

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

JULY 9, 2013

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

ROLL CALL: Chairperson Cindy Hilbert, Vice-Chairman Richard Gorres, Thomas Wilkin, Judith Mayle, Nathaniel Baum, Katherine Beinkafner (arrived at 8:00 p.m.)

Planning Board Attorney: Jason Shaw
ABSENT: Darryl Matthews

MINUTES

May 28, 2013

MOTION: Mr. Gorres made a motion to accept the minutes with the addition to the sentence from Mr. Wilkin on page five, line three from bottom ... “to reduce the impact of the Quassaic watershed...” seconded by Mr. Wilkin. On the vote: Mrs. Beinkafner was not present to vote. All others present voted aye.

OLD BUSINESS

Fosler Road LLC-Site Plan- Multifamily Development (Fosler & Cotter Rd.)SBL#102.1-7-11.12

Mr. Moriello, attorney for the applicant was present as well as the project Engineer, Dennis Larios. Mr. Moriello stated he did not feel there were any other issues other than minor changes to the map. Mr. Shaw indicated that there was a typo on page five of the drafted final resolution where February 26, 2012 should be February 26, 2013. Mr. Shaw indicated there was a revision date of March 7, 2013 on the map, and he did not recall that those maps were reviewed at a Planning Board meeting. Ms. Hilbert looked through the file and indicated February 26, 2013 was the last time the applicant was before the Planning Board. Mr. Moriello added that the applicant had the maps in final form for a while. Ms. Hilbert paraphrased the February 26, 2013 minutes, and stated that Nadine Carney (prior representative for Fosler Road LLC) was going to do a cost estimate (for water and sewer construction and maintenance). Mr. Larios indicated they submitted a cost estimate. Mr. Moriello stated that the cost estimate would be looked at by Paul Keller, Town Attorney and the Town Board. Mr. Shaw stated that he tried to list all the outstanding issues that needed to be done (refer to page 7 and 8 of the draft final resolution). Ms. Hilbert stated that she received the following items from Mr. Moriello:

- the wellhead easement (which went to the Town Board)
- the open space formal agreement
- the negative easement agreement and;

- copies of the deed

Ms. Hilbert stated the following items were still outstanding:

- the property and facility maintenance agreement
- water and sewer system compliance
- right-of-way dedication
- provisions for the public recreation
- access easement (which must be shown and labeled with all pertinent information on both easement and subdivision map)
- and a copy of the license issued by the Town Board

Ms. Mayle asked Ms. Hilbert if those items were part of the conditional final approval. Ms. Hilbert stated yes. Ms. Mayle asked if all the outstanding issues were in the conditional final approval? Ms. Hilbert replied that everything that was stated was included in the conditional final approval, with the exception of the recreation fees. Mr. Shaw stated that he did address the recreation fees in the drafted conditional final resolution as follows; “...*resolved that the open space and recreational area requirements of the Multifamily Dwelling Law provide sufficient recreation areas, additional recreational areas under section 274 (a) of the Town Law are unnecessary, and the Board finds that the 15 dwelling units of the Project will not use a future need for additional park and recreational facilities in the Town...*” Mr. Shaw stated the Planning Board has to make that finding. Ms. Mayle asked if they could just agree that was going to happen rather than make a finding. Ms. Hilbert stated after the last meeting with the applicant, she met with the Supervisor and Mr. Clouser, Town Engineer along with Planning Board member Darryl Matthews and they discussed a 20% reduction on the recreation fees. Ms. Hilbert stated she knows that the Town Board had that conversation, but they did not make any decision as to whether or not to approve it. Mr. Shaw stated he thought the recreation fee was in lieu of recreational land. Mr. Moriello stated they do not have any public recreation. Mr. Shaw asked if the 15 unit development created a need for additional parkland or public facilities in the town? Mr. Shaw added, if you make a finding that it does not create a need for additional parkland or public facilities, then the recreation fee goes with that, because you can't charge a recreation fee. Ms. Mayle stated that the problem seems to be that the Town Board is not willing to waive that fee. Mr. Moriello stated he had a conversation with the Town Attorney, Paul Keller, and Mr. Keller was uncomfortable waiving the recreation fee, because it might set a precedent. Ms. Hilbert asked Mr. Shaw if he had anything to add. Mr. Shaw stated he wanted to clarify that the resolution was a draft and that he received Ms. Hilbert's comments, Ms. Mayle's comments and Mr. Wilkin's comments. Mr. Shaw added that he needed to get all the comments from the Planning Board. Ms. Hilbert stated that the Planning Board had discussed the recreation fee at their last meeting with the applicant, and discussed whether they should waive the fee or make a reduction and that is when the Planning Board came up with the 20% reduction which is what they went to the Supervisor and Town Board with. Mr. Shaw read NYS Town Law section 274 (a). “...*before such authorized board may approve a site plan containing residential units, such site plan shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes. Land for park, playground or other recreational purposes may*

not be required until the authorized board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for parks or recreational facilities in the town based on projected population growth to which the particular site plan will contribute. In the event the authorized board makes a finding pursuant to paragraph (b) of the subdivision that the proposed site plan presents a proper case for requiring a park or parks suitably located for a playground or other recreational purposes but that suitable parks of adequate size to meet the requirement can not be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the Town Board.” Mr. Shaw stated a finding has to be made. Mr. Moriello stated that this board discussed this at length and this board determined that there wasn’t a need. Mr. Shaw stated if the board didn’t make any findings that there is a need for it, then the default is there is no need, and if there isn’t a need then you can’t ask for money. Mrs. Beinkafner stated she would change one word after “resolve” (on the drafted conditional final approval) from “use” to “create” a future need for...”. Mr. Gorres stated the project may generate ten to fifteen kids, and they are going to have plenty of area for recreation there, he did not feel that the applicant should be charged a recreation fee, because the applicant is providing some kind of recreation. Ms. Hilbert stated she did not think that the Planning Board has the authority to waive the recreation fees. Ms. Mayle stated she had a problem with saying that the Planning Board is making a finding pursuant to section 274 (a). Ms. Mayle stated that the Planning Board has not gone out and looked at this Town and made a determination that these kinds of projects don’t have a requirement for additional land on the property, so if they want to make a finding that says for this particular project, based on the development that the applicant is proposing and the land that they are setting aside, and the size of the project, that there is no need for the recreation fees, then she is good with that. Mr. Shaw stated instead of saying there is no need for the fees he would say, there is no need for parks. Ms. Mayle stated that would be fine, but she did not want to tie it to section 274 (a) of the State Town Code. Mr. Wilkin stated they talked about all the proposed recreation facilities on this site plan, down the road, and he is not saying the applicant won’t do it, but if this applicant sold this property and it got in someone else hands, who is going to inspect that these recreational facilities go in. Mr. Moriello stated that the drafted conditional final approval now reads that additional recreational areas are not necessary. Mr. Wilkin asked what facts were they making this finding on. Mr. Moriello stated it would be the open space that is already there, the recreational land that they are providing. Mr. Shaw stated he could write the conditional final approval so that it is very specific and says “in this project.” Mrs. Beinkafner stated they could say “...that the open space recreational area requirements of the multi-family dwelling law and the site plan provides sufficient recreation areas.” Ms. Hilbert asked the Planning Board members if they had any further comments and if they were comfortable with the revision. Ms. Mayle stated on page seven, resolution #3 and #4, would it be the approval of the Town Attorney *and* the Town Board? Mr. Moriello stated yes, it would be the Town Attorney and the Town Board. Ms. Mayle stated #8, when would the recreational

improvements be constructed? Mr. Moriello answered if the recreational improvements weren't constructed the Building Inspector could ask the applicant to either construct the improvements or post money. Mr. Shaw stated the applicant can build the recreational improvements and then the maps get signed. Mr. Moriello stated his clients want to build the recreational improvements, they do not want to bond. Mr. Shaw asked if the applicant would rather withhold the certificate of occupancy for the buildings? Mr. Moriello stated the Town does not have to withhold the certificate of occupancy, his clients are going to build the recreational improvements. Mr. Shaw asked Mr. Moriello what the recreational improvements would be. Mr. Larios stated it would be the paths and the field and trails. Mr. Shaw asked what the field would be built for. Mr. Larios stated for general recreation, and then there are other areas set aside for hiking. Mr. Shaw asked what was shown on the map for recreation. Mr. Larios stated there is 2% slope grass area and an open playing field for active recreation, approximately 150 by 250. Mr. Larios stated there is crushed stone for walking and bike paths. Mr. Shaw stated he would like to talk to the Town Attorney and get his opinion about what he thinks of this language. Mr. Shaw stated he will talk to Mr. Keller before the next Planning Board meeting. Mr. Moriello stated the section of the code was 110-22 (5). Ms. Hilbert stated on page 8, #6 of the drafted final approval resolution, "the applicant shall obtain approval of the Planning Board Attorney for the wellhead protection easement"...it should be "Town Board" and "Town Attorney." Mrs. Beinkafner stated on page 1 of the draft conditional final approval, the word "purse" should be "pursue." Mrs. Beinkafner added that the top of page 2, "Whereas, on or about June 15, 2011 the "Town..." would that be Town Board or Zoning Board. Mr. Shaw indicated it would be the Town Board. Ms. Mayle stated on page 2 of the draft conditional final approval, "Whereas, pursuant to section 110-22 (d)(10), the Applicant is required to also comply with the requirements of New York Town Law section 274-a(6)..."in section of the code 274-a(6) it makes a special provision saying that just because you are putting recreation facilities on this project, it is not to be considered as part of the review under 274-a(6). Ms. Mayle stated that section of the drafted conditional approval should be revised because it is still referencing section 274-a(6). Mr. Shaw stated they could just take that section out. Mr. Shaw stated he would revise the draft conditional final approval resolution. Mr. Moriello asked Mr. Shaw if he would be calling Mr. Paul Keller, Town Attorney. Ms. Hilbert asked Mr. Shaw if he would include her on that conversation as well. Mr. Shaw stated he could do a four person call. Mr. Shaw added that they are cutting out the bonding for the recreation facilities. Ms. Hilbert stated the consensus of the board was that they did not feel it was necessary to bond out the recreation facilities. There was discussion that the applicant would be scheduled for a Planning Board meeting on August 13th. 2013. Ms. Hilbert brought up the fact to Mr. Rosato, owner of the property that a letter was sent in June to increase the escrow to \$4,000.00. Mr. Rosato stated he thought he mailed the check, and he would check to see when it was mailed.

The applicant will be scheduled for August 13, 2013.

DISCUSSION

Town Board Memo regarding Paribelli 3 Lot Subdivision and road issue

Ms. Hilbert indicated the Town Board had discussed this issue and everyone on the board with the exception of Mr. Croce was in favor of allowing Mr. Paribelli an exception to the private road specifications.

Private Road Specifications

Ms. Hilbert stated the Supervisor sent a memo to the Planning Board regarding the road specifications. The Town Board realized that there are some issues with the private road specifications and Mr. Croce would like to set up a meeting with her and maybe one other board member and Mr. Wager, Highway Superintendent and possibly a Town Board member to work on revisiting the private road specifications.

BFGJ Inc.-Closed site plan (Maple Avenue) SBL#95.9-1-18 & 19

Mr. Jacobini of Heckerth Plumbing & Heating was present to discuss the above closed application with the Planning Board members. Ms. Hilbert asked Mr. Jacobini if he would give a little history of the project. Mr. Gores stated that MR. Jacobini came before the Planning Board about four or five years ago, he moved into what was previously a grocery store, he had to come to the Planning Board because it was a change of use. Mr. Gorres stated he came to one meeting where he was given a list of items to address, one was the illegal apartment and parking and septic issue. Mr. Jacobini stated Mark Jaffee, prior Building Inspector, approved that apartment. Mr. Jacobini stated that they change the Code Enforcement Officer's and the rules and what they want changes with that. Mr. Jacobini stated as far as the septic is concerned, he went to the Ulster County Health Department and they said they don't have a record on anything, the only thing they have a record on is the UV light system that they made him install ten years ago. Mr. Jacobini stated he is willing to pay the \$1,500.00, but if he is not going to be able to expedite this along, he has got to make a business decision whether he is going to move to New Paltz or stay in Plattekill. Mr. Jacobini stated he would like to know how close he is to finishing this, he has been there for six years now. Mr. Gorres stated what the Planning Board has to do is sit down with Ms. Brooks and figure out where they are going to go with this application. Mr. Wilkin stated the file was closed, and there is an outstanding voucher for Mr. Clouser. Mr. Jacobini stated that outstanding voucher has been paid, he just gave the clerk the check. Mr. Jacobini stated he was told to put in handicapped parking, but you are not going to bring this up to modern day code. Mr. Wilkin stated the Planning Board can't waive that code. Mr. Wilkin stated Mr. Jacobini really doesn't have the density on the property it is 6/10's of an acre with no municipal water and sewage. Mr. Jacobini stated there has always been more than one use on that property, there has always been apartments and there has always been a store. Mr. Wilkin asked if the uses were grandfathered in. Mr. Jacobini stated when George Sealey was there it was a grocery store (IGA). Mr. Wilkin stated that was a pre-existing, non-conforming use. Mr. Wilkin stated Mr. Jacobini lost that use. Mr. Gorres stated between the time that Mr. Sealey closed the store and Mr. Jacobini moved in, a year had lapsed. Mr. Jacobini stated that the State collected tax from George Sealey eight months before he moved in there officially. Ms. Mayle stated one of the issues was that Mr. Jacobini had to show how long the store was abandoned by supplying prior proof, such as taxes. Ms. Mayle asked Mr. Jacobini if he was putting together a new application. Mr. Jacobini stated if he does put together a new application is he wasting his time? Ms. Mayle stated the property is severely sub-standard.

Mr. Jacobini stated he is the only one who has a septic system and leach field in the Clintondale area. Mr. Jacobini stated his property has more than the other properties around it. Ms. Mayle stated that Mr. Jacobini has three units on half an acre, it may be required that he has to go to the Zoning Board for a variance. Mr. Jacobini stated he could also sit there and wait until he is shut down. Mr. Jacobini further stated that he wants to know if he would be wasting his time going back before the Planning Board. Mr. Gorres stated Mr. Jacobini has to weigh what it is going to cost him to stay versus moving his business to New Paltz. Ms. Mayle asked Mr. Jacobini if he had anything from the Ulster County Health Department saying that his septic was sufficient to service those three apartments and the business. Mr. Jacobini stated that the Ulster County Health Department told him that the septic was not their problem. Mr. Gorres stated what Mr. Jacobini has to prove to the board is that what he has is sufficient for three apartments and his business. Ms. Mayle stated once the building has been vacant for a year, you lose the use. Mr. Jacobini stated that during that so called vacancy there was a pizzeria that was getting ready to move in there, and that deal fell apart, there was work being done. Mr. Wilkin stated if they had a building permit to do modifications to the store, then Mr. Jacobini could have the Building Department pull the permit and that would show that there was activity then. There was a consensus from the Planning Board members that Mr. Jacobini should get his paperwork in line to show proof that the building was occupied prior to Mr. Jacobini's starting his business at that location.

VOUCHERS

Jason Shaw, Planning Board Attorney

Voucher-in the amount of \$140.00 to come out of the Fosler Road LLC escrow for legal review by Jason Shaw, Planning Board Attorney.

MOTION: Mr. Gorres made a motion to approve the voucher for payment with Mr. Wilkin seconding the motion. All ayes on the vote.

David Clouser, Planning Board Engineer

Voucher-in the amount of \$72.75 to review final resolution to come out of the Fosler Road LLC escrow account.

MOTION: Ms. Mayle made a motion to approve the voucher for payment with Mr. Gorres seconding motion. All ayes on the vote.

Voucher-in the amount of \$377.60 to come out of the Huckleberry Bluestone project escrow account for engineering review by David Clouser.

MOTION: Mr. Gorres made a motion to approve the voucher for payment with Mrs. Beinkafner seconding the motion. All ayes on the vote.

Walden Playboy

The Planning Board discussed the Walden Playboy project. Mr. Wilkin recused himself from the discussion. Ms. Hilbert stated that the Planning Board would send a letter to the applicant's representative indicating Walden Playboy was being requested to appear before the Planning Board to update the board. Ms. Hilbert stated the Town Board would be copied on the letter.

ADJOURNMENT

MOTION: Mr. Gorres made a motion to adjourn with Mrs. Beinkafner seconding the motion
All ayes on the vote.

The meeting adjourned at 10:00 p.m.

Respectfully submitted by
Susan Bolde, Planning Board Clerk