

TOWN OF PLATTEKILL
PLANNING BOARD
P.O. BOX 45
MODENA, N.Y. 12548

FEBRUARY 25, 2014

THE MEETING OPENED WITH A SALUTE TO THE FLAG BY CHAIRPERSON CINDY HILBERT AT 7:30 P.M.

ROLL CALL: Chairperson Cindy Hilbert, Thomas Wilkin, Nathaniel Baum, Darryl Matthews,

PLANNING BOARD ENGINEER: David Clouser

Absent: Richard Gorres, Kathie Beinkafner, Judith Mayle

MINUTES

February 11, 2014

MOTION: Mr. Wilkin made a motion to approve the minutes with the following correction: Page 2, “*at the request of the applicant the order of the agenda was adjusted to discussion before new business.*” Mr. Baum seconded the motion. All ayes on the vote.

PUBLIC HEARING

DeStefano/Estate of Albert & Edward Moran Lot Line Revision (Denton Road)SBL#101.3-2-17.21 & 101.3-4-9

Ms. Hilbert read the public hearing notice. Ms. Brooks was present to present the proposal to the audience and Planning Board members. Mr. Baum reviewed the submitted green cards and receipts for the legal notice mailings. Ms. Brooks presented a Letter of Authorization signed by Jean Moran, for the file. There were no comments or questions from the audience.

MOTION: Mr. Wilkin made a motion to close the public hearing with Mr. Matthews seconding the motion. All ayes on the vote.

MOTION: Mr. Wilkin made a motion to *grant preliminary approval* with Mr. Matthews seconding the motion. All ayes on the vote.

MOTION: Mr. Wilkin made a motion to *waive the final public hearing* with Mr. Matthews seconding the motion. All ayes on the vote.

MOTION: Mr. Wilkin made a motion to *grant final approval* contingent on:

- All maps and mylars submitted
- All final fees paid

Mr. Matthews seconded the motion. All ayes on the vote.

Ms. Brooks will submit the maps and mylars for signature.

Hughes/McCarthy Lot Line Revision (Tuckers Corners Road) SBL#95.3-4-32 & 33

Ms. Hilbert read the public hearing notice. Mr. Matthews reviewed the green cards and receipts for mailings for the public hearing notices. Ms. Brooks presented the proposal to the audience and the Planning Board members. Two members of the audience came up and took a look at the map. Mrs. Tracy Krug stated she lived across the street and asked Ms. Brooks what the applicants were proposing to do with the land. Ms. Brooks explained that the applicant had no plans on doing anything with the land at this time. There were no more comments from the audience. Mr. Wilkin asked Ms. Krug if she had any issues with this proposal. She indicated she had no issues with the proposal.

MOTION: Mr. Wilkin made a motion to close the public hearing with Mr. Baum seconding the motion. All ayes on the vote.

Mr. Wilkin stated he asked Ms. Brooks about the Hertel Landfill which is in close proximity to the proposed lot line revision. Ms. Brooks provided a map which showed the environmental impact assessment areas, which did not impact the site. Ms. Hilbert asked the board members if they had any comments. The board members had no further questions or comments.

MOTION: Mr. Wilkin made a motion to *grant preliminary approval* with Mr. Matthews seconding the motion. All ayes on the vote.

MOTION: Mr. Wilkin made a motion to *waive final public hearing* with Mr. Baum seconding the motion. All ayes on the vote.

MOTION: Mr. Wilkin made a motion to *grant contingent final approval* with the following conditions:

- All maps and mylars submitted for signature
- Payment of all outstanding fees

Mr. Baum seconded the motion. All ayes on the vote.

The maps and mylars will be submitted for signature by the Chairperson.

There was a determination to go to discussion while the board waited for the next applicant.

DISCUSSION

MML Homes

Mr. Wilkin indicated the Town of Lloyd was going to have a public hearing on MML Homes this Thursday. Mr. Wilkin stated they did not notify the Plattekill Planning Board. Mr. Wilkin stated if this board was in agreement, he would like to bring up to the Town of Lloyd Planning Board how this public hearing would proceed. Mr. Wilkin stated this board was going to open up their public hearing and the Town of Lloyd would open up their public hearing, they would close their public hearing and the Town of Plattekill Planning Board would close their public hearing, after the Town of Lloyd comments are received. Mr. Wilkin stated Mr. Gorres had indicated he would be interested in going to the Town of Lloyd public hearing. The clerk will notify Mr. Gorres of the public hearing.

OLD BUSINESS

Orchard Heights-Proposed 8 Lot Subdivision (Palazzo Lane) SBL#95.1-7-29.314

Mr. James was present along with Attorney Kenneth Stenger. Mr. James stated he had a punch list from Mr. Clouser for items that needed to be completed (see Mr. James response comments dated February 25, 2014). Mr. James went over the response comments as follows:

- Documentation needed in regard to the Palazzo roadway dedication. Mr. James stated he contacted Town Clerk Barbara Dawes who provided him with the filing information.
- A revision date from 11/21/13 was missing on the plans and has been added
- Note #5 on the subdivision plans was updated because the soil remediation sheet was added to the subdivision plans.
- Limits of disturbance table on sheet #3 was added to revise the limits, since they combine lots #5 and #6 into lot #5.
- The typical grass swale detail was revised which increased the top of the swale to 6 feet instead of 4 feet, so it would make it a lot easier to mow the area.
- Sheet numbering has been updated, there are five sheets now.
- The dry well detail has been added to sheet #4 of the plans.

Mr. James stated they were going to discuss the comments from the fire department at tonight's meeting. Ms. Hilbert indicated she reached out to Mr. Gorres when he was at the December 2013 meeting, and he said that he was going to contact the fire department. Ms. Hilbert stated Mr. Gorres did send a quick e-mail with a response to her. Ms. Hilbert indicated she tried to reach out to Mr. Gorres again to get something a little more formal in writing to be included in the file because there were a couple concerns about the slopes and the driveways. Ms. Hilbert stated she would like to get something more formal from the fire department instead of just an email. Mr. James stated the email indicated that the chief would like a landing area on the road big enough to park an engine or tanker. Mr. James stated he is not sure that the fire department was able to see the plans, but they show landing pads on the plan at the top of the driveway where the fire truck could pull in. Mr. Matthews stated that he did give his copy of the plans to Mr. Gorres during the December 2013 meeting. Mr. Wilkin stated the email is generated from a third person, and the board needs to get a letter from the chief on Clintondale Fire Department letterhead. Ms. Hilbert stated if she doesn't hear from Mr. Gorres she would reach out to the fire department. Ms. Hilbert stated that she would copy Mr. James on any information she receives from the fire department.

Bond amount for the driveways-Mr. James stated he re-submitted a further breakdown to Mr. Clouser for his review. Mr. James stated Mr. Clouser's numbers came up slightly higher than his, and he is willing to accept Mr. Clouser's number. Mr. Stenger asked if they would need to post the bond as a condition of getting a building permit. Mr. Stenger added as long as there is no construction activity allowed on the lot prior to posting the bond, he would think it would be o.k. Mr. Wilkin stated that there almost has to be a note on the map, and in the deed. Mr. Stenger stated the question is, who is the bond going to be posted with and who is going to maintain the escrow. Mr. Wilkin asked Mr. Clouser how it was done for Hunt Road (a previously approved subdivision). Mr. Clouser stated it was set up that they were developing the whole subdivision and building everything at once and put everything up all at once, and the money was released when each lot was finally approved. Mr. Wilkin stated that someone needs to sign off that the job has been done right, and in his past experience he sees as a problem with that because in his past experience talking to the Building Inspector, he says that his authority doesn't start until the foundation of the house, and the Highway Superintendent says his authority ends at the curb cut, so the driveway is no man's land. Mr. Stenger stated they have agreed to post the cash to make sure that the driveway is built going into specifications that are approved by this board. Mr. Stenger added that there are alternatives in how to do this; post the bond in the aggregate; note on the map; restriction on the deed; no building permit without the posting of the bond in its minimum amount. Mr. Stenger stated that now the question is who is the bond posted with, who is going to maintain the escrow, is it the Town Board that is going to have to do that, and secondly on the inspection, he would suspect that it would be the Planning Board Engineer, because it is the Planning Board's concern that is being expressed here. Mr. Matthew stated his opinion is that he would want the engineer that approved the plans to begin with to do the inspection. Mr. Wilkin stated that he would like to send this up to the Planning Board Attorney for his advice. Mr. Stenger stated there is another issue which is, who is going to establish the escrow account and how is it going to be maintained, and can it be done by resolution of this Planning Board or do they have to have the Town Board establish it. Mr. Stenger added he would contact Mr. Shaw. Ms. Hilbert stated she felt that one of the conditions would be that they would want to have the approval by their Planning Board Engineer. Mr. Clouser stated there needs to be a way to pay for the inspection, which could come out of the bond. Mr. Clouser added he would say three percent a year for inflation. Mr. Stenger agreed with that. Ms. Hilbert stated they would do a condition on the map, and some type of condition on the deed. Mr. Wilkin stated he would like Mr. Shaw to review that. Mr. Wilkin stated when it comes to inspection on this, usually, the Planning Board does not get the bills for the inspection, it usually goes to the Town Board at that point, because the Planning Board is done with it. Mr. Stenger stated he would talk with Mr. Shaw, but when the Planning Board Chairperson signs the map, the Planning Board does not surrender continuing jurisdiction over the conditions of their approval. Mr. Stenger further stated that they could use the escrow maintained in connection with this application, keep it alive with a minimum deposit and when someone comes in and wants a building permit, they can deposit into that escrow, and the Planning Board would approve the payment. Mr. Wilkin stated the Town Board has asked the Planning Board to look at escrows, so this is something else that the Planning Board would need to talk about. Mr. Stenger stated he would like to get a resolution of final approval subject to;

1. Subject to fire department sign off

2. Subject to Mr. Shaw's sign off on the issue involving the swale
3. Subject to Mr. Shaw signing off on the bonding issue with the following conditions to Mr. Shaw;
 - a. They want Mr. Clouser to do the inspection
 - b. They are either going to post all the bond as a condition of filing the map or post it lot by lot with the red flags on the map and on the deeds

Mr. Wilkin questioned the bulleted item second from the last on the February 25th. response comments from Mr. James. Mr. James stated that line can be deleted. Mr. Clouser stated there was a question as to whether the driveways were going to be paved. Mr. Wilkin asked if that would change any of the stormwater. Mr. Clouser stated that the stormwater considers that the driveways are paved. Mr. Stenger stated this approval does not require or mandate paving. Mr. Clouser stated that the driveways have steep slopes and would be difficult to maintain without paving the steep part. Mr. Matthews stated his personal opinion was that you don't know what people are going to want, so you kind of have to leave it as generic as you can, so they can put their stamp on it. Mr. Wilkin stated he did not know if there should be two inspections, one before a building permit and one before a certificate of occupancy is granted. Ms. Hilbert stated she felt that there should be a final inspection prior to the issuance of the certificate of occupancy. Mr. Wilkin asked when do you give them the building permit, would it be before the driveway is done or after the driveway is done? Mr. Stenger stated that the only thing they really have left to talk about is the interconnection. Mr. Clouser stated in this particular location the cross access to the adjacent property to the west would not support a cross connection due to very steep dividers of the property boundary lines. Mr. Stenger stated a super majority of the Planning Board could reject that recommendation from the Ulster County Planning Board and site the basis for that rejection. Mr. Wilkin stated they could not do that tonight because they would need five members for a super majority. Ms. Hilbert stated that they are not going to have enough members for the March 11th. meeting, so the next meeting the Planning Board would be having would be March 25th. Mr. VanRostenberg, who was sitting in the audience asked to speak to the board. Mr. VanRostenberg stated he lives right next door to the proposed subdivision and has spoken to his neighbors, stating that there have been a lot of changes and they don't know what is going on with the County, and they want to know when the next board hearing is going to be. Mr. VanRostenberg stated they retained two attorneys. Mr. VanRostenberg stated there have been so many radical changes with the soil remediation and the flooding. Mr. Stenger stated that Mr. VanRostenberg has been familiar with this project for the last four years, and the public hearing on this matter was closed a couple of months ago. Mr. Stenger stated that Mr. VanRostenberg has counsel that has contacted him early on in the prior iteration of this, and his interest is in trying to keep some handle of some use of this land. Mr. VanRostenberg stated he is trying to prevent his attorney from filing an article 78. Mr. Wilkin stated this board does have a right to have a final public hearing if it deems necessary, but on the other hand, from when the public hearing was done originally, this has been downgraded. Mr. Wilkin stated they have less lots now than they had prior, so it is less of an impact. Mr. Wilkin stated there are less areas of disturbance, and he does not see that they changed the

plan so much to make it more intense or more of an impact on the area than it was before. Mr. Wilkin added that he felt it had less impact now. Mr. VanRostenberg stated the one thing that concerned one of his neighbors with her kids was the soil remediation. Mr. Wilkin stated that always happens in any orchard and the Ulster County Board of Health are the ones that approve that plan. Mr. VanRostenberg stated that the water comes down directly where the neighbors home are located. Ms. Hilbert asked Mr. VanRostenberg if he attended the public hearing when it was held a few months ago? Mr. VanRostenberg stated no. Mr. Wilkin stated Mr. VanRostenberg had attended the Zoning Board of Appeals meeting with his attorney, when this application was before that board for the flag lot issue. Mr. Stenger stated that if Mr. VanRostenberg's property borders this property, then the green cards that came back for the public hearing will demonstrate that Mr. VanRostenberg had been notified. Mr. VanRostenberg stated they didn't know what was happening with the Ulster County Planning Board. Mr. Wilkin asked Mr. VanRostenberg if the property was in his name. Mr. VanRostenberg stated he owns 90% of the business, but the property is not in his name. Mr. Matthews looked in the file for the property owner's name (Diana Merenda). Mr. Wilkin stated the total area of disturbance is 4.97, so they are just under five acres. Ms. Hilbert confirmed the address with Mr. VanRostenberg, and indicated that Ms. Merenda had been notified of the public hearing. Mr. Stenger stated that the record should reflect that the owner of that property received notice of that public hearing. Mr. Stenger added that since the public hearing has been closed, there have been modifications to this plan which have lessened the impact of the development, most critically by reducing the lot by one, by combining the driveways and coming up with other designs, all of which have lessened the impact that was initially identified through the process of the public hearing. Mr. James stated for the record in regard to the stormwater, there was a Stormwater Pollution Prevention Plan prepared which the purpose of is to mitigate any increase impervious areas or disturbance downstream, it was approved by the Planning Board and approved by the Ulster County Department of Public Works. There was an indication that the public hearing was held and closed on December 10, 2013. Mr. Wilkin stated that there has not been that much new since they have had the public hearing this past December, it's not like the public hearing was two years ago. Mr. Matthews (looking at the December 10th. minutes) indicated two people made comments to that public hearing. Mr. Wilkin addressed Mr. VanRostenberg in the audience and indicated that Mr. VanRostenberg would have to do what Mr. VanRostenberg felt he had to do, but that he was o.k., with not scheduling a final public hearing because they have lessened the impact. Mr. VanRostenberg stated his neighbors didn't even know what the County's decision was going to be. Mr. Stenger asked if the Ulster County Planning Board decision was in hand prior to the public hearing. Ms. Hilbert stated that the file indicates the Ulster County Planning Board reviewed this application on December 4th. Mr. Wilkin stated the application has to be in twelve days ahead of their meeting date, so it would have had to been in before the end of last November, but you also have to give the County notice of the public hearing just like anyone else, and they need a ten day lead in for that. Mr. Stenger asked when the next Planning Board meeting would be held. Ms. Hilbert stated March 25th. would be their next meeting. Mr. Stenger asked if it was possible to get a determination from the four members that were here this evening to make a decision as to whether or not you are going to do a final public hearing. Ms. Hilbert stated

she did not feel there would be a need for another public hearing. Mr. Matthews stated he did not feel that a final public hearing would be necessary, they have lessened the area of disturbance and there can't be any more runoff than is naturally there. Mr. Baum stated he would follow suit and say it would not be necessary. Mr. Stenger asked if the board would make a motion on that. Mr. Wilkin stated no, he would not be in favor of making a motion, because if something else turns out because of the fire department or something else, the board should have that option. Mr. Stenger stated based on the record that they already have, there would be no purpose in scheduling a public hearing, but they will leave the door open in case some fact should be developed between now and March 25th. that would be of significance to the board, then the board would be able to schedule that public hearing. Ms. Hilbert stated if she gets something back from the fire department with an issue that needs to be addressed, she will contact Mr. James. Ms. Hilbert stated Mr. Stenger will reach out to the Planning Board Attorney for the conditions that the board was looking at for protection. *The applicant will be scheduled for March 25, 2014. Mr. Stenger will notify the Planning Board Attorney for the conditions that need to be put in place.*

MML Homes Subdivision

Mr. Wilkin stated that he would be attending the Town of Lloyd public hearing for MML Homes and would try to communicate to them and get some feedback from them as to how they would be progressing.

ADJOURNMENT

MOTION: Mr. Matthews made a motion to adjourn with Mr. Baum seconding the motion.

All ayes on the vote.

The meeting adjourned at 9:40 p.m.

Respectfully submitted by
Susan Bolde, Planning Board Clerk