

DRAFT
TOWN OF POUND RIDGE PLANNING BOARD
MINUTES OF THE MEETING
Thursday, April 22, 2010

Board Members Present: *Clay Fowler, Chairman*
 John Bria
 Andrew Brodnick
 Peter Efremenko
 Judy Kennedy
 Steve Kushner
 Samuel Mlynar

Also present: *Joe Barbagallo, Town Engineer*
 James Perry, Building Inspector
 Karen Taft, Administrator

The meeting commenced at 7:30 p.m. Mr. Mlynar chaired the meeting until Mr. Fowler arrived at 8:15 p.m.

Adoption of Minutes from the Meeting of March 25, 2010

Mr. Bria made a motion to adopt the minutes from the meeting of March 25, 2010, and Mr. Brodnick seconded the motion. All Board members present voted in favor.

Brokaw, 43 S. Bedford Road, Block 9452, Lot 12. Review and ratification of resolution of preliminary approval for a 3-lot subdivision of a 56.74± acre property that would be divided as follows: Lot 12.1 – 36.84 acres, Lot 12.2 – 10.05 acres and Lot 12.3 – 9.85 acres. Lot 12.1 has an existing residence and driveway. Lots 12.2 and Lot 12.3 would be accessed via a common driveway from South Bedford Road. Proposed construction associated with the subdivision involves two new residences, a bridge for access, improvements to culvert, improvements to spillway at existing large pond and septic systems. The property is located in an R-3A zoning district. Water Control Commission approval is also required.

Previous meeting dates: 11/20/08, 03/26/09, 04/23/09, 11/19/09, 01/21/10, 02/25/10
Public hearing opened: 01/21/10

Board walked property: 11/22/08
Public hearing closed: 02/25/10

Mr. Keith Simpson, Landscape Architect, and Ms. Geraldine Tortorella, Attorney, were present on behalf of the application. A resolution for preliminary approval had been prepared for the applicant. Ms. Tortorella had received a copy, and submitted her corrections via e-mail dated April 20, 2010. A revised resolution was submitted from Mr. Landler, Planning Consultant, on April 21, 2010 incorporating the 12 changes suggested by Ms. Tortorella.

Ms. Tortorella said that with this subdivision, it was not possible to combine preliminary and final subdivision approval because there are other agencies involved in the review. Mr. Mlynar requested holding the decision until Mr. Fowler arrived.

A memo had been issued from the Water Control Commission dated March 25, 2010 indicating that the pond modifications, bridge, potential house sites and driveways were feasible, but the Commission was concerned about establishing a building envelope for the two new houses. Mr. Perry said that Water Control will probably permit the site work for the bridges and pond work, and on final site plan review, they will issue the permit for the house site.

Mr. Efremenko asked about access to the ponds by the Fire Department. Ms. Tortorella said there are two dry hydrants on the property. Mr. Simpson said that when the lake is drawn down in order to work on the dam, they will consult with the Fire Department.

After Mr. Fowler arrived at the meeting, a motion to approve the preliminary approval was made by Mr. Efremenko. Mr. Bria seconded the motion, and all Board members voted in favor. Mr. Kushner commended the applicant for being so pro-active with such an environmentally sensitive property. He said that dealing with the process was a pleasure. Mr. Fowler commented that when Mr. Simpson brings an application to the Board that it is always well researched.

U.S. Summit Co. / Eastwoods LLC (Pound Ridge Golf Club), High Ridge Road, Pound Ridge, NY, Block 9316, Lot 18.9. Request for reduction of \$500,000 bond currently held by the Town to an amount of \$250,000, thereby releasing \$250,000.

Previous meeting dates: 01/21/10, 02/25/10, 03/25/10

Ms. Geraldine Tortorella, Attorney for the applicant, was present at the meeting. Mr. Barbagallo mentioned that there had been a meeting on April 13, 2010 with himself, Mr. Fowler, Mr. Jim Sullivan, Town Attorney, and Ms. Tortorella to discuss his previous memo dated February 22, 2010 relating to the bond release. He said that the discussion resulted in the issuance of a memo from Mr. Sullivan dated April 14, 2010 stating that he agreed with the applicant's request for the release of \$50,000 of the bond amount associated with the NYDOT sign off. Subsequent to that memo, Mr. Sullivan issued an additional memo on April 16, 2010 clarifying that the "sign-off" from the DOT must be delivered to the Town within 60 days, or the Planning Board will require the applicant to post an additional bond to secure completion.

Mr. Barbagallo reminded the Board that presently the Town is holding \$500,000. The draw down schedule is \$50,000 associated with DOT "sign-off", and there is an additional \$150,000 associated with the production of permits for the offsite work. Mr. Barbagallo recommended, based on input from Town Counsel, releasing the \$50,000 subject to the 60 day sign-off from the DOT. Ms. Tortorella said that if they don't get the sign off in 60 days, they would have to decide on the amount of that bond.

Mr. Kushner said that the first memo from Town Counsel supported the applicant's counsel's position that we had no right to hold money pending DOT work, and the second memo said that we can bond for the "sign-off". Mr. Kushner was not clear on the issue. He questioned why the money was being released if they were requiring a 60-day sign off. Mr. Fowler said that releasing that portion of the bond moves the process forward. Mr. Kushner felt that the memos were confusing as well as the process, but did not have an issue releasing \$50,000 out of the \$500,000 bond.

Mr. Fowler suggested that a memo be sent to the Town Board recommending release of \$50,000 of the bond currently held by the Town per the recommendation as mentioned in Mr. Barbagallo's memo dated April 19, 2010. Mr. Efremenko asked if Mr. Barbagallo had spoken with the DOT. Mr. Barbagallo said that he spoke with them on March 24. He explained that the DOT permit was signed by a permit engineer who did not have the authority to sign the permit. The only one with that authority is the resident engineer, and he had never given his authority to sign the permit. As a result, the resident engineer said that the work that was incorporated into the permit was insufficient. He said that if he was involved, the work would have been greater than what was otherwise in the permit and executed by the Golf Course. Mr. Barbagallo said that the work required is a gravel interceptive trench along the southbound lane of Route 137 in order to intercept any groundwater that is the cause of seepage in the center of the road. The other issue is the drainage that ties into a pipe that goes underneath Route 137 and discharges in front of the Marchetti property. Mr. Barbagallo said that there are some rocks in front of the pipe, which is at a low point. If the rocks are obstructing the flow, there would be significant ponding. Mr. Barbagallo spoke with Mr. Marchetti who said that the rocks had always been there. The only alteration he made was to the stone wall. He did not believe that the existing rocks were causing any condition that is of concern.

Mr. Barbagallo said that the third item is the pipe under the Sapirstein driveway that involves release from the Northwest basin of the Golf Course. The DOT felt that the pipe that was installed was too small and suggested that it should be upgraded.

Mr. Barbagallo agreed with the Town Attorney that if reposting of a bond occurs, there should be a detailed cost estimate.

Mr. Kushner made a motion to release \$50,000 of the bond currently held by the Town per the conditions listed in Mr. Barbagallo's memo dated April 19, 2010, specifically that the applicant provides a "sign-off" from the DOT within 60 days. If the sign-off is not forthcoming, the Planning Board will require the applicant to post an additional bond to secure completion. Mr. Mlynar seconded the motion, and all Board members voted in favor.

Tenney, 316 Stone Hill Road, Block 9816, Lot 71.9. Request for extension of previous site plan approval to renovate existing residence, garage and guest house on the property that exceeds the maximum building and lot coverage thresholds for an R-3A zoning district. Original approval granted May 22, 2008 and extension granted May 28, 2009 that expires on May 21, 2010.

Previous meeting dates: 01/24/08, 04/24/08
Resolution of approval: 05/22/08

Board walked property: 01/26/08
Extension of approval granted: 05/28/09

Ms. Tortorella was present on behalf of the application. Ms. Taft explained that the Tenney's original approval had expired, and they were granted an additional year extension that expires on May 21, 2010. When the original approval expired, Mr. Sullivan, Town Attorney, had advised that it was the Planning Board's decision whether they would grant an extension or require an amended resolution of approval.

Ms. Tortorella said that the Water Control Commission approval will expire in October, 2010. If they are not ready at that time for construction, they will have to request an extension with the Commission. Mr. Efremenko recalled the site and stated that he did not have a problem granting the extension. Mr. Perry questioned if the application had been reviewed for storm water. Ms. Tortorella believed that it had. Mr. Barbagallo did also. He questioned the amount of extensions that could be granted.

Mr. Mlynar asked the ramifications if the approval was not extended. Mr. Perry said that if there were no changes in our storm water regulations since it was approved, there would be no reason to deny re-approval. Mr. Brodnick asked if Mr. Barbagallo was comfortable that there is a storm water pollution prevention plan in place. Mr. Barbagallo said that he was comfortable that the storm water had been reviewed. He suggested granting the extension conditioned upon review prior to issuing a building permit in the event of any change of regulations. Mr. Barbagallo said that the only change in the regulation is a DEC change in Chapter 10 and was uncertain whether or not that would affect this project.

Mr. Mlynar said that the next meeting will be after the expiration of the approval. Mr. Perry suggested granting a 60-day grace period pending review of the storm water. Ms. Tortorella felt that the 60-day grace period made sense. Mr. Kushner questioned how many extensions were allowed. Mr. Bria asked if they would grant an additional year extension after the 60 day period. Mr. Mlynar said that they could reduce the time to 10 months. Mr. Perry noted Section 113-66 referring to expiration of approval and said there was no mention of extensions of site plan approval. Mr. Kushner was concerned that there was no reference to extensions. Ms. Tortorella said that the resolution provided a clause for extensions.

Mr. Kushner made a motion to grant a 60-day extension of approval expiring July 30, 2010. Mr. Efremenko seconded the motion, and all Board members present voted in favor.

Casarella, 264 Salem Road, Block 10047, Lot 67.1. Residential site plan review for the addition of a driveway loop to the existing driveway on the property that would exceed the maximum lot coverage threshold for an R-2A zoning district. The property consists of 2.073 acres.

Previous meeting dates: New application

This application was postponed to the May, 2010 meeting.

O'Neil, 20 Rock Hill Way, Block 9031, Lots 165 and 191.1 (private roadway).

Residential site plan review to construct additions to the east and west sides of the existing house, alterations to the parking area in front of the house, relocation of swimming pool, construction of a three-car detached garage with pool house on the second floor and expansion or replacement of the septic system. The proposed construction will exceed the maximum building and lot coverage thresholds for an R-3A zoning district. Lot 165 consists of 8.99 acres, and Lot 191.1 consists of 1.21 acres.

Previous meeting dates: New application

Mr. Patrick Croke, Architect, was present on behalf of the applicant. He said that the project is anticipated to be done in two or three phases over 2-3 years. The first phase would be the removal of a bedroom and an addition to the right side of the existing house. The later phase would be an addition to the left side of the house that would include the removal of the existing garage, kitchen, bedrooms above and replaced with a master bedroom on the second floor and new bedrooms and study on the first floor. The proposed garage would be detached from the house. The existing pool will be removed and replaced with a smaller pool in the area adjacent to the tennis court. The exact location is in question pending some testing.

Mr. Croke said that the updated site plan indicates the adjacent structures as requested. Ms. Kennedy questioned the two lots. Mr. Croke explained that Lot 165 is improved, and Lot 19.1 is the roadway. The calculations submitted are for the combined lots. Mr. Perry questioned why Mr. Croke indicated the calculations for the combined lots. He said that they should only apply to the single lot with the proposed additions. Recalculations without Lot 191.1 (roadway) will decrease the lot coverage.

Ms. Marian Kelly, 29 Bob Hill Road, was present at the meeting. Mr. Croke explained that most of the work proposed is on the opposite side of the house from her property.

Mr. Croke presented the site plan and elevations. He did not yet have sketches of the proposed garage. Mr. Croke explained that the garage would be built into the side of the hill, and the second floor would be used as a playroom and pool house. No bedrooms are planned on the second floor.

Mr. Croke said that Mr. John Annicelli is working with the Health Department regarding the possible use of the existing septic. Board members will walk the property on Saturday, April 24th.

Ms. Kelly questioned the orange tags that were placed on the property. Mr. Croke explained that they are to mark the wetlands. Ms. Kelly asked how many trees would be removed. Mr. Croke said that some trees will be removed on the opposite side from the Kelly's property. The garage will be built in an area that does not have trees.

Lion's Club Park – Referral from Town Board for recommendation for a Pumpkin Patch Park to be constructed on Town owned land located on Westchester Avenue adjacent to the Scotts Corner Market.

Mr. Gary Warshauer, Supervisor, was present before the Board. He said that the issue had been discussed briefly at the joint Town Board/Planning Board meeting held on April 8, 2010. Since the property is zoned R-1A and the use could be considered a farm use, activity on the property requires a special permit. The special permit process requires referral from the Town Board to the Planning Board for recommendation. A public hearing will be scheduled at the Town Board's work session on May 6, 2010.

Mr. Warshauer said that the Town Board has entered into an agreement with the Lions Club to use the property as a Pumpkin Patch Park. The Park will be located on the ½ acre Town owned property located off of Westchester Avenue in front of the Trinity Corners Shopping Center. Mr. Warshauer said that the Lions Club will restore a dilapidated area. The Garden Club and the Stone Wall Rebuilding Club are involved in the project. Mr. Warshauer explained that there is currently a break in the wall between the parking area and the ½ acre parcel that will be used for access. A portion of the site will be used for pumpkins and wild flowers. The balance of the site will consist of a garden of native species after removal of the invasive plants.

Mr. Warshauer requested a recommendation in favor of the project to the Town Board relative to the special permit. He said that the Lions Club had gone before the Conservation Board. The matter is also on the agenda for the Water Control Commission because of the proximity to the stream. Ms. Taft questioned the wood chips that were a problem with the DEC. Mr. Warshauer said that the DEC had decided that the wood chips were not a problem because the potential impact from the nitrates is relatively insignificant.

Mr. Mlynar asked if this would be the site for the pumpkin sale as well. Mr. Warshauer said that this was the site for the sale last year, which had prompted them to make it their permanent location.

Mr. Mlynar asked if the funding for the renovation would be from the Lions Club. Mr. Warshauer responded that it would be provided from donations. He said that the project would be phased in over time. They want to begin to create the area where the pumpkins will be planted.

Mr. Efremenko questioned the access. Mr. Warshauer said it will be accessed off the walkway and driveway and partly through Trinity Pass. Mr. Efremenko asked if there would be a problem with any future neighbors. Mr. Fowler said that currently the area is distressed looking. He noted the benefits of the site to the Scotts Corners area.

Mr. Bria made a motion to recommend the project to the Town Board subject to the review by the Water Control Commission, and Ms. Kennedy seconded the motion. All Board members voted in favor with the exception of Mr. Brodnick who recused himself since he is President of the Lions Club.

Informal Hearing

Cohen, Joshua Hobby Lane, Block 9317, Lot 21.9-4. Discussion of proposed revisions to the site plan approved for Kimmel on May 28, 2009.

Mr. Barry Cohen explained that he is selling his home on Highcliff Terrace and purchasing a new home on Joshua Hobby Lane. He said that the site plan for the property was previously approved by the Board for a 5-bedroom home for the Kimmels. The proposed house is downsized approximately 30% from what was previously approved. Mr. Cohen said that the Kimmels are purchasing his home on Highcliff Terrace.

Mr. Cohen had requested an informal hearing to inform the Board of his intentions. He will file a formal application and appear before the Board at the May meeting. Mr. Mlynar felt positively about the proposal.

Mr. Cohen said that there are no other changes to the plan other than the size of the house.

Discussion of policing powers concerning violations of non-permitted Planning Board approvals.

Board members discussed the powers of the Town to enforce a condition stated in the site plan approval for a gravel driveway that had been paved instead. Mr. Barbagallo said that there is a maintenance agreement that was signed for the property formerly owned by Mr. Jonathan Childs, Upper Shad Road. The agreement stated that no alterations be made to the surface course or drainage without prior approval by the Town Engineer and the Building Department. The agreement was signed by the new owner. Mr. Brodnick said that it was a breach of contract. Mr. Barbagallo said that it was a violation of approval, and there are associated fines.

Mr. Barbagallo noted that Mr. Childs had installed a storm water system that is now bypassed. The subsurface capacity that was provided is not being used, and the water is running down the road onto Upper Shad Road.

Mr. Perry stated that he had met with the homeowner regarding the issue. He mentioned that the Town is contemplating taking action against him. The homeowner said that he had hired engineers and can prove that there is less runoff than there was before. Mr. Kushner said that despite the runoff issue, there is an agreement. Mr. Barbagallo said that it is a clear violation of what the new owner had signed. Mr. Fowler said that it is an issue for the Town Attorney for practicality of action.

Mr. Warshauer said that it is a violation of site plan approval. Mr. Perry said that they did not get site plan approval. He said that this was the property that prompted them to require site plan approval for new construction. Mr. Barbagallo will forward the documentation he has to Mr. Warshauer.

Mr. Perry said that they could only revoke the CO through a State Supreme Court action. He said that the only CO's he can revoke are commercial. Mr. Warshauer suggested that the owner could create a pervious system in lieu of ripping up the existing driveway. Mr. Bria reiterated that it is a violation of the agreement with the Town, and it should be pursued. Mr. Perry said that the owner did not want to compromise. He pointed out that the owner desired to install a pool on the property.

Mr. Barbagallo suggested that in the future, associated requirements for the storm water pollution prevention plan as it relates to the site plan should be identified as notes on the site plan. He will provide standard notations that should be put on every site plan.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Karen B. Taft, Administrator
Planning Board