

APPROVED

Town of Red Hook Planning Board Meeting Minutes November 20, 2006

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:35 p.m. and a quorum determined present for the conduct of business.

Members present — Paul Telesca, Sam Phelan, David Wright, Jennifer Fier (for part of the meeting), John Hardeman, Charles Laing and Chair Christine Kane. Planning Consultant Michele Greig was also present.

BUSINESS SESSION

Christine Kane said the order of the evening's agenda would be changed, with the Kesicke project leading off and the Anderson Commons project moved to the end of Old Business.

Christine Kane reminded the Board members to reserve a room soon if they wished to attend the Association of Towns training sessions in February and stay at one of the designated hotels.

The minutes from the October 2, 2006, the October 23, 2006 and the November 6, 2006 meetings had been sent to the members and reviewed. Charlie Laing made a motion to approve the October 2, 2006 minutes. John Hardeman seconded the motion and all members who had been present at that meeting voted in favor. Jennifer Fier made a motion to approve the October 23, 2006 minutes. Charlie Laing seconded the motion, and all members who had been present at that meeting voted in favor.

Several corrections were suggested for the November 6, 2006 minutes, all regarding the section covering the Sieverding project. Members generally agreed that the heading for that project should not be "Public Hearing" but rather "Old Business" and that the reference to 'public hearing' in the first paragraph below the heading should be changed to 'discussion'. In addition, the minutes should explain that although the project was originally scheduled for a public hearing, the hearing was never opened. Finally, at the bottom of page 4, the word 'prime' should be changed to 'valuable'. Jennifer Fier made a motion to approve the minutes with the above corrections. John Hardeman seconded the motion, and all members who had been present at the November 6th meeting voted in favor. Christine Kane and Sam Phelan abstained.

REGULAR SESSION (OLD BUSINESS)

Vosburgh/ Kesicke Farm – Middle Road & Rokeby Road – Subdivision Plat and Lot Line Alterations

David Wright recused himself from this discussion and left the room.

Mark Graminski, P.E. and L.S., Paul Vosburgh, Frank Vosburgh, and Anne Marie Vosburgh were present to discuss Subdivision Plat (sketch plan) and Lot Line Alteration

applications to create 2 new lots and to move 4 lot lines, all from 5 parcels totaling 206.1 acres, partially in the Town of Rhinebeck and partially in both the R 1.5 Zoning District and the RD3 Zoning District of the Town of Red Hook. The parcels are also in the Certified Agricultural District.

Christine Kane reviewed the minutes from the applicants' last appearance on May 15, 2006. She reminded the applicants that because of the complexity of the proposed changes, the Board had asked for plats consisting of two (2) linked sheets, one with existing lot lines and the other showing the proposed changes. The applicants said that they had submitted a farmland protection plan, as requested, but had not met with the Agricultural and Open Space Advisory Committee, as the Board had suggested at the earlier meeting.

Mr. Graminski said that the Farmland Protection Plan was based on the sketch plan submitted in May. He went on to explain the proposed changes, saying that all the changes on the south side of Middle Rd. could be achieved through lot line alterations but that the changes on the north side would involve a combination of subdivisions and lot line alterations. He added that the project was part of an estate planning design, the goal of which was to distribute equal parcels to all the children.

The Board and the applicants reviewed the zoning districts, RD3 and R1.5, that run through the parcels.

The Board generally agreed that the submitted Farmland Protection Plan did not meet the requirements of the Important Farmlands Law and that the Plan did not cluster proposed homes outside the areas containing valuable soils.

The applicants said that they wished to formulate a Farmland Protection Plan for each of the proposed final lots, not for the existing parcels as one entity. The Board generally agreed that the applicants had brought the project in "as a totality" and that the Farmland Protection Plan must be created on that basis.

Ms. Greig reminded the applicants that a cluster development must leave a minimum of 55% open space in the RD3 Zoning District and 40% open space in the R1.5 Zoning District.

Sam Phelan said that, with subdivision as the desired goal, the law requires that a Farmland Protection Plan be in place, that the Plan show minimal intrusion on valuable soils and that the homes be clustered on small lots.

Paul Vosburgh said that the cluster regulations also include the words "to the extent practicable" and that, for example, one of the proposed lots would be entirely comprised of prime soils, so that clustering off the valuable soils would be impossible.

Responding to the suggestion that the applicants apply to the Purchase of Development Rights program, Paul Vosburgh said that his family had discussed that option last spring and had rejected it.

Christine Kane explained the process for laying out a conservation subdivision, saying that the applicants should start by identifying the areas to be protected and then proceed to defining the areas available for housing. Mr. Graminski said he understood--that the

Farmland Protection Plan began by defining the boundaries of open space and the boundaries of development. The applicants estimated that there are approximately 48 acres of prime soils in the entire parcel block.

John Hardeman said that the submitted Farmland Protection Plan could be viewed as the full build-out, which is also required during the formation of a cluster development plan. He added that there seemed to be no central sewer system planned in that area for the foreseeable future.

The Board generally agreed that, since the parcels known as the Kesicke Farm are owned by the Vosburgh family as a corporation and since the plan was presented with the parcels considered together as one entity, the Town zoning regulations require the Farmland Protection Plan to be created for the parcels as one entity.

Paul Vosburgh disagreed with that assessment and requested a legal determination from land use attorneys at Keane & Beane. Christine Kane indicated that if the applicants submitted a written request to that effect, the Board would act on it.

Patrick & Debra Murphy – Feller-Newmark & Hapeman Hill Roads – Subdivision Plat

Attorney Andrew Howard, Patrick Murphy and Debra Murphy were present to discuss an application to create two (2) new residential lots of 3.02-acres and 3.152 acres and a 4.896-acre remaining lands lot from an 11.068-acre parcel in the RD3 Zoning District and Certified Agricultural District.

Mr. Howard said that the subdivision plan had been revised in response to comments the applicants had received during the combined Planning Board/AOSC site visit in September. He also referred to a letter dated November 1, 2006 from the applicants' surveyor Michael Dalbo stating that Mr. Dalbo's observations in the field regarding rock outcrops and the shallow depth of soil to bedrock led him to believe that the designation of those soils as "soils of Statewide importance" was incorrect. Therefore, Mr. Dalbo concluded, the requirements of a Farmland Protection Plan and cluster development should not be imposed.

Christine Kane reviewed a referral response from the AOSC which stated that the lots were not clustered and that for a variety of reasons, the plan did not provide for possible future agricultural use.

Mr. Howard said that those Planning Board and AOSC representatives who had participated in the site visit must have seen the limitations of the land. Asked if any fill had been brought in which might be covering the better soils, Mr. Murphy said no. Mr. Murphy said further that during the site visit, the AOSC representative had told him that "nothing was farmable" on the land and that Mr. Murphy had been led to believe that he would no longer be subject to the Farm Law. He said that he and his wife were surprised by the AOSC letter.

Mr. Howard asked if the Town Engineer would attest to the soil limitations. The Board generally agreed that the applicant would have to supply that information and suggested that the applicant contact the Dutchess County Soil and Water District or an independent soil expert. Craig Vogel, who was once affiliated with DCSWD and lives in Rhinebeck, might be another person to contact. Mr. Murphy said that he had brought both a

surveyor and a professional engineer into the project. He said that the engineer had conducted the deep tests.

Christine Kane said that the applicants could choose either to ask for a vote on the project immediately or they could choose to submit additional information from a soil expert. The applicants chose to try to contact such an expert.

David Wright emphasized that the letter from the professional must address the presence or absence of important soils on the property and the viability of agriculture on those soils.

(at this point, Jennifer Fier left the meeting)

Richard Hansen – Hapeman Hill Road & James Court – Subdivision Plat

Attorney Andrew Howard and Ray Jurkowski, P.E., were present to discuss an application for Subdivision Plat (sketch plan) approval to create two new residential lots of 3.18 acres and 12.57 acres and an approximately 7.31-acre remaining lands lot from an approximately 23-acre parcel in the RD3 Zoning District and the Certified Agricultural District.

Christine Kane reviewed an AOSC referral response which said that the submitted Farmland Protection Plan did not conform to a Farmland Protection Plan as outlined in the Important Farmlands Law.

Mr. Howard noted that the AOSC was advisory and that his clients had committed to preserving the best soils for agriculture, which, he said, is the goal of the Important Farmlands Law.

Mr. Howard went on to say that, as requested, his clients would permanently reserve land for agriculture, had located the building envelope on Lot 3 near a hedgerow to keep it out of sight, had provided a buffer and potential future access to adjacent farmland, had reduced the size of Lot 2, had limited the number of requested lots and had, overall, gone to great lengths to comply with the Important Farmlands Law.

There was general discussion about whether the Town could hold a permanent easement. The applicants were advised to contact Winnakee Land Trust and Dutchess Land Conservancy.

David Wright said that in his opinion the applicants had more than complied with the Planning Board's comments and requests. Christine Kane polled the Board, and the members generally agreed to endorse the sketch plan. The Board further scheduled a public hearing for 7:35 p.m on December 18, 2006, provided that an acceptable final plat is received before the date on which a legal notice must be submitted to the newspaper.

Anderson Commons – Baxter Road, Fisk Street and Glen Ridge Road – Subdivision Plat, Site Plan & Special Permit

Pete Setaro, P.E. and Keith Lore were present to discuss applications for Special Permit, Site Plan and Subdivision Plat Approval to create 50 residential building lots ranging from 0.12 acres and up and an open space lot from a 65.3-acre parcel, partially in the Village of Red Hook and partially in the R1 District in the Town of Red Hook.

Mr. Setaro said that the applicant team had met several times with the DEC regarding the stormwater management plan. Since there had been several revisions, the Town Engineer did not have time to thoroughly review the new plan for this meeting. Mr. Setaro said that the DEC had required that the stormwater from the roofs be separated from the stormwater draining from the roads, which would prevent pollution of all the stormwater by petroleum products from the roads. He said that the road stormwater would be treated in catch basins before it drained into dry wells, while the leaders from the roofs would direct that storm water into infiltrators. He said that the new Stormwater Pollution Prevention Plan had been submitted to the DEC and to the Town Engineer and that he hoped, by the next meeting, to have a letter from the Health Department saying that the plans technically meet that agency's requirements. He said that the DEC must sign off on the SWPP before the Health Department can officially approve it.

As a result of revising the SWPP, Mr. Setaro said, the applicants had lost one lot located near the stormwater detention area. He said that the remaining lots on that private road had been enlarged slightly and that the now vacant lot would be approximately 30 feet wide, flat, grassy and open. It would be part of the area owned and maintained by the Homeowners Association. The Board and the applicants discussed putting a pedestrian path on that lot.

Christine Kane reviewed a letter from James Napoli, dated October 10, 2006, which was written in response to a letter from the Planning Board expressing concern that the community sewage system might be overwhelmed if some of the rooms designated "den" on the plans were actually turned into bedrooms by the new homeowners. The Board had asked whether additional capacity should be built into the system to provide for that eventuality. Mr. Napoli had said that the size of the site would not allow additional capacity and that homeowners would have to abide by the approved plans regarding the number of bedrooms. Additional bedrooms would not be approved, he said. Mr. Setaro submitted an estimate of the sewage flow for the Commons.

Mr. Setaro said that all the fireplaces would be gas. Ms. Greig encouraged the applicants to use concrete paving instead of stamped, colored asphalt near the pavilion.

Among the remaining issues are whether the Town will own and maintain the stormwater detention area for the executive lots, a clear statement creating a buffer area at the front of the executive lots and prohibiting clear cutting of the trees along the street (preferably through a conservation easement), final assessments by the Planning Board attorneys of the various legal documents, and a determination by the Town Board about when Glen Ridge Road will be dedicated to the Town. The Planning Board will send a letter to the Town Board asking for an answer to that question.

REGULAR SESSION (NEW BUSINESS)

Steven Huber – 519 Budds Corners Rd. and 23 Guski Rd. – Lot Line Alteration

Steven Huber was present with an application to transfer a total of approximately 2 acres between two (2) existing adjoining lots to create two (2) lots of approximately 3.6-acres each, in the RD 3 Zoning District.

Mr. Huber explained that he had purchased the two lots from Central Hudson and that he hoped to build a house on one lot some time in the future. He thought the lots could be reconfigured into more appealing shapes.

Reviewing the GIS overlays, the Board and the applicants agreed that there was probably a federal wetland in the middle of one of the parcels. There are also soils of Statewide importance.

After considering whether the project could be eligible for the 'one lot exception' under the Farm Law, the Board generally agreed that, since the project does involve subdivision of the entire parcel, it could not.

The Board advised the applicants that each lot would need Department of Health approval but that that approval could be a condition of final subdivision plat approval.

The Board also advised the clients that either they could refer the project in its conceptual form to the AOSC and ask for preliminary comments or they could go ahead and begin the engineering, referring a more detailed plan to the AOSC at a later date. The applicants requested that the plan be sent to the AOSC for preliminary comments.

OTHER BUSINESS

Sketch plan to public hearing

The Board discussed how to proceed with a subdivision application after that application has received sketch endorsement but before a public hearing is noticed. The members generally agreed that 1) either the preliminary or final subdivision plat must be reviewed by the Board at a regular meeting before a public hearing is scheduled for that plat or 2) the preliminary or final subdivision plat must be reviewed by a Planning Board clerk and found to be consistent with the Board-endorsed sketch plan before public hearing notices are distributed. If the preliminary or final subdivision plat is to be reviewed by a clerk, it must be submitted before the customary deadline for submitted documents in order to allow for the required number of days between the publication of a public hearing notice and a Planning Board meeting.

Large lots on possible agricultural parcels

The Board discussed how best to work with applicants who offer to subdivide a parcel into fewer than the maximum allowable lots at the expense of a completely perfect Farmland Protection Plan. Some members thought that it was important to be somewhat flexible, depending on the particular application, and to realize that perfection was not possible in all cases.

Task force update & regulation revisions

Charlie Laing gave a short update on the progress of the Intermunicipal Task Force. The Board was particularly interested in what steps were being taken to revise the Important Farmlands Law. Several members said that the current regulations were overly onerous in certain cases where parcels were small, most of the soils were marginal or poor, and the applicants were in agreement that the valuable soils should be saved for agriculture. Ms. Greig reminded the members that the Board had finished its proposed revisions to both the Important Farmlands Law and the Conservation Subdivision regulations. John Hardeman said he disagreed with mandatory clustering and believed that forcing applicants to cluster in all cases was ineffective and inadvisable. Ms. Greig reminded the Board that it had the power to require clustering in a variety of circumstances and that, while the cluster regulations mandate a minimum of

55% open space, the Board has the power to require more if it believes valuable resources should be preserved.

ADJOURNMENT

Since there was no further business to come before the Board, David Wright made a motion to adjourn. John Hardeman seconded the motion, and all members present voted in favor. The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Paula Schoonmaker
Assistant clerk