

**APPROVED**  
**Town of Red Hook Planning Board**  
**Meeting Minutes**  
**September 17, 2012**

**CALL TO ORDER/ DETERMINATION OF QUORUM**

The meeting was opened at 7:33 p.m., and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, members Kris Munn, Charlie Laing, Sam Harkins, Brian Walker, Sam Phelan and alternate Betty Carr. Pat Kelly was absent. Also present was planner Michele Greig.

**BUSINESS SESSION**

Christine Kane confirmed the agenda, emphasizing that the public hearing for the Preserve at Lakes Kill would be continued to a later date. She said that those applicants had provided ample notice that they would not attend. She said that the Board would take no public comments at this meeting but that the hearing would remain open and written comments were welcome.

There were two announcements. Christine Kane said that a conference on managing sediment in the Hudson River and its watershed would be held October 12, 2012 and that training credits would be available. Christine Kane also announced that the Town Board had adopted a resolution renaming the road variously known as Glenn Pond Drive or Glenn Pond Road, now naming it Glen Pond Drive.

The August 20, 2012 draft minutes had been circulated among the members and reviewed. Charlie Laing made a motion to approve the minutes. Sam Phelan seconded the motion, and all members present voted in favor.

Christine Kane also welcomed Michelle Turck as a new Planning Board alternate.

**PUBLIC HEARINGS**

**245 Woods Rd., LLC – 245 Woods Rd. – Special Permit**

Fred Volino, Jann Wenner, Matt Nye and attorney Jon Adams were present for the continued public hearing on an application for a Special Permit to remove a number of trees within 1000 feet of the Hudson River on a 19.22-acre parcel in the WC (Water Conservation) Zoning District and the National Historic Landmarks District.

Mr. Adams said that the principle owners of the property were present at the meeting, as requested by the Board. He went on to say that the applicants wished to remove sixteen (16) trees from a clump of approximately 150 trees, and he referred to a submitted photo/diagram showing the trees proposed for removal. He said that certified arborist Mark Barry had justified the removal of these trees by stating that they would inhibit the growth of more important trees. He said that forest management was encouraged by NYS DEC.

Mr. Adams went on to say that potential erosion would be controlled since the ground was level and the stumps would be left to hold the soil, as suggested by consultant Erik Kiviati. He then referred to the re-vegetation plan submitted by the applicants, saying that the plan included both the 245 Woods Rd. property and the Teviot property, as the Board had requested. He concluded by saying that Winnakee Land Trust, which held the conservation easement on the property, had approved the tree removal.

Alex Zane, Tivoli, said that Winnakee Land Trust did not approve the tree removal and that the organization had no jurisdiction over the trees, only the buildings on the property. He went on to say that a "forest conservation" plan meant a more detailed plan than the applicants had submitted. He said that the submitted list and picture did not show the trees that would be protected. He said that the plan should outline what trees would be cut, the reasons for the cutting, and the goals of the plan. He also questioned the impact of the tree removal on the established eagles nest and said he would like to hear from the NYS DEC about that.

Nancy Guski, chair of the Town Tree Preservation Committee, read a letter from that committee and also from the Conservation Advisory Commission. The letter recommended that the Board ask for input from Dutchess County Soil and Water because of the impact of the tree removal on drainage and soil erosion. It went on to say that a shoreline buffer should include trees, shrubs, lower level vegetation and a "duff" layer of organic matter; that the deeper the buffer, the greater the benefit; and that such a buffer could be planned so that it did not obstruct river views.

Steve Buso, former Tivoli Code Enforcement Officer, said that he had flown over the property on July 9, 2012 and had taken aerial photos, one of which he showed to the Board. Christine Kane pointed out that the photo included both project properties.

Asked why the trees were proposed to be removed, Mr. Adams referred to arborist Mark Barry's previously submitted letter. He said that among the reasons were that the subject trees were competing with a 100 year old oak tree for sunlight, that they were competing with trees more appropriate for a shoreline buffer, that the poplars and some other species were weak and that by removing them stronger trees would have the sunlight and nutrients to grow larger, that phototropism had caused some of the trees to lean, and that by removing these trees, lower vegetation would flourish.

Mr. Zane asked where the 100 year old oak was located. Mr. Volino pointed out some larger canopied trees which he said were quite old.

Christine Kane then referred to a letter dated July 13, 2012 from Douglas Mackey, Historic Preservation Program Analyst at the NYS Office of Parks Recreation and Historic Preservation. She said that in that letter, Mr. Mackey asked to see a detailed plan of the proposed removal. She said that he also reminded the Board that when the previous property owner Robert Davis received permission from OPRHP to build a house overlooking the river, an archaeological study was required only in the area of disturbance. Now, he said, if stumps were going to be removed or other disturbance proposed, an additional archaeological review would be considered.

Mr. Volino confirmed that the house built by the Davises had been removed but that there had been no additional ground disturbance nor would there be during the installation of the replacement house.

The Board then reviewed the GreenPlan memo dated July 14, 2012, which required revisions to the long EAF part 1.

Christine Kane reviewed some of the items the Planning Board was required by law to look at because of the project site's location in the Historic Landmarks Overlay district, the Scenic Corridor Overlay District, the Water Conservation Zoning District and the Local Waterfront Revitalization Area, as outlined in the memo. She also noted that the Teviot property was included in the Estates District Scenic Area of Statewide Significance and was among estates whose landscapes were designed in the historically significant American Romantic Landscape Style.

Christine Kane noted that the re-vegetation plan focused largely on grasses and included few trees or shrubs. Mr. Adams said that the 245 Woods Road property was level and that the tree removal area was at some distance back from the bluffs so that erosion and "slumping" of the bluffs should not be a problem.

Christine Kane asked Mr. Wenner and Mr. Nye, as owners of both 245 Woods Rd. and Teviot, what their overall plan was and whether more tree removal was contemplated. Mr. Wenner said that the Teviot property had been neglected and that he had restored the house and planned to do the same with the property. He said that he had had permission, in writing, to remove the trees and that the trees had been marked. He said that the 16 small trees were not essential in any historic or ecological sense and that he was sure the micro-organisms would come back. He said it was not the owners' intention to have a bad relationship with the Town, State or local organizations. He said he did think that the hearing was out of proportion to what was at stake, and he noted that his arborist had recommended the trees to be removed.

Christine Kane said that this project was under such scrutiny because of the site's location within so many overlapping districts.

Christopher Klose, Echo Valley Farm, said that trees were popular with people in the Town.

Mr. Wenner said that the trees on both properties had been neglected.

Mr. Zane said that the 16 trees proposed for removal at 245 Woods Rd. were related to the hundreds of trees already cut down at neighboring Teviot. He said that many of those trees had been very old and very beautiful. He said that he wished that this type of discussion had taken place before those trees had been cut and that there had been no input from the Town or from the public. He also said he was concerned about the impact of all the tree removal on the nesting eagles.

Mr. Wenner said that the DEC had been to the property a number of times and that the trees were well outside the impact area.

Since there were no more comments from the public, Kris Munn made a motion to close the public hearing. Sam Harkins seconded the motion, and all members present voted in favor.

Michele Greig said that although the Teviot project and the 245 Woods Rd project were two separate projects, the Board was required under SEQR to consider the cumulative impact of the actions.

The Board then referred the project to the Dutchess County Department of Planning and Development.

Christine Kane requested that the applicants add a narrative to the re-vegetation plan that would include a planting plan and a list of items not considered to be grasses which will be planted, along with their size.

Sam Phelan said that he would like to hear from consultants with expertise in historic landscape architecture, the history of the property and re-vegetation. Charlie Laing said that there was such an expert at NYS Parks. Christine Kane said that since NYS Parks had asked for relevant information, the project would be referred to that agency.

Michele Greig suggested Stephen Yarabeck as someone with knowledge of historic landscape architecture. She said that Mr. Yarabeck could also direct the Board, if necessary, to other people with knowledge of re-vegetation, since the Board should be considering other plantings besides grasses to fill in the understory. Charlie Laing agreed, saying that the Board must consider the long term health of the landscape and the slopes as well as the historic aspects of the project.

Brian Walker said that the submitted re-vegetation plan obscured what trees and plantings are already at the site and did not make clear what the goals of the plan were. He said he would like to see topography to get an ideal of what the slopes were and he would like more detailed tree locations—trees to be protected and trees to be removed.

Charlie Laing added that he would like to see the applicants update the previous Teviot site plan, which had topographic information, to show what had actually been removed, not just what had been approved for removal. Michele Greig said that the Teviot site plan should be forwarded to the landscape architect.

Fred Volino asked that the Board review the previously submitted letter from engineer Tim Lynch. He said that the letter would answer many of the concerns.

Mr. Adams said that he would contact the Board when the applicants were ready to be back on an agenda. Christine Kane asked him how long it would take the applicants to update the plan so that it could be sent out. Mr. Adams said he would estimate 30-60 days. Christine suggested that the applicants aim for 30 days so that the site could still be visited before inclement weather set in.

#### **Preserve at Lakes Kill – Feller Newmark Road – Preliminary Subdivision Plat Approval**

Sam Harkins made a motion to continue the public hearing to November 19, 2012. Kris Munn seconded the motion, and all members present voted in favor.

## **REGULAR SESSION- OLD BUSINESS**

### **Loraine Manning/ Mildred Norton – 66 Hapeman Hill Rd.– Lot Line Alteration**

Attorney Angela Lore was present for continued discussion of an application for a lot line alteration to swap land between two (2) adjoining parcels of 3.944 acres and 1.489 acres, in the RD 3 Zoning District.

Ms. Lore said that the applicants had moved the swap area toward the back of the properties so that there would be no road frontage problem and no need for a variance. She added that the amount of land to be swapped had increased slightly to 4600 sq. ft. but that it would still be an even swap. She said that the Manning well was set back from the property line farther than the 10 ft. required by the Health Department.

Asked about the well for the Norton house, Ms. Lore said that it was between the house and the shed.

Charlie Laing asked if any problems would be created by moving the lot line so that it ran through the pond. Ms. Lore said that the pond was actually a vernal pool that was dry for most of the year.

Christine Kane said that the plan should show at least approximately the location of the Norton well and septic.

The Board then reviewed the GreenPlan memo.

The Board completed the EAF part 2. Then Charlie Laing made a motion that the Board issue a Negative SEQR Declaration for the project. Kris Munn seconded the motion, and all members present voted in favor.

A public hearing was set for October 15, 2012.

## **OTHER BUSINESS**

### **Preserve at Lakes Kill – general discussion**

Brian Walker asked about the process for evaluating the sight distance issue for the intersection on Feller Newmark Road. Christine Kane said that the Board would wait for the applicant's reports. She said that the Board had received reports from the Town Engineer on drainage and the applicant's SWPP but no reports on the sight distance.

Sam Phelan asked whether the Highway Superintendent was reviewing the issue. Christine Kane said that the Highway Superintendent had asked for plans and information to review.

Sam Phelan said that he was concerned about the precedent the Board would be setting with this project. Michele Greig said that any applicant can ask for a private road. Sam Phelan questioned whether it was advisable to encourage high density residential development in remote areas that are not served well by utilities and other services. Michele Greig said that the Board must be guided by the zoning regulations.

Kris Munn said that there had been previous discussion about whether any developer had installed a private road with this many houses in the Town. Sam Phelan said he

believed the answer was no. Sam Harkins asked whether the road had to be built to Town road specifications. Michele Greig said yes.

Sam Phelan had concerns about whether it would be good for the Town to allow 11 lots on property that only had 50 ft. of road frontage. Michele Greig said that the lots would get their frontage from the private road.

Christine Kane said that Michele Greig was talking about the technicalities of approval while Sam Phelan was taking a wider view about future of the Town. Christine Kane then stated that planning board decisions did not set precedent in the same way as a ZBA decision does. She said that since each property was different, with different building constraints, zoning, access, site distance, etc. each review was customized to each site, so decisions made on one property could not automatically be applied to another.

Sam Phelan asked whether the Board had discretion about approving a private road in the same way that it had discretion about approving flag lots. Michele Greig said no, explaining that the Board could only approve flag lots in a limited number of extraordinary circumstances but that the Board could only deny a private road because of topographic limitations, sight distance or other constraints.

She went on to say that it didn't matter whether the road was public or private—that the number of lots would be figured in the same way. She said that a private road had to be built to Town specifications because it was always possible that the homeowners association might fail and the Town might have to take over the road at some future date.

**245 Woods Rd. and Teviot discussion**

Charlie Laing said that he wanted to see a thorough and detailed landscape and re-vegetation plan. Sam Harkins said there were discrepancies between the list of trees, the map, etc.

**New member**

Town Board liaison said that a resignation from Pat Kelly was anticipated and that the Town Board would then consider the appointment of a new member.

**ADJOURNMENT**

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

Respectfully submitted,

Paula Schoonmaker

**Attachment**

Negative SEQR Declaration for the Manning/Norton Lot Line Alteration

617.7

**State Environmental Quality Review (SEQR)**

**Negative Declaration**

Notice of Determination of Non-Significance

**Date of Adoption:** September 17, 2012

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:** Manning-Norton Lot Line Alteration

**SEQR Status:** Type I   
Unlisted

**Conditioned Negative Declaration:**  YES  
 NO

**Description of Action:** The applicant proposes a lot line alteration to convey ± 4,682 square feet of land from the ± 3.944 acre Manning parcel to the ± 1.489 acre Norton parcel and to convey an equal area of land from the Norton parcel to the Manning parcel. The parcels are located in the RD3 Zoning District and are currently developed with single-family residences, individual wells and septic systems.

**Location:** Hapeman Hill 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 July 24, 2012, 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 within a New York State certified Agricultural District. An Agricultural Data Statement was prepared by the applicant and forwarded by the Planning Board to all owners of farm operations within 500' of the subject parcel, and the Planning Board considered comments on the Agricultural Data Statement.
4. The proposed action consists of a lot line alteration between two existing developed residential lots. No additional dwelling units will result from the proposed action and no new development is proposed. Based on the foregoing, no significant adverse environmental impacts to natural or cultural resources, including agricultural resources, will occur.

**For Further Information:**

Contact Person: Betty Mae Van Parys, 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)  
Angela J. Maier-Lore, Esq. (applicant)