

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

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:32 p.m., and a quorum was determined present for the conduct of business.

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

BUSINESS SESSION

Christine Kane confirmed the agenda as published. The December 3, 2012 draft minutes had been circulated among the members and reviewed. Sam Phelan made a motion to adopt those minutes. Betty Carr seconded the motion, and all members present voted in favor. There were no announcements.

PUBLIC HEARING

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

Michael Bodendorf, P.E. and property owner Mark Baisch were present for a continuation of the public hearing on an application for preliminary subdivision plat approval to create 11 lots on a ± 100.45-acre parcel in the AB (Agricultural Business) and RD3 Zoning Districts. Mr. Bodendorf explained the applicant's recently submitted plans for improving Feller Newmark Road in order to achieve the required sight distances.

Mr. Bodendorf began by saying that currently there was 501 ft. of sight line distance to the right and 165 ft. of sight line distance to the left for a car exiting at the proposed entrance to the development. He said that the stopping sight distance was 274 ft. He said that the distances were based on a 42 inch eye height, which he said was the American Association of State Highway and Transportation Officials (AASHTO) standard.

He went on to say that the road mitigation plan consisted primarily of cutting 2 feet in height off a vertical road curve. He said that initially the applicants had intended to meet the AASHTO standards for low volume roads but that now their goal was to meet the regular AASHTO standards of 390 ft. of sight line distance both left and right and 250 feet of stopping sight distance. He said that with modification of the road, those goals could all be met except for sight line distance to the left and that that final sight line distance could likely be achieved by removing trees and other vegetation in the right of way.

He also talked about stormwater drainage saying that he had discussed drainage improvements with the Town Highway Superintendent. He said a deep swale would not be possible because of the need to use the right of way to modify the road. Therefore, he said, smaller swales and culverts would direct the stormwater into the development site's drainage system. He said all these improvements would make the entire road safer.

Christine Kane said that at the last meeting the Board had referred out for review the applicants' proposed plans, traffic study and accident report. She said that independent traffic engineer William Fitzpatrick had conducted that review and would present his findings.

Mr. Fitzpatrick said that he had been a traffic engineer with the New York State Department of Transportation and had been director of traffic engineering and safety. He said that he had reviewed the traffic studies, plans, public hearing minutes and pertinent memos.

He began by saying that the applicants' November 2, 2012 traffic impact study did not address the most significant issues brought up at the public hearing. He said that the November 15, 2012 study claimed that the AASHTO sight line distances could be reduced because Feller Newmark Rd. was a low volume road and there would be fewer opportunities for incidents. He said that he had never seen this criterion used and he would not recommend it. He said that just because potential conflicts might occur less frequently did not mean that those potential conflicts shouldn't have the same standard of care.

He said that an August 17, 2012 memo from Hudson Land Design actually did address the issue of sight line distances and prevailing speeds, but, he said, that information did not make it into the traffic report.

He went on to say that a December 7, 2012 document provided a spreadsheet of accident information but there was no explanation from the traffic engineer about the accidents.

Additionally, Mr. Fitzpatrick said that some data was missing. He said there was no speed information, although the report said there was. He said that what was given was machine counts. So, he said, his first question was-- where is the speed information? Also, he said, there was no data about manual traffic counts or information about what basis was used to determine what the "peak hours" actually were. Lastly, he said that the stated "peak hours" were not confirmed by the machine counts.

He went on to say that the volume count of traffic was considerably overstated and that he was concerned that the narrative of the data was not accurate.

Mr. Fitzpatrick said that the description of the roadway was very limited. He said that he was concerned about the 35 mph speed limit and that 35 mph was in no way safe for the severe horizontal and vertical curves on the road at and near the project's entrance location. He said there was no description about this condition in the report. He went on to say that he found that there was no signage on the road warning of dangerous curves or advising reduced speeds, and he said that that fact had too not been included in the report. He said that the applicants had found 35 mph to be the 85th percentile speed for the roadway (that is, 85% of vehicles went 35 mph or less) but had provided no explanation about how that data had been obtained.

He said that the applicants were correct in saying that 11 additional homes would not generate a large increase in traffic.

Mr. Fitzpatrick went on to say that there was no basis for using the reduced AASHTO sight line distances. He said that they certainly would not increase safety and that, while the applicants' claim that the reduced sight distances would not affect the level of service, the level of service was not the focus of the discussion nor should it be.

He asked whether the development road would be public or private and was told that that question had not yet been resolved. He said that, either way, he was glad to see that the road would be built to Town standards.

He said that the suggestion of installing a 3-way stop was a poor one. He said that requiring cars to stop on a primary road to accommodate drivers on a secondary road, especially in an attempt to mitigate a reduced line of sight problem, was far too dangerous.

He said that the applicants' proposed mitigation for improving the sight line distances and reducing the road profiles was the proper remedy. He added that the speed limit should be reduced if possible, as Hudson Land Design had noted in its August communication with the Town Highway Department, and that signage advising reduced speed should be posted. He said there were several ways of determining the advisory speed. He said that these issues should have been a focus of the traffic study.

He said that there were some discrepancies between the road profile view and the plan view and that these discrepancies needed to be reconciled. He said he had spoken to the applicants' representative earlier in the day to outline these discrepancies.

He said that his question was whether the vertical curve, rather than the horizontal curve, constrained the sight distance, as the plan implied.

He said that in his opinion it was necessary that the applicants meet the Dutchess County criteria for sight distance, which were also the criteria set out in Table 5 of the Town road specifications. He said that if the sight lines were achieved to those standards, the proposed access would be acceptable.

He went on to say that at the public hearing on November 19, 2012, the applicants' traffic engineer had stated that a 1 foot reduction in the height of the vertical curve was proposed; however, he said, the plan showed that at least a 3 feet reduction would be necessary. He said that with such a severe cut, a successful drainage system would be very difficult to implement. He said that he had not seen any proposed drainage plans. He said that the Town and the applicants would have to look very closely at the right-of-way, because without the necessary right of way, the sight lines would be very difficult to achieve. He said that researching the right- of-way should be the next step in the process.

He said that the questions that he had raised about the traffic engineering should be addressed and the missing information provided. He said that he hoped his recommendations would be implemented.

Asked about his comments in the review about school buses loading and unloading, Mr. Fitzpatrick said that he would be extremely averse to allowing a school bus stop on Feller Newmark Rd. at or near the project entrance site, even with the proposed road improvements. He said that in his opinion the school bus should enter the development on the proposed new road and load and unload children there. He said homeowners associations were normally reluctant to let the school bus load children on their private roads, but, he said, if the road were built to Town standards, there should be no real liability.

Asked whether he was so against a bus stop on Feller Newmark Rd. because of the sight distance to the east, Mr. Fitzpatrick said that the vertical and horizontal curves and the sight lines in both directions all made stopping hazardous. He said that the applicants' road profiles

used 8 ft. as the eye height because that was the height of the flashing school bus lights. He said that the applicants had used that height to justify a reduced sight distance. However, he said, in reality there was no difference between the stopping distance for cars at a lower eye height and the stopping distance for school buses or for trucks. He added that small children might be crossing the street. He concluded by saying that he did not recommend any stopping at all along that stretch of Feller Newmark.

Asked whether any of these issues would disappear if the speed limit were reduced, Mr. Fitzpatrick said no, that there was no limit that was slow enough. Besides, he said, there was no guarantee that drivers would abide by the slower speed limit. He said that the more familiar a driver was with a roadway, the faster he/she would drive.

Asked again about stop signs with additional signs warning of an upcoming stop sign, Mr. Fitzpatrick said that stop signs should not be used to control speed. He also said that the Town should not set a precedent of controlling a primary public road for the benefit of a secondary road. He said that the Town could hope that drivers would get used to the stop signs, but even so, the national protocol was that stop signs should not be used to control speed.

Kris Munn asked about the County and Town sight distance standards. Mr. Fitzpatrick said that the sight line distances in both directions should be 390 ft., that the stopping distance for 35 mph. was 250 ft. and that the turning sight distance was 285 ft. Kris Munn asked how those distances would change with a reduced 25 mph speed limit. Mr. Fitzpatrick said that while he did not have those calculations with him, he would still not reduce the sight distances in this case. He said that besides the curves, the road was narrow, there were no shoulders, and there were fixed objects along the road.

Kris Munn asked about the low traffic volume. Mr. Fitzpatrick agreed that there was low volume but said that the Town should take the whole situation into account—farm equipment crossing the road, etc.

Mr. Fitzpatrick said he believed that the road was not a short cut and that most drivers on the road were people who used the road all the time and were familiar with it, a fact which he said the traffic report did not address. He said that he would recommend pavement markings, such as white lines along the edges since there were no shoulders. He said that the accident history was consistent for this type of road-- mostly people driving too fast and running off the road. He said that people who are familiar with a road often ignore signs. However, he said, on this type of road, where the curves completely controlled the speed, a safe speed would not be more than 20-25 mph. He said that when he actually was on the site, most people were going about 20 mph.

Mr. Fitzpatrick ended by saying that the drainage system would probably have to be a closed system, since a large drainage swale would take up right-of-way land needed for the curve modifications. He said that once the road was cut, the slopes would be steeper, the runoff would be more and more rapid and there would be no place to put it.

Asked whether his opinions and recommendations would change if the number of proposed houses were fewer, he said no. He said that the location was the problem.

Christine Kane then opened the hearing for public comment.

Christopher Klose, Echo Valley Road, said that Feller Newmark Road was a historic road and that it would not retain its character with the proposed modifications. He said that the applicants would need to clear cut the mature trees along the road right-of-way in order to implement their plan. Finally, he said that the issue of drainage was an important one.

Christine Kane asked how the school bus operated now on Feller Newmark Rd. A parent from the audience said that there was a collection point at the O'Shea property and that parents drove their children there. The parent said there had been instances where drivers screeched to a halt behind the bus. She confirmed that for the most part, children did not walk to the bus stop.

Robert McKeon, Feller Newmark Rd., said that the cars and auto accidents posed a danger to children. He said that, while often the community had no ability to foresee and/or reduce dangers to children, this was an instance when adults actually had the opportunity to make a decision to not increase the risks to children. He said that in his opinion, the number of lots in the development did matter, since the amount of traffic would be greater with more lots, substantially increasing the probability of an incident.

He went on to say that if this project were approved, it would open the door for other flag lots on that road to be developed in a similar way, exponentially increasing the traffic volume on the road.

He said that the applicants had admitted that they did not know where the right-of-way was, although they were required to show it for a preliminary application. He also said that the existing sight line distances changed from plan to plan. He said in the newest submission, the applicants did not actually state the sight line distances for cars, and he was skeptical of their claim that a bus would have over 500 ft. of sight distance. He also said that the applicants had not actually fixed the location of the proposed access but that when they did, he would like another traffic engineer to confirm the measurements. He said that at a previous meeting, the applicants said the speed limit was 30 mph even though there were 3 signs posting the speed limit at 35 mph. He said he had little faith in the figures in the applicants' report.

Finally, he said that the Town had created a new zoning district, the Agricultural Business District, to promote the possibilities of agriculture. He said that residential density had a large impact on agriculture. He said that in this case, the last thing that should be done was to invite 11 homes and 106 car trips to line the entrance to an agricultural field.

Karen Jerro, 368 Feller Newmark Rd., said that David Baker, who owned the development across the street, had not been allowed to subdivide the large open lot in the back of the development because he did not have enough frontage, so she asked how these lots could achieve frontage when there was very little frontage on Feller Newmark Rd. Michele Greig explained that the Preserve lots would achieve their frontage on the new proposed road, and that Mr. Baker's development had a shared driveway, which did not give frontage. Ms. Darrow said that Mr. Baker's development had been a debacle since it was approved years ago.

Dan Dantzig, 34 Kristen Lane, asked how the Town could enforce the issues being brought up, such as maintenance for the new road. He said that it didn't seem that the Town was set up to make sure the applicants followed through on what they promised. Christine Kane said that the homeowners association would be responsible for maintaining the new road and for managing the open space. She said that the Town Engineer, the Building Department and any other needed consultants would inspect to make sure that the drainage and other development plans

were built according to the approved plan. Mr. Dantzig followed up by saying that this project seemed to him reminiscent of the Baker development, where the developer did not put in the drainage and other improvements required by the Planning Board approval, and yet his performance bond was returned. He also said that he had school age children and asked who would make sure that the new road was plowed if in fact the school bus did enter the road to pick up the area children. He said that he would now be dependent upon a homeowners association to see that the new road was safe for the bus. He said he did not know who would be accountable for all these major changes. He said that the Town engineer did not seem to come out, inspect or enforce the Baker development improvements.

Ann Wyrick, 355 Feller Newmark Rd., said that she was concerned that after such a long review process, the Planning Board members would be so invested in the project that they would not be able to say no. She regretted that she and other members of the community had been told that they could not speak until a relatively late date in the process, when the public hearing was opened.

Don O'Shea, 369 Feller Newmark Rd., said that he had 3 children, that he agreed with previous speakers about safety and that safety was the highest priority for him. He said that safety could not be increased without extreme mitigation, which would change the character of the road. He also agreed that approval would set a precedent for flag lot development in the Town. Finally, he said he understood that development was a business, that business was a risk and that sometimes people lose money when they take a risk.

Robert McKeon, Feller Newmark Rd., said that signage did not work. He said that there was already a "children at play" sign on the road and that people sped by that sign. He also said that the applicants had not submitted speed data, and he conjectured that it was because drivers went so fast. He said that Mr. Fitzpatrick would be shocked at how fast some people drove. He said the applicants should submit the collected speed data. He said that this was the most dangerous spot on the most dangerous road in the Town. Further, he said that the proposed mitigation including the tree removal would allow and encourage people to drive even faster.

He went on to say that the plan would virtually preclude any farmer who wanted to farm the large open space area because no farmer would drive his farm equipment past so many new residential homes to get to a field. Finally, he asked who would be responsible for maintaining the drainage infiltration system, since it would be draining other developments and other lots on the road.

Pete Hubbell, chair of the Agriculture and Open Space Committee, summarized a letter written by the Committee members after they had reviewed the project upon referral by the Planning Board. He said that first and foremost, the members believed strongly that the 89-acre open space/agricultural area should not be owned by the HOA but rather should be attached to one of the house lots in case the HOA should fail. He said that the Committee did not want to see the open space/ag area become an abandoned parcel. He said the building envelope for that combined lot could be in the open space area. Second, he said, the members were concerned about the dangerous entrance to the main road that would be used by farm equipment traveling to or from that large lot. Third, he said that there should be a more farmer-friendly configuration that encouraged farming of the large lot.

MaryAnn Johnson, Hapeman Hill Rd., thanked the Board for bringing in an independent traffic engineer. She said he had confirmed what the residents of the area had been saying about the sight distance. She said that Mr. Fitzpatrick had gone beyond the number crunching and had

looked at the practical application and at what actually happens on that road. Finally, she said that if the Board accepted the mitigation plan, it would have to step back and revisit SEQR.

Laurie Dahlberg 106 Feller Newmark Rd., said that she understood the effort to reach a compromise between development and agriculture, but, she said, the Town had spend a great deal of money investing in farmland protection and promotion and this development was not consistent with the Town's goals. She added that there were several large farms left on that road. She said that this project was not a "preserve", it was a development. Finally, she said that the area was already close to the tipping point of losing its rural and historic character.

Mr. Bodendorf then responded to some of the comments. He said that Mr. McKeon was correct when he said that different sight distances had been noted on different plans. He said that the applicants had been moving the development entrance in an effort to achieve the best sight distances. He said Mr. McKeon was also correct in asserting that the applicants had stated that the speed limit was 30 mph. He said that was a typo that had since been corrected.

Mr. Bodendorf said that he had, in his opening statements, laid out the sight distances as: sight distance left proposed with mitigation 305 ft., turning sight distance proposed with mitigation 290 ft., sight distance right 500 ft. needing no mitigation, stopping sight distance left proposed with mitigation 254 ft. and stopping sight distance right needed no mitigation. He said that the AASHTO standards the applicants were now using were not the reduced standards for low volume roads.

Christine Kane proposed a site visit to the property to look specifically at the road. The members generally agreed to find a weekend morning for the visit before the project was next on the agenda.

Since the next regularly scheduled meeting would fall on Martin Luther King Day, the members generally agreed to reschedule the second January meeting to January 28, 2013.

The members then continued the Preserve's public hearing until January 28, 2013.

Robert McKeon said that the applicants should fix the exact entrance location so that sight distance measurements could be taken and so that the Planning Board members could accurately assess the road at that spot. Mr. Bodendorf said that he would put a stake at the entrance location.

Karen Jerro asked that the Board look at the improbability of a 3-way stop at that location. Christine Kane said that the members would be looking at many issues.

Sam Phelan asked how the applicants would get the rights to make the proposed changes to the road. Christine Kane said that the situation would depend on whether the proposed work fell within the right-of-way and whether the Town Board and the Highway Superintendent agreed to the work. Sam Phelan asked whether the Town Highway Dept. would do the work or whether the applicants' contractors would do the work. Mr. Fitzpatrick said that normally the applicants' contractors would do the work under permit to the Town so that the Town would be protected. Charlie Laing said the project would become more complicated if the work extended beyond the right of way. Sam Phelan said that in that situation, condemnation of property rights would come into play.

Christine Kane said that she assumed the applicants would be doing more research into the right-of-way.

Michele Greig suggested that a list of issues be developed for the applicants to address and that these issues include those brought up at the public hearing. The Board agreed with her that the sight distance measurements must be resolved first. Michele Greig also said that one density question remained unresolved. She reminded the Board that a portion of the subject properties lay in the RD3 Zoning District and the rest lay in the AB Zoning District. She said that when the applicants submitted their density calculations, they showed a fractional lot in one zoning district and a fractional lot in the other. She said that they had added the two fractional pieces together to make one lot. She said that it was not clear that this combining of fractional lots was allowed under the zoning regulations, and she recommended that the question be referred to the ZBA for an interpretation. She said that the difference would be one lot, making the total number of lots either 10 or 11. The Board discussed whether the Planning Board could go to the ZBA with that question or whether the applicant must take it. The Board then generally agreed to authorize Michele Greig to find out and, if possible, take the question directly to the ZBA.

Michele Greig also said that the Board should decide which attorney she should be working with on the legal issues involved with the project—the Town Attorney Christine Chale or the Planning Board attorney Jennifer Gray. Christine Kane said that Planning Board attorney Jennifer Gray was the logical choice, although the right of way issues might involve both attorneys.

Sam Phelan brought up the letter from the Agriculture and Open Space Committee and its assertion that the Board should not delude itself into thinking it was saving farmland with this project. He said that there was no access to the back field other than the new road that traveled past 11 new homes. Christine Kane said that the soils and habitat studies indicated that agriculture might not be the best use for that open space and that there were valuable habitats there. Charlie Laing added that the property was not an agriculturally significant parcel. Michele Greig said that many of the soils would have to be drained in order for the property to be farmed successfully. Christine Kane said that there had been some talk about trails on that lot.

The Board then discussed the letter from Winnakee Land Trust asking that a conceptual building envelope be allowed on the open space lot so that, should the homeowners association fail, that lot would become a viable building lot. The Board generally agreed that under the current regulations, such an additional lot would not be allowed.

REGULAR SESSION – NEW BUSINESS

Lewis Ruge – 7311 South Broadway – pre-application conference

Lewis Ruge and Joe Charmello were present to discuss the possibility of allowing sheds, gazebos, outdoor furniture, hot tubs, bar-b-ques and other outdoor items to be displayed and sold at the former NAPA store location.

Mr. Charmello said that he owned Brad's Barns on Rte. 28 in Kingston and wished to open a similar store at the South Broadway location.

Christine Kane explained the TND-CC Zoning District, saying that parking must be at the side and rear of the building and that any outdoor display must be temporary and must be brought in at night.

Mr. Charmello said his business was dependent on an outdoor display and that he would need to put out a sufficient number of items to attract people. He estimated that he would put out at least 125 items at the height of the season.

Christine Kane asked whether he could advertise his items and keep them inside, making the store a destination rather than depending on impulse buying from passers-by. Mr. Charmello agreed that internet searches for the items and for the store would work for some people but said that people would not pick such items as sheds and gazebos out of a catalog. He said they needed to see examples of the items.

Mr. Ruge said that the new zoning regulations limited the types of businesses that would be allowed at several of his properties on South Broadway. He said that those properties had been developed with large display areas in the front. Christine Kane said that the new zoning also conferred new advantages to those properties; such as, allowing double the density and a long list of new permitted uses. She agreed that some uses from the past were no longer allowed.

Christine Kane said that the applicant should look carefully at the TND-CC zoning regulations and, if he decided to move ahead, he should come back for site plan approval.

ADJOURNMENT

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

Respectfully submitted,

Paula Schoonmaker