

**DRAFT**  
**TOWN OF POUND RIDGE PLANNING BOARD**  
**MINUTES OF THE MEETING**  
**Thursday, February 25, 2010**

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

**Also present:**                    *Joseph Barbagallo, Town Engineer*  
  *James Perry, Building Inspector*

**Absent:**                            *Judy Kennedy*  
  *Karen Taft, Administrator*

The meeting commenced at 7:30 p.m.

**Adoption of Minutes from the Meeting of January 21, 2010**

Mr. Efremenko made a motion to approve the minutes from the meeting of January 21, 2010 and Mr. Bria seconded the motion. All Board members present voted in favor.

**CONTINUED PUBLIC HEARING:**

**Brokaw**, 43 S. Bedford Road, Block 9452, Lot 12. Application 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  
Public hearing opened: 01/21/10

Board walked property: 11/22/08

Mr. Keith Simpson, Landscape Architect, and Ms. Geraldine Tortorella, Attorney, were present before the Board. Mr. Simpson said that the Fire Department was in agreement with the cleaning of the dry hydrants on the property.

Ms. Tortorella said that the SEQR circulation had been done, and she requested a determination. Mr. Efremenko made a motion to close the public hearing, and Mr. Kushner seconded the motion. All Board members present voted in favor. Mr. Fowler asked if Board

members were in favor of a negative declaration for the application. Mr. Efremenko made the motion, and Mr. Kushner seconded. All Board members present voted in favor.

Mr. Fowler asked the status of the application before the Water Control Commission. Mr. Simpson said that the Commission hadn't met the previous evening, but they will be on their agenda for the next meeting.

A resolution for preliminary approval will be prepared for next month's meeting.

## **OTHER HEARINGS:**

**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 \$700,000 construction bond. Consideration to allow temporary facilities on the golf course.

Previous meeting dates: 01/21/10

Ms. Tortorella was present on behalf of the application. She said that the Building Department and Town Counsel had directed them to appear before the Board to discuss the proposed temporary facilities. Ms. Tortorella said that groups of golfers come to the golf club for small outings. She explained that there is a flat area with a stone wall north of the 16<sup>th</sup> tee. They wanted to develop this area in order to provide light sandwiches and the ability to barbecue. Ms. Tortorella proposed a 25' x 40' temporary tent over the existing paved area. There would be no heating, electrical service or air conditioning in the tent. The tent would be erected in May and used through October from 12:00 noon to one-half hour before sunset. No outdoor music would be provided.

Ms. Tortorella presented an elevation of the tent with roll down side walls. Mr. Perry said that the feature of the walls would change the code requirements. He said they would have to have exit lights, and therefore electricity would be required. Mr. Perry said that New York State allows tents to be put in place for up to six months.

Ms. Tortorella also proposed an 8.5' x 22' self-contained mobile restroom. In addition, they proposed a mobile locker room near the existing temporary clubhouse within the paved parking area. Ms. Tortorella noted that it would also be self-contained. The locker room would remain for the season. Mr. Fowler asked Mr. Perry if this would present any problem concerning the code. Mr. Perry said that as long as they are not connected to shore power or shore water, they have no jurisdiction. Mr. Perry noted that the location of the tent is near Mr. Maddock's house. Ms. Tortorella said that there is an area around the tank where the tent could be placed. A gas generator was also proposed to provide the electricity.

Mr. Kushner asked for clarification as to why the applicant was required to appear before the Planning Board. Mr. Perry explained that he could authorize a permit for a tent because it was over a paved area, but was unsure about the other buildings. He said that as long as the buildings were not tied into shore power, they would not be considered structures. Mr. Perry had contacted Mr. Sullivan, Town Attorney, and Mr. Fowler. They said that it would be more expedient for the applicant to appear before the Planning Board. Mr. Perry said that as long as the buildings are not tied into electricity, they are not structures. Mr. Kushner said that if electricity is required, that it be used only for code requirements, specifically exit signs.

Mr. Kushner asked the time frame for the temporary clubhouse. Ms. Tortorella believed that the temporary clubhouse approval did not have an expiration date. She said that their intentions were to commence construction in the fall of 2009, and to be ready to open in 2011. Ms. Tortorella said that all the site preparation work including blasting had been done and was extremely costly. She said that she has come back to the Board to provide updates on a periodic basis. Unfortunately, she said, the cost and the return on the clubhouse does not justify pursuing the project. Mr. Fowler understood the economics. He said that if there are modifications to the clubhouse, there should be a discussion of the alternatives. Mr. Fowler said that he did not want the temporary buildings to be a permanent solution. Mr. Kushner suggested that there be a time limit. Mr. Perry suggested granting a temporary site plan modification that is to be renewed annually.

Mr. Efremenko asked if the two generators would run all day. Ms. Tortorella said she would clarify that. Mr. Perry said that the buildings could be hooked up to power, but it would be more costly. Ms. Tortorella said that there would be disturbance associated with the hook up. She will provide more information about the generators.

Mr. Fowler said there would be a one-year permit for the tent, mobile restroom and locker. He said that the tent would be constrained in that there would not be flaps.

Ms. Tortorella spoke about release of the \$700,000 construction bond. She had been asked to provide an update on the DOT connection between the northeast basin and the catch basin in the Route 137 right of way, and an update on the wetlands remediation for the Marchetti's and the Levithon (Mayapple) pond. Ms. Tortorella said that the as built survey was resubmitted and Mr. Barbagallo issued a memo stating the removal of irrigation lines. She said they received a permit to do the work in the State right of way, and received a sign off from a DOT inspector. Subsequent to that, a more senior person in the DOT said that there were not enough concessions, and they would not close out the permit unless they did the reconstruction. Mr. Barbagallo contacted Mr. McBride to request an explanation of the work to be done.

Ms. Tortorella said there are two issues. First, she asked about the rights of the Town to hold and use the bond. Second, she asked why the Town is acting as an overseer of the DOT's right of way. She stated that the Town is not the enforcement authority for the DOT. Ms. Tortorella said that the DOT wants a larger pipe installed, and mentioned that the smaller pipe was initially approved. Mr. Brodnick agreed that Mr. Barbagallo should contact the DOT with this issue.

Ms. Tortorella noted that the Marchetti plantings are scheduled for the spring. Concerning the Levithon pond, Ms. Beth Evans analyzed the samples, prepared a report and concluded that the pond had shown evidence of not being a healthy pond prior to the golf club construction. Ms. Evans said that the pond could be dredged. She provided an estimate for the cost of permitting and the work, which was under \$250,000. Mr. Barbagallo had suggested that the Board retain \$640,000 of the bond in order to secure completion of the work.

Mr. Barbagallo stated that colloidal materials is an element that came off the golf course and clearly what contributed to the coffee color of the pond. He explained that colloidal is so fine that it never settles. Mr. Barbagallo said that there could be additional requirements for permitting that they are not contemplating.

Ms. Tortorella said that the amounts are outrageous, and it is a fundamental question about whether the Town has the right to hold back money when there is no violation to go to offsite remediation. She suggested that they talk to counsel. Mr. Fowler asked what the remaining \$400,000 bond was for. Mr. Barbagallo said there is a cost differential for the Town to procure a contractor for remediation. In addition, there is a portion for growth of the project during the permitting process and a portion for growth of undefined items such as other work that will part of the final improvement plan subject to negotiation of the owner. Mr. Fowler asked if there was other work that is also incomplete. Mr. Perry noted that the numbers they are dealing with were provided by the applicant, not by the homeowner.

Mr. Kushner questioned the rationale for the original bond amount. Mr. Barbagallo explained that the \$700,000 amount was established after the bond reduction. Mr. Kushner asked if any portion of the punchlist that this amount was to cover had been completed. Ms. Tortorella said that almost all items had been completed. Mr. Fowler asked what other items are still outstanding on the bond. Mr. Barbagallo said that the DOT, Building Department and Health Department and DEC were part of the punchlist. He said that all agencies are satisfied with the exception of the DOT.

Ms. Tortorella said that in January, 2008, Mr. Barbagallo recommended that the remaining \$700,000 include an amount for wetland restoration for the offsite properties, and the amount noted was \$50,000. Mr. Barbagallo said that was before they were aware of the damage. Mr. Fowler asked that if the \$250,000 amount is correct for the bond, and \$50,000 is to be held for the DOT situation, is there another reason to hold an additional amount. Mr. Barbagallo said there is a permit risk. He proposed \$100,000 in potential growth of the project since the permit review. The remaining \$200,000 was for growth associated with the issues with the neighbors.

Mr. Kushner said that the discussion didn't satisfy him because there is no scientific understanding of the numbers. He suggested decreasing the bond by \$100,000, and the applicant could return for further reduction next month after understanding it better. Mr. Bria said he was not prepared to reduce the bond without seeing written estimates. Ms. Tortorella said that she had provided the estimates in writing. Mr. Efremenko said he could accept a \$100,000 reduction.

Mr. Barbagallo recommended a \$200,000 reduction, reducing the bond to \$500,000. Mr. Fowler agreed with a \$200,000 reduction. Mr. Brodnick made a motion to reduce the bond from \$700,000 to \$500,000. Mr. Mlynar seconded the motion. Mr. Fowler said that if more information is provided from the DOT, the Board would consider a further reduction. Mr. Barbagallo said that it could be stated that upon receipt of final DOT permit approval or determination by the Planning Board that the DOT has been appropriately satisfied, that a further reduction would be considered. Mr. Kushner did not agree with the \$200,000 reduction based on the chance that the Town would be responsible for the entire contract of whatever work was ultimately needed to be done.

Mr. Fowler asked for a vote to approve the \$200,000 bond reduction.

Mr. Fowler	-	aye	Mr. Bria	-	nay
Mr. Efremenko		aye	Mr. Kushner	-	nay
Mr. Brodnick	-	aye			
Mr. Mlynar	-	aye			

The motion passed 4 to 2.

**Sarah Davis Kessler Trust**, 152 Honey Hollow Road, Block 10255, Lot 7. Residential site plan review for demolition, removal and reconstruction of fire-damaged residence. The proposed construction exceeds the maximum lot coverage thresholds for an R-3A zoning district. The property consists of 6.94 acres. Water Control Commission approval is also required.

Previous meeting dates: 01/21/10

Board walked property: 01/23/10

Mr. Jeri Barrett, Landscape Architect, and Mr. Teo Sigüenza, Architect, were present at the meeting. He reiterated that the Board had walked the property on January 23, 2010. The site plan was updated according to the comments that were received, specifically, the porch originally proposed was removed. Accordingly, the building threshold was reduced and brought into conformity.

Another item previously discussed was the fire pond for use of the residents on Honey Hollow Road. The applicant agreed to the fire pond. The applicant will discuss the issue with the Water Control Commission. Mr. Mlynar asked the size of the pond. Mr. Barrett replied that it is 5-6,000 sq. ft.

Mr. Barrett said that the applicant had agreed to remove the tennis court lights. Concerning the demolition of the house, Mr. Barrett demonstrated how they would limit the disturbance. Mr. Barrett said that Mr. Barry Naderman has been working on managing storm water to compensate the new impervious areas. They are exploring a rain garden.

Concerning the pool equipment, Mr. Barrett said that it is antiquated and will be updated. In addition, the shed will be removed.

A resolution of approval will be prepared for next month. There is no need for the applicant to attend the meeting unless an issue arises with the Water Control Commission.

**Bedford Associates**, Honey Hollow Road, Block 10036, Lot 3. Residential site plan review for new construction of a single family residence and pool to be serviced by a drilled well, subsurface sewage treatment system and individual driveway. The proposed construction exceeds the maximum lot coverage threshold for an R-3A zoning district. The property consists of 16.75 acres. Water Control Commission approval is also required.

Previous meeting dates: 01/21/10

Board walked property: 01/23/10

Mr. Rich Williams, Insite Engineering, was present at the meeting. He presented hard copies of the NYSEG easement agreement. In the agreement, NYSEG did not expressly prohibit septic areas in the easement, but it was noted that they reserve the right to install overhead or underground utilities.

Mr. Steven Greenbaum, 48 Saddle Ridge Road, was present at the meeting. He had previously submitted an e-mail to the Board stating that a few neighbors were in the process of interviewing counsel and potential experts, but presently have not been able to finalize arrangements. Mr. Greenbaum had issues with the proposed application.

Mr. Barbagallo said that at the previous meeting, the applicant was going to check to see if the lot was a legal building lot. Mr. Williams said that he had provided calculations to the Board at the site walk and will include those with the next submission. Mr. Efremenko said that at the site walk, a comment was made to move the entrance of the driveway further south about 30 feet. Another comment was that the house should not be built at the summit of the hill, but slightly off the hill. Mr. Brodnick said there was not much room on the property to work with. Mr. Williams said that moving the house further north would be closer to the neighbor's house.

Mr. Williams discussed the issue of the neighbor's fences on their property. He said that his client is looking further into the matter.

Mr. Fowler said that the proposed location of the house is the most feasible. Mr. Williams said that the only option would be to build in the wetland regulated area or closer to the neighbor.

Mr. Fowler stated his dislike of detention basins. Mr. Williams said that they did not propose creating basins and berms, but to blend the drainage into the landscape and establish a natural vegetation and meadow to mask.

Mr. Fowler discussed the possibility of making the house smaller and less intrusive since the lot has significant mitigating circumstances. Mr. Barbagallo had issued a memo stating a lot of technical requirements.

Mr. Fowler asked if the septic system, without using the NYSEG easement, had been fully explored. Mr. Williams said that they had fully explored the matter. He said that the DEC made them demonstrate that there is no alternative for the septic area. The only viable SSTS area is adjacent to the western property line. Mr. Perry said that the DEC should be encouraged to seek a waiver so that the reserve area will not have to be cleared. Mr. Barbagallo suggested that, since they were requesting a waiver, in order to minimize tree clearing near the neighbors, the expansion area could be located at the northwest part of the property.

Concerning the storm water drainage, Mr. Barbagallo suggested taking some of the impervious surfaces in the other direction. He and Mr. Williams will work through the issue. Mr. Williams said that since the structure will be located on a hill, there are two points where the storm water leaves the property. He said it would be necessary to keep the existing patterns. Mr. Barbagallo was concerned with the roof drainage.

Mr. Fowler requested that elevations be submitted. The applicant will return to the Board when more information is available.

### **Proposed Revisions to Lighting Ordinance**

The Conservation Board had prepared a proposed lighting ordinance and submitted the draft to Mr. Fowler and Mr. Perry for their review.

Mr. Fowler commented that the proposed plan was wordy and contained too much technical data. He said that the plan was an attempt to give the Town more control in terms of light pollution. Mr. Perry had annotated the draft and noted the sections that were not legal under State or Federal

law. Mr. Fowler wondered if there was wide spread sentiment in the Town Board that this is needed.

Mr. Fowler deferred the matter to another time.

**Proposed Croton Watershed Plan** – referral from Town Board for review and recommendation.

The plan will be discussed at the next meeting.

The meeting adjourned at 9:36 p.m.

Respectfully submitted,

Karen B. Taft, Administrator  
Planning Board