

**APPROVED  
TOWN OF RED HOOK PLANNING BOARD  
MEETING MINUTES  
November 17, 2014**

**CALL TO ORDER / DETERMINATION OF QUORUM**

Christine Kane called the meeting to order at 7:30pm and confirmed the agenda as published.

A quorum was determined present for the conduct of business. Members present: Christine Kane, Sarah Gilbert, Charlie Laing, Sam Phelan, Sam Harkins and Kallie Robertson. Also present were planning consultant Michele Greig, attorney Joel Sachs and engineering consultant Brandee Nelson.

Charlie Laing made a motion to adopt the minutes of November 3. Sarah Gilbert seconded and all members voted in favor.

**CONTINUED PUBLIC HEARING**

**Shapiro/Loopesko – 143 Woods Road – Special Permit**

Continued public hearing on special permit to remove trees within 1000 feet of the Hudson River.

Daniel Shapiro and Bonnie Loopesko were present to represent their project. Mr. Shapiro made changes to the full environmental assessment according to Michele Grieg's memo dated Nov. 16.

Ms. Loopesko asked what the specific window of time for cutting was with regard to the Indiana Bat habitat. Michele Grieg replied that the Indiana Bat habitat can be disturbed until March 30, however the proximity to the Bald Eagle habitat prohibits any cutting after December 1. Ms. Loopesko asked if all the work had to be done by December 1. Ms. Kane said all the proposed work within 1000 feet would have to be performed by December 1. She said the applicants could reach out to the Department of Environmental Conservation to inquire about permission to remove trees after December 1.

Sam Phelan made a motion that the board adopt a resolution establishing the Planning Board as lead agency for SEQR. Sam Harkins seconded and all members voted in favor.

After reviewing the Local Waterfront Revitalization Program Consistency Determination submitted by the applicants, Charlie Laing made a motion to adopt the determination. Kallie Robertson seconded, and all members voted in favor.

The Board then reviewed the full environmental assessment forms parts 2 and 3.

Mr. Laing made a motion to adopt a SEQR Negative Declaration. Ms. Robertson seconded and all members voted in favor.

Ms. Kane asked if there were any comments or questions from the public. There were none. Sarah Gilbert made a motion to close the public hearing. Sam Harkins seconded and all members voted in favor.

The Board reviewed a draft approval resolution. Sam Harkins made a motion to grant the special permit. Sam Phelan seconded and all members voted in favor.

### **CONTINUED PUBLIC HEARING**

#### **Willms Revocable Trust and R&R Development of Red Hook, Inc. Lot Line Adjustment, Site Plan**

Continued public hearing on proposed Lot Line Alteration to convey 0.10 acres from a parcel owned by Willms Revocable Trust to a parcel owned by R&R Development of Red Hook, Inc. located on Metzger Road, and site plan application to construct a single family dwelling in the TND/ Commercial Center district.

Mike Brown was present to represent the applicant. Ms. Greig asked if the applicants intended to subdivide the lot. Mr. Brown said not at this time, however, the applicant is considering it. Ms. Greig suggested that that decision be made and if the applicant decides to subdivide, the subdivision application should be submitted and considered simultaneously with the current applications for lot line revision and site plan. She added that a determination also needs to be made whether water would be supplied by a well or municipal water.

Ms. Greig suggested that the public hearing be continued to the next meeting so that SEQR could be completed before closing it. The Board and applicant generally agreed to continue the public hearing on December 1.

### **CONTINUED PUBLIC HEARING**

#### **Patrick Murphy Accessory Apartment – 163 Hapeman Hill Road**

Continued public hearing on special permit for an accessory apartment on a 3.15 acre parcel located in the RD3 zoning district.

Debra Murphy was present to represent her application. She submitted to scale drawings of the apartment as requested at the site visit Nov. 7, and acknowledged that it had been determined at the site visit that the living space exceeds the maximum allowed. She said they have applied to the Zoning Board of Appeals for a variance for 134 additional square feet.

The Board generally agreed to continue to public hearing Dec. 15 to allow time for the applicants to conclude their business with the ZBA.

## **OLD BUSINESS**

### **Anderson Commons – Fisk Street – Major Subdivision – Final Plat Approval**

Application for final approval of subdivision, site plan and special permit for construction of a 52 unit development partially in the Village of Red Hook and partially in the RD1 Zoning District in the Town of Red Hook.

Andy Learn was present to represent the applicant. He reviewed the history of the project, which was begun in 2006, and provided a general description of the project for the benefit of the newer members of the Board.

He said they are still working on water and septic issues, various agreements and legal issues. He said that it has been decided to have the homeowner's association maintain pond "1N".

Sam Harkins made a motion to grant the project a 90 day extension on preliminary approval. Sarah Gilbert seconded and all members voted in favor.

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

Continued discussion on application for Preliminary Subdivision Plat Approval to create 11 residential lots, one lot for the community septic system, and one open space parcel on approximately 100.45 acres in the AB (Agricultural Business) and RD3 (Rural Development 3) zoning districts.

Mike Bodendorf and John Wagner were present to represent the applicants.

Mr. Bodendorf said that they have responded to the latest engineering consultant's comments. Brandee Nelson said that she had reached out to the Fire Chief for comment on the turnaround areas for emergency vehicles but there has been no response yet.

Ms. Kane said that the Board recently received many letters from the public that are being added to the project file. She said that she wanted to discuss two particular items of information received recently. The first was a letter dated Nov. 17 to the Board from William and Jamie O'Farrell, which contained a copy of a permit issued Nov. 17 by the County Health Department to drill a second well on their property approximately 15 feet from the project's parcel and 30 feet from the proposed community septic system. In their letter, the O'Farrells urged the Board to delay their vote on the project since "critical elements of the application must now be relocated and reevaluated".

Ms. Kane asked Ms. Nelson to comment. Ms. Nelson said that there is an existing house with an existing well on the O'Farrell property that has historically been shown on the applicants map when they sited the community septic system. She said she presumed the existing well was serving the existing house. She added that she had called the County Health Department to find out if there was any particular issue that warranted the need for a new well, but was not able to speak to anyone at the time.

Mr. Bodendorf said he had spoken to Jim Napoli at the County Health Department. He said Mr. Napoli told him he did not know why the O'Farrells needed the well, and that although the applicants are required to notify the Department of any potential pollution hazards that may exist within 100 feet of any proposed well, the O'Farrells did not provide any information about the proposed septic in their application for the well. Mr. Bodendorf said Mr. Napoli told him he was going to look into the matter further.

Charlie Laing commented that if the well permit was granted based on the outdated subdivision plat that was included with the O'Farrell's letter and presumably used for the application, the permit was granted under faulty assumptions.

John Wagner reiterated that State sanitary code requirements clearly state that applicants must disclose the existence of any potential water pollution within 200 feet of a proposed well site, and said he found it hard to believe that the permit would have been issued if the applicant had indeed disclosed the information. Ms. Nelson commented that she would assume that the O'Farrells were aware of the location of the proposed community septic, judging by the contents of their letter.

Ms. Kane said that the second item that was recently brought to the Board's attention was a school bus accident in the vicinity of the project, wherein the school bus was forced off the road by an oncoming truck. She asked how that fit into the engineering of the road, and what might be done to keep vehicles in their lanes. Mr. Bodendorf suggested striping the road.

Ms. Nelson said that she had contacted the school Transportation Director, and he told her that the incident occurred Oct. 30, and there were no injuries and no police report filed. She said he told her that the driver of the bus said a truck pulling a trailer eastbound did not keep right, so the bus driver moved to the right and hit some branches that overhang the road. He said the bus was sent for repairs but the damage was not significant. He said since there was no report filed, he did not have a specific location for the incident, saying that it was "near but not at" the intersection of the proposed development.

Ms. Kane said that in some of the letters received by the Board there is a theme of taking of private property. She asked Joel Sachs to comment. Mr. Sachs said that if there were any taking of private property in conjunction with the road improvements or any other improvements, the applicant has indicated that they would be willing to defend and hold harmless the town from any claim related to the taking of property, and if a court did find a taking of private property and awarded compensation to the owner, the applicant would pay the compensation. He asked Mr. Wagner to confirm that. Mr. Wagner said that was correct, and added that he has suggested to the applicants to petition the town highway superintendent to alleviate some of the curvature on the road. He said that the town board would ultimately approve such a measure. He said that with regard to the vertical curvature, what they are proposing to do fits within the two rod width of the road, and will not disturb anything outside that. He added that everything he had heard about accidents on the road had

to do with people speeding, not paying attention, or driving with no regard to conditions on the road. He said that he felt the road signs proposed by the applicants would be beneficial.

Sam Phelan asked in terms of engineered safety if all the site line requirements had been met. Brandee Nelson replied that Feller Newmark Road does not meet modern design standards, and what the applicant is proposing to do is improve the vertical curve of the road which also improves the site line at the intersection. Sam Harkins noted that the proposal does not change the horizontal curve. Ms. Nelson affirmed that. She said that the road will be lowered about two feet, and a vertical retaining wall will stabilize the bank. Ms. Nelson concluded that the road will be improved, but it still will not meet modern design standards.

Charlie Laing said that the proposed improvements will also help to relieve currently existing drainage problems. Ms. Nelson agreed.

Christine Kane asked Ms. Nelson if it is true that as the project is proposed right now, there is no taking of private property. Ms. Nelson replied that is correct; all of the proposed improvements occur within the two rod right of way.

Ms. Kane asked for a motion to adjourn into executive session to discuss legal issues surrounding the project. Sam Phelan made a motion, Sarah Gilbert seconded and all members voted in favor.

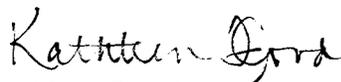
At the conclusion of the executive session, Ms. Kane asked Mr. Wagner if the applicant would consider extending the date by which the Board must make a decision on preliminary approval given the need to investigate the information received regarding the new well permit. Mr. Wagner said he would consult with the applicant.

The Board asked the applicants to prepare a summary of the project. Sam Phelan asked that the summary extend back to the SEQF determination. Joel Sachs said the summary should include what approvals are in place, when other approvals expected, as well as potential impacts of the project and mitigation measures and improvements that are proposed. He said the summary should help the public gain a better understanding of the project.

#### **ADJOURNMENT**

There being no further business to come before the board, Sam Harkins made a motion to adjourn. Charlie Laing seconded and all members voted in favor.

Respectfully Submitted



Kathleen Flood  
Secretary to the Board

**617.6**  
**State Environmental Quality Review (SEQR)**  
**Resolution Establishing Lead Agency**  
Type 1 Action

**Name of Action:** Shapiro/Loopesko Tree Removal

**Whereas**, the Town of Red Hook Planning Board is in receipt of a Special Use Permit application by Daniel Shapiro and Bonnie Loopesko for the selective removal of forty-one (41) trees on a portion of a ± 23.17 acre parcel of land located 143 Woods Road, Town of Red Hook, Dutchess County, New York; and

**Whereas**, a Full Environmental Assessment Form (EAF) dated November 7, 2014 and revised November 17, 2014 was submitted at the time of application; and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5 and within Chapter 68 of the Town Code, the Planning Board has determined that the proposed project is a Type 1 Action; and

**Whereas**, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not apply; and

**Whereas**, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

**Now Therefore Be It Resolved**, that the Planning Board hereby declares itself Lead Agency for the review of this action as it is the only involved agency; and

**Be It Further Resolved**, that a Determination of Significance will be made at such time as all reasonably necessary information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

On a motion by **SAM PHELAN**, seconded by **SAM HARKINS**, and a vote of

**6** for, and **0** against, and **1** absent, this resolution was adopted on **NOVEMBER 17, 2014**.

617.7

**State Environmental Quality Review (SEQR)**

**Negative Declaration**

**Notice of Determination of Non-Significance**

**Date of Adoption: NOVEMBER 17, 2014**

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:** Shapiro/Loopesko Tree Removal

**SEQR Status:** Type I   
Unlisted

**Conditioned Negative Declaration:**  YES  
 NO

**Description of Action:** The proposed action is an application by Daniel Shapiro and Bonnie Loopesko for a Special Permit from the Town of Red Hook Planning Board for the selective removal of forty-one (41) trees on a portion of a ± 23.17 acre parcel of land located in the Town's Waterfront Conservation Zoning District and Historic Landmark Overlay District.

**Location:** 143 Woods 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. After reviewing the Full Environmental Assessment Form (EAF) for the action dated Nov. 7, 2014 and revised Nov. 17, 2014, 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 proposed tree cutting will occur in an area that has been identified as potential habitat for Indiana bat and Bald eagle. The property is located approximately 15 miles northeast of abandoned mines where Indiana bats hibernate, which is within the potential seasonal migration distance for this species. There are active bald eagle nests in tall trees along the Hudson River, and bald eagles also winter along the river. To minimize impacts to these species, tree cutting at the project site be limited to the period between November 1 and December 1. Based on the foregoing, the proposed action will not result in any significant adverse environmental impacts on plants and animals.
4. The project site is located in the Hudson River National Historic Landmark District, which is on the State and National Registers of Historic Places, and within an area that has been identified as sensitive for archaeological resources. The proposed project will selectively remove potentially diseased and dangerous trees in proximity to buildings on the property. No clear cutting is proposed. The project site is heavily wooded and does not constitute a significant historic formal or informal landscape design. Subsequent to removal of the trees, the property will remain heavily wooded and the character of the landscape and the HL-O District will be substantially unaltered. The proposed selective removal of trees from this heavily wooded site will not result adversely impact the view shed of the property from the Hudson River. Based on the foregoing, the proposed action will not result in any significant adverse environmental impacts on historic resources.
5. The project site is located within an area that has been identified as sensitive for prehistoric activity by the NYS Office of Parks, Recreation and Historic Preservation (OPRHP). The proposed tree removal will leave stumps in place, and therefore, no ground disturbance that might impact archaeological sites will result from the proposed action. Based on the foregoing, the proposed action will not result in any significant adverse environmental impacts on cultural resources.
6. The project site is located within the Town's Local Waterfront Revitalization Area. In accordance with Section V.C.1 of the Town's Local Waterfront Revitalization Program (LWRP), the Planning Board has reviewed the LWRP policies and has determined that the proposed action is consistent with the coastal policies.

**For Further Information:**

Contact Person: Kathleen Flood, 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)

Daniel Shapiro and Bonnie Loopesko (applicant)

Sue T. Crane, Town Supervisor

Town of Red Hook Town Board

NYS DEC Environmental Notice Bulletin  
enb@gw.dec.state.ny.us

## **Resolution Granting Special Permit Approval to Shapiro/Loopesko Tree Removal**

**Name of Project:** Shapiro/Loopesko Tree Removal

**Name of Applicant:** Daniel Shapiro and Bonnie Loopesko

**Whereas,** the Town of Red Hook Planning Board has received an application for Special Permit approval from Daniel Shapiro and Bonnie Loopesko dated September 25, 2014 to remove forty-one (41) potentially diseased and dangerous trees within 1,000 feet of the Hudson River on a portion of a  $\pm$  23.17 acre parcel of (Tax Map Parcel No. 134889-6175-00-242433-0000) in the Waterfront Conservation Zoning District and Historic Landmark Overlay District in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the Planning Board has reviewed the application for Special Permit against the general standards for a special use permit found in § 143-51 of the Town of Red Hook Zoning Law and with the specific standards for development within 1,000 feet of the high water mark of the Hudson River found in § 143-30 and for development within the Historic Landmarks Overlay District found in § 143-46 and has found the proposal complies with all applicable sections of the Zoning Law; and

**Whereas,** on November 17, 2014, the Planning Board was designated the lead agency for the purpose of conducting a coordinated review of a Type I action pursuant to SEQR; and

**Whereas,** on November 17, 2014, the Planning Board reviewed the Town's Local Waterfront Revitalization Program (LWRP) plan in accordance with Section V.C.1 of the LWRP and has determined that the proposed action is consistent with the coastal policies; and

**Whereas,** on November 17, 2014, 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 project 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,** the Planning Board notified the Clerk of the Village of Tivoli of the public hearing pursuant to General Municipal Law § 239-nn; and

**Whereas,** on November 3, 2014, the Planning Board opened a duly noticed public hearing on the Special Permit application, which public hearing was continued on November 17, 2014, at which time all interested persons were given the opportunity to speak, and the Planning Board closed the public hearing on November 17, 2014; and

**Whereas,** the Planning Board had reviewed and deliberated on the application and all the matters before it.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board hereby grants Special Permit approval to Daniel Shapiro and Bonnie Loopesko to remove forty-one (41) trees within 1,000 feet of the Hudson River in accordance with the applications materials and specifications heretofore submitted upon the following conditions:

- A. This permit authorizes the removal of forty-one (41) trees within the portion of the property located within the Waterfront Conservation District, as shown on the map prepared by Georgre Vengrin dated August 4, 2014 and last revised September 23, 2014 and included in the Special Permit application for the project. No additional tree removal within 1,000 feet of the Hudson River on the subject property is authorized by this permit.
- B. Said trees shall be removed only between November 1 and December 1.
- C. All tree stumps shall remain in place.
- D. All representations, proposals, stipulations, restrictions, and similar statements made by the applicant and contained in the Full EAF and the negative declaration adopted by the Planning Board on November 17, 2014 shall be considered conditions of this Special Permit Approval.
- E. Payment to the Town of Red Hook of any outstanding fee amounts and reimbursement to the Town of costs incurred in reviewing the application.

In taking this action, the Planning Board has determined that no new residential building lots or dwelling units 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 **SAM HARKINS**, seconded by **SAM PHELAN**, and a vote of **6** for, **0** against, and **1** absent, this resolution was adopted on **NOVEMBER 17, 2014**.

Resolution declared: **ADOPTED** on **NOVEMBER 17, 2014**

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

  
\_\_\_\_\_  
Kathleen Flood, Clerk to the Board

11-18-14  
Date