause in the CSX-CAHPT contract of sale, which would require that the land be sold back to CSX if any use other than landscaping or parking were attempted. The Board reminded the applicants that the proposed installation of a fence would require a building permit. Ms. Welch said that no fence would be considered until a parking

area was needed. The Board also noted that the proposed parking area would need Site Plan approval.

Since the Board had already completed the EAF parts 2 and 3 at the last meeting, the members reviewed a draft Negative SEQR Declaration. Kris Munn made a motion to adopt the neg dec as written. Pat Kelly seconded the motion, and all members present voted in favor.

Wil LaBossier then made a motion to close the public hearing. Sam Phelan seconded the motion, and all members present voted in favor.

The Board then discussed the note on the plat limiting development of the proposed lot. They generally agreed that the sentence "Proposed Lot 1 is not an approved residential lot" should be a stand-alone sentence at the beginning of the note, that the final sentence of the existing note should also stand alone, and that an additional stand-alone sentence, "Any deviation from this approved plan shall require approval from the Red Hook Town Planning Board", should be added at the end of the note.

The Board then reviewed a draft resolution approving the subdivision. The members added a reference to the granting of the variance by the ZBA and a condition regarding the revision of the plat note. Ms. Welch said she would submit draft language for the Planning Department to review.

Pat Kelly then made a motion to adopt the revised resolution granting subdivision plat approval. Kris Munn seconded the motion, and all members present voted in favor.

REGULAR SESSON – NEW BUSINESS

Robert & Linda Lasher – 442 Lasher Road – Special Permit

Attorney John Marvin and applicants Robert and Linda Lasher were present with an application for a Special Permit to allow an existing residence to be designated a cottage in order to allow the construction of a single family residence, on a 2.98-acre parcel partly in the Town of Clermont, Columbia County, and partly in the RD3 Zoning District of the Town of Red Hook. Town Attorney Christine Chale was also present for the discussion.

Mr. Marvin explained the situation saying that the applicants had installed a septic system, a well and the foundation for a home on the Red Hook portion of a lot that was bisected by the Dutchess County-Columbia County border line (with a portion of the lot in the Town of Clermont and a portion in the Town of Red Hook). He said that the mortgage lender then called attention to an existing farmhouse on the Clermont portion of the lot, declaring it the principal residence allowed on a residential lot according to the Red Hook Zoning Code. The Red Hook Town Building Inspector, on advice from the Town Attorney's office, had issued a stop-work order until the matter was resolved.

Mr. Marvin said that the applicants would appeal to the ZBA to lift the stop-work order, arguing that the portion of the lot lying within the Town of Red Hook was a pre-existing lot and therefore was eligible for a principal residence.

In the event that the ZBA does not lift the stop-order, Mr. Marvin said that the applicants would ask that the existing farmhouse be considered a cottage according to the Red Hook Zoning Code. Such a designation would allow the Lashers to go ahead and finish their principal residence. However, Mr. Marvin said, the applicants would need two (2) variances from the

ZBA because the farmhouse was larger than the allowable square footage for a cottage and because the lot was 0.02-acres smaller than the 3 acres needed for a standard lot in the RD3 Zoning District. He said that the ZBA had cancelled its September meeting and would not meet again until October 13.

The Board noted that the only access to the lot was from Lasher Road in Clermont. Asked how the Town of Clermont officials had responded to the situation, Mr. Marvin submitted a letter from Clermont Town Attorney Andrew Howard, who said that no approvals were necessary from the Town of Clermont in connection with the construction of the Lasher residence on the Red Hook portion of the property.

After some discussion about how the Planning Board and the Zoning Board of Appeals could grant a permit or variance for a building that was not located within its jurisdiction, Sam Phelan suggested that the Board look at whether the lot could sustain two residences and consider the normal planning issues involved with an accessory apartment. Town Attorney Christine Chale agreed, saying that the ZBA would consider the questions involved from a different perspective.

Michele Greig noted that while an accessory apartment in a new independent structure was limited to 650 sq. ft. of “habitable” space, a cottage was simply limited to 650 sq. ft. of total space. Mr. Marvin said that the 950 sq. ft. measured in the existing farmhouse was “habitable” space, with hallways, bathrooms, closets, and other areas subtracted from the gross square footage. Michele Greig noted that the area variance for the existing farmhouse would need to be determined based on 650 sq. ft. of total space since only new independent structures could be measured as 650 sq. ft. of habitable space. She also suggested that given the space limitations for the two different accessory units as defined in the zoning code, the applicants might consider making the new house an “accessory apartment in a new independent structure”. The applicants decided to continue with the application as it was. Michele Greig said that the applicants should look at those measurements again and also at the side and front yard setbacks of the farmhouse. She said that additional variances might be needed.

The Board then discussed the planning issues involved with the two proposed residences located on one lot. Mr. Marvin said that the applicants had already received Health Department approval for the septic system for the new house and that the farmhouse had its own septic system and water supply. The Board said additional information should be submitted about parking, exterior lighting, lot coverage, and wetlands. Also, the applicants should submit a new map showing structures on adjacent parcels, building setbacks for all structures on the parcel, driveway access, exterior lighting, parking areas, and existing landscape buffers if any. The map should include a location inset map, the tax map parcel number, and the zoning district. Michele Greig noted that the project would have to be referred to the Dutchess County Office of Planning and Development.

The Board scheduled the project to appear again with the requested information at the September 20 meeting.

Michael Rohatyn – 199 Feller Newmark Rd. – Special Permits

Mark Graminski, P.E. and L.S. was present with two applications for Special Permits, one to allow the construction of a single family residence within 100 ft. of a pond and one to allow the construction of an accessory apartment over a new detached garage, on a + 10-acre parcel in the RD3 Zoning District.

Mr. Graminski explained that Mr. Rohatyn's house had burned down and that he wished to build a new house on a slightly different footprint. He said that the old house was about 35 ft. from a pond and that the proposed new house would be about 30 ft. from the pond. He said that Mr. Rohatyn also wished to build a 480 sq. ft. apartment over a new garage.

Mr. Graminski said that the new house would have the same number of bedrooms as the previous house, that there was plenty of parking for the apartment and the house, and that the exterior lighting had not yet been chosen but would conform to the Town's exterior lighting regulations.

He said that he had designed a septic system large enough for six bedrooms, adequate for both the house and the apartment and that the plan had been approved by the Health Department. He said that although the septic field and expansion area were almost 700 feet from the house, he had found no other suitable location on the property. He also said that a new location for the swimming pool was planned.

The Board considered the impact of the proposed construction on the pond. Mr. Graminski said that the pond had, with DEC approval, been dredged but not enlarged. The Board noted that the pond drained into the Lakeskill, a tributary to the Sawkill. Michele Greig said that the Board should consider the issues outlined in section 143-30 of the Zoning Code.

Mr. Graminski said that he must check with the applicant about plans for a small stone building on the property and any updates on the location, size and footprint of the proposed house. He said that it was possible that that the EAF and maps would have to be revised.

The Board determined the construction within 100 feet of a water body to be an Unlisted action under SEQR, with the Dutchess County Health Department as an involved agency. Charlie Laing made a motion to establish the Board as the lead agency for the SEQR review. Wil LaBossier seconded the motion, and all members present voted in favor.

The Board then determined the construction of an accessory apartment to be an Unlisted action under SEQR, again with the Dutchess County Health Department as an involved agency. Kris Munn made a motion to establish the Board as the lead agency for the SEQR review. Pat Kelly seconded the motion, and all members present voted in favor.

The Board then scheduled public hearings on both applications for September 20, 2010 at 7:35 p.m.

OTHER BUSINESS

MC Acres

Mark Graminski said that the subdivision and lot line alteration plan conditionally approved by the Planning Board would not be filed because circumstances with the applicants had changed. He said that a new building envelope might have to be found and that DEC would have to flag wetlands on additional parts of the property.

Peter & Sarah Sweeny application for term easement

The Board reviewed Peter and Sarah Sweeny's application for a Town-held 15 year term easement on their 25.92-acre parcel on Stonybrook Road. The Board then reviewed a memo from the Conservation Advisory Council which stated that because the property bordered on the Stonykill Creek, contained valuable wetlands and had frontage on a designated scenic road, the

CAC recommended that the easement be accepted. Michele Greig said that the property was also within the National Historic Landmarks District. Charlie Laing said that the property contained an old dam and an old house and that these features added archaeological, historic and cultural value to the property.

Sam Phelan made a motion that the Planning Board send a letter to the Town Board recommending acceptance of the easement. Pat Kelly seconded the motion, and all members present voted in favor.

Centers and Greenspaces comment letter

The Board reviewed a summary of the suggestions made at the last meeting as well as an introduction supporting the overall plan. Members who had not attended the last meeting made additional suggestions. Among them were: allowing applicants to submit their documents and maps electronically, emphasizing the role of land trusts as the preferred holders of conservation easements, and adding justification for a revision of the Town's term easement program shortly after the Town Board's vote on the plan.

Christine Kane said that these additional suggestions and the revisions of previous suggestions would be incorporated into the comment letter and circulated to Planning Board members before it was submitted to the Town Board.

ADJOURNMENT

Since there was no more business to come before the Board, Kris Munn made a motion to adjourn. Wil LaBossier seconded the motion, and all members voted in favor.

Respectfully submitted,

Paula Schoonmaker

Attachments

Negative SEQR Declaration for the CSX-Classical American Homes Preservation Trust Minor Subdivision

Resolution granting Subdivision Plat approval to Classical American Homes Preservation Trust

617.7

State Environmental Quality Review (SEQR)

Negative Declaration

Notice of Determination of Non-Significance

Date of Adoption: September 7, 2010

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: CSX – Classical American Homes Preservation Trust Subdivision

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: YES
 NO

Description of Action: The applicant proposes to subdivide a ±1.787 acre parcel from a ± 79.9-acre parcel in the Hamlet (H) Zoning District. The proposed new lot will be preserved as open space or may be used as an unpaved parking area .

Location: Dock Road, Town of Red Hook, Dutchess County NY

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. After reviewing the Environmental Assessment Form (EAF) for the action dated August 6, 2010, 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).

3. The project site is located in the National Historic Landmarks District, which is listed on the National and State Registers of Historic Places. However, no development is proposed as part of this action, and notes on the plat and on the deed of conveyance will prohibit any buildings on the site.
4. The project site is located within an area indentified as sensitive for archaeological sites on the New York State site inventory; however, the site has previously been extensively disturbed by the railroad, and, as noted above, no buildings on the site will be permitted. Based on the foregoing, the Planning Board has determined that no significant adverse environmental impacts on historic and archaeological resources will occur.

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)
Classical American Homes Preservation Trust
ENB
enb@gw.dec.state.ny.us

Resolution Granting Final Subdivision Plat Approval to CSX-Classical American Homes Preservation Trust Subdivision

Name of Project: CSX - CAHPT Minor Subdivision

Name of Applicant: Classical American Homes Preservation Trust

Date: September 7, 2010

Whereas, the applicant has submitted an application for Final Subdivision Plat approval dated August 20, 2010 to the Town of Red Hook Planning Board to subdivide a ± 1.787 -acre lot from a ± 79.9 -acre parcel (Tax Map Parcel No. 134889-6173-00-039461-0000); and

Whereas, the subject parcel is located on Dock Road in the Hamlet (H) 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 August 5, 2010 ; and

Whereas, on August 16, 2010 the Town of Red Hook Planning Board declared itself lead agency for the purpose of conducting an uncoordinated review of a Type 1 Action pursuant to SEQR; and

Whereas, on July 14, 2010, the Town of Red Hook Zoning Board of Appeals granted an area variance allowing the 1.797-acre lot in a minimum 5-acre zone; and

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

Whereas, on September 7, 2010, the Town of Red Hook Planning Board, in consideration of the Full Environmental Assessment Form (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 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 September 7, 2010, 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 Classical American Homes Preservation Trust and CSX Railroad to subdivide a ± 1.787 -acre lot from a ± 79.9 -acre parcel.

Now therefore be it resolved, that the Planning Board grants Final Subdivision Plat approval to Classical American Homes Preservation Trust and CSX Railroad to subdivide a ± 1.787-acre lot from a ± 79.9-acre parcel in accordance with the plans and specifications heretofore submitted upon the following conditions:

- A. The applicant shall verify that the corners of the tract have been marked by monuments or steel rods, as approved by the Town Engineer.
- B. Payment shall be made to the Town of Red Hook of any outstanding fees due and owing for the review of this application.
- C. The note on the map shall be revised to include statements that the proposed lot is not an approved residential lot and that any deviation from this approved plan shall require approval from the Town of Red Hook Planning Board.
- D. Subdivision Plat drawings for stamping and signing shall be submitted in the number and form specified under the Town's Land Subdivision Regulations, including all required P.E. and L.S. 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 Pat Kelly, seconded by Kris Munn, and a vote of 6 for, 0 against, and 1 absent, this

Resolution was approved on September 7, 2010.

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

Paula Schoonmaker, Ass't Clerk to the Board Date