

Meeting of the Planning Board of the Town of Lewisboro held at the Town Offices at Orchard Square, 20 Cross River Plaza, Lower Level, Cross River, New York on Tuesday May 7, 2013 at 7:30 P.M.

Present: Jerome Kerner, Chairman
Ronald Tetelman
Gregory LaSorsa
John O'Donnell
Jan Johannessen, AICP, Kellard Sessions Consulting, Planning/Wetland Consultant
David Sessions, RLA, AICP, Kellard Session Consulting, Planning/Wetland Consultant
Joseph Cermele, PE, Kellard Sessions Consulting, Planning/Wetland Consultant
Lawrence Praga, Esq., Planning Board Counsel
Margaret Clark, Esq., Special Counsel
Aimee Hodges, Planning Board Secretary

Absent: Robert Goett

The Chairman called the meeting to order at 7:30 P.M. and noted the emergency exits. The Chairman announced the enactment of Local Law 2-2013 amending Section 195-15(G) and Local Law 3-2013 amending Section 217-6(F)(6)(d) relative to the notice requirements for public hearings. He briefly reviewed the modifications. He advised that these laws could be found on the Town's website, www.lewisborogov.com.

I. DECISION

New Cingular Wireless PCS, LLC (AT&T), applicant (Vista Fire District, owner of record), 377 Smith Ridge Road, Vista – equipment upgrade

Anthony Morando, Esq. of Cuddy & Feder, LLP was present.

Mr. Johannessen reviewed the draft resolution prepared for the Board's consideration.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the resolution Exemption from Requirements, New Cingular Wireless PCS, LLC (AT&T), Tower Facility at Vista Fire Department, 377 Smith Ridge Road was adopted.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

II. PROJECT REVIEW

New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant (Ash Tree Development, owner of record), 117 Waccabuc Road, Goldens Bridge – co-location – Applications for Special Use Permit & Wetland Activity Permit Approvals

Michael Sheridan, Esq. of Snyder & Snyder, LLP was present.

Mr. Sheridan reviewed the application to co-locate Verizon Wireless antennas on the proposed tower recently approved for Homeland Towers, LLC. The submission this evening responded to the comments received at the April 9th Planning Board meeting. He requested the scheduling of the public hearing.

Mr. Johannessen reviewed the May 3, 2013 Kellard Sessions memo to the Board.

Mr. Kerner referred to the CAC memo dated April 30, 2013, which noted that that the applicant is requesting to utilize a diesel powered generator and asked for clarification as to why the fire code is an issue relative to the use of a propane fueled generator.

Mr. Sheridan advised that this had been addressed in the April 22nd submission.

Mr. Kerner questioned whether the diesel fuel would be fully contained should there be a leak.

Mr. Cermele advised that the manufacturer's specs stated that the secondary container on the double walled tank could hold 125% of the volume in addition to the alarm system.

Mr. Tetelman asked for clarification with the decibel levels of the generator and was advised by Mr. Johannessen that the noise level is 62 feet from the unit to the property line.

The public hearing was scheduled for the June 11, 2013 agenda. It was the opinion of counsel that the new regulations regarding the notice requirements for public hearings would not apply to this application.

At the completion of her services for the evening, Ms. Clark exited at 7:45 P.M.

Rudolph Petruccelli, Oscaleta Road, South Salem – Applications for Final Subdivision Plat Approval & Wetland Activity Permit Approval to construct a single-family residence – Cal. #'s 8-12 P.B. & 61-09 W.P.

Rudolph Petruccelli, PE was present.

Mr. Tetelman had previously recused himself from this application and stepped down from the podium.

Mr. Petruccelli displayed and reviewed three alternative mitigation plans. He advised that he would need input from the Board as to which plan they preferred because the consultants have requested that he provide fully developed detailed plans.

Mr. Johannessen reviewed the April 5, 2013 Kellard Sessions memo to the Board. He reviewed the revised mitigation and advised that the Board may wish to discuss whether the use of permeable pavers should be considered as mitigation or as a design feature.

Mr. Kerner advised that the Board would like to set a hearing date and determine whether Mr. Petruccelli had a preference as to which alternative he would like to move forward with or whether he preferred to present all three.

Mr. Praga noted that once Mr. Petruccelli had determined which alternative he preferred, a public hearing could be scheduled.

Mr. O'Donnell suggested that another site visit be scheduled given the public interest and noted that only two members of the Board had attended the previous visit. Once Mr. Petruccelli selected his preferred alternative, the Board would want the site staked so that it could be clearly understood what is being proposed.

Mr. Kerner suggested that it might be wise to look at off-site mitigation to achieve the required 1:1 mitigation. He expressed concern with the pavers being utilized as mitigation.

Mr. Petruccelli advised that he could achieve the required 1:1 mitigation for alternatives 2 and 3 without the permeable pavers.

Mr. Sessions advised that the code points out some general and some specific forms of mitigation. Pervious pavers can mitigate stormwater flows and some stormwater quality. Traditional wetland mitigation is conservation easements, improving the quality of the wetland but not necessarily permeable pavers. He advised that he did not disagree with the suggestion that off-site mitigation be explored and considered.

Mr. O'Donnell noted that he had read about some monitoring being done between the sources of pollution near an airport and a lake. He suggested that the applicant consider some sort of monitoring between his site and Lake Waccabuc because of the tremendous concern for the families who get their drinking water from the lake. Mr. O'Donnell advised that he would be interested in seeing the correspondence with the Westchester County Department of Health and the NYSDEC as there are indications that they are in accord with the possibility that something could be built on this property.

Mr. O'Donnell noted that in some instances that the Health Department permitted White Knight Systems.

Mr. Kerner noted that when approving an activity within the wetland buffer, this Board has been concerned with what activity would occur in that area because of the concerns with housekeeping and potential contamination once people move in.

Mr. Praga advised that the Board needs input from the applicant with respect to which plan he wished to proceed with, a site visit and eventually more developed plans.

Mr. Petruccelli advised that he would send a letter advising which alternative that he would like to proceed with.

III. SKETCH PLAN REVIEW

**Association of the Oakridge Condominiums, Inc., 400 Oakridge Drive, Vista –
Application for Wetland Activity Permit Approval to implement various drainage/site
maintenance activities throughout the Oakridge Condominiums – Cal. #31-13 WP**

Jamie Kieper of Insite Engineering was present.

Ms. Kieper displayed and reviewed the proposed site plan. This application proposes stormwater drainage and maintenance improvements throughout the site; all of the improvements will occur within the wetland buffer.

Mr. Johannessen reviewed the May 3, 2013 Kellard Sessions memo to the Board.

Mr. Tetelman questioned whether the proposed improvements would mitigate the amount of sediment getting into the drainage system or whether they were just cleaning the watercourses, which would have to be done again in the future.

Ms. Kieper advised that the proposal is to clean out the channels to get the capacity back.

Mr. Tetelman believed that this should be done in a sustainable manner so that it would not be necessary to do this again. He suggested that the engineers identify the cause of the sediment and maybe replace some of the catch basins with more modern structures. Mr. Tetelman suggested that if they could improve these BMP's so that they are a little more resistant to sediment that it might be worthwhile to upgrade.

In response to Mr. Tetelman's question as to whether they are disturbing over an acre, Mr. Cermele advised that there are no new impervious surfaces and the disturbance is not over an acre. This project will require a Notice of Intent and a basic SWPPP.

A technical meeting will be set up with the consultants and a site visit will be scheduled.

**John & Emily Sinnott, 4 The Hook, Waccabuc – Application for Wetland Activity
Permit Approval**

Beth Evans of Evans Associates was present.

Ms. Evans displayed the proposed plan to install a secondary septic system to serve a proposed one-bedroom apartment located above the existing garage. The Westchester County Department of Health Approval has been received. It had been thought that the only constraint was bedrock; deep hole tests found sufficient soils to accommodate the one-bedroom septic system. A Special Use Permit for the accessory apartment was received from the Zoning Board of Appeals in March. The applicant filed for a building permit to begin construction, the wetland questionnaire came back indicating that a small wetland had been discovered off-site and a wetland permit was required. She did not believe that this wetland is a part of a larger wetland system on Perch Bay Road. The proposed septic system is 90 to 100 feet away from the wetland.

Mr. Sessions advised that he went out to the site several times with Mr. Johannessen and noted that this wetland could easily be missed in the dry season. This wetland system is on the borderline but meets the criteria. It is not a tremendously high functioning system. The soils are well drained and typical for a rocky area.

Ms. Evans advised that the applicant wished to preserve as many trees as possible in an effort to preserve the screening between their property and the adjacent property.

Mr. Sessions referred to the May 3, 2013 Kellard Sessions memo to the Board emphasizing that the one aspect that they wished the Board to consider was the utilization of a clay barrier. Ms. Evans had questioned whether it would be possible to install the barrier just on the downhill side of the leaching fields in the effort to preserve as many trees as possible.

Ms. Evans advised that the place that it would make the most sense to install the barrier is in a rocky area, which is better than clay. If the clay barrier were placed to the north, it would require removing trees they were trying to preserve. Rather than installing the clay barrier, she thought that maybe they could put a limited mow conservation area in that location.

Mr. Sessions explained that the purpose of the clay barrier is not to make the system function better; it is to add a failsafe in the event the system failed preventing the effluent from reaching the groundwater table. In a sloping area the concern with a failure is with the effluent moving horizontally eventually breaking out on the hillside. Based on the result of the perc tests, it looks like it will be fine. His office is looking for the additional mitigation. He advised that the barrier could be established 1 ½' to 2 1/2' outside of the last trench.

Ms. Evans advised that she would agree if there were Paxton soils or some other soil of concern, she reminded the Board that these soils are very well drained. It is unlikely that it would hit anything other than rock which will force it to go down.

In response to Mr. Sessions' inquiry as to why the primary septic system is down the hill and the expansion is above it, Ms. Evans advised it was to protect a healthy stand of Hemlock trees mixed with Birch, Beech, and Hickory trees.

The Board was inclined to authorize the Wetland Inspector to issue the permit on an administrative basis with the proviso that the applicant submit a complete plan and address the outstanding comments. Mr. Sessions requested that the plan include the wetland and wetland buffer.

IV. DISCUSSION

Sue K. Feld, Peter Feld & Elizabeth Feld Herzberg, Trustees, 287 Todd Road, Cross River – Application for Wetland Activity Permit Approval – Cal. #27-13 WP

Michael Sirignano, Esq. was present.

Mr. Sirignano displayed the proposed site plan and advised that the applicant had received the side yard setback variance from the Zoning Board of Appeals.

Mr. Johannessen reviewed the May 3, 2013 Kellard Sessions memo to the Board advising that the majority of his previous comments had been addressed. He requested that the septic system be located on the plan.

Mr. O'Donnell requested that the applicant provide a copy of the ZBA variance when received.

Mr. Sirignano advised that the applicant's gardener had begun to remove the Bamboo. Mr. Sessions advised that removing the Bamboo can be difficult and suggested that a condition of the permit require that his office meet with the owner and/or their representative to determine the best way for its removal.

The Board granted the Wetland Inspector the authorization to issue the wetland permit on an administrative basis.

V. REQUESTS FOR EXTENSION OF TIME

Barry Nesson, 228 Smith Ridge Road, South Salem /Thomas J. & Nancy Torti, 3 Beaver Pond Lane, South Salem – Applications for Lot Line Change and Wetland Activity Permit Approval to accommodate the remediation/expansion of a sewage disposal system located at 228 Smith Ridge Road – Cal. #13-10 P.B.

Michael Sirignano, Esq. was present.

The Board acknowledged receipt of the April 23, 2013 request of Michael Sirignano, Esq. for a 90-day extension of time to the Final Subdivision Plat Approval.

Mr. Sirignano advised that the plat was approved by the Board of Health, but not signed because they are asking for the NYSDEC validation block on the plat.

Mr. Johannessen reminded the Board that the wetland approval expires on August 9, 2013; construction will need to be completed by that date.

Mr. Sessions suggested that the engineer look into whether or not the Health Department requires a fresh NYSDEC validation on the mylar. He suspected that they could make a copy of the validation block on the construction plans for the plat.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted a 90-day extension of time to the resolution dated August 9, 2011 granting Final Subdivision Plat Approval.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

Cross River Plaza (EK Cross River, LLC, owner of record), NYS Route 121, Cross River – Cal. #6-10 P.B.

Michael Sirignano, Esq. was present.

The Board acknowledged the April 17, 2013 request of Michael Sirignano for a 90-day extension of time to obtain a building permit.

Mr. Sirignano advised that the remaining vacant space had not been leased. The owner of the shopping center does not build out the space until there is a tenant.

Mr. Johannessen advised that the site plan has been signed; the code requires that the building permit be pulled within the year of signing the site plan. The code allows for two 90-day extensions.

Mr. O'Donnell noted that the property owner has until May 31st to complete the planting required in the site plan approval.

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, the Board granted a 90-day extension of time to obtain a building permit.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

Charles Ehlers, 37 Conant Valley Road, South Salem – application for paving existing driveway, stormwater and plantings – Cal# 68-12WP.

The Board acknowledged receipt of the April 25, 2013 request of Charles Ehlers for a 60-day extension of time to implement the drainage plan.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted a 60-day extension of time to wetland activity permit 68-12WP.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

Meadows @ Cross River, Cross Meadow Lane, Cross River – connection of new water supply Well # 6 – Cal# 3-12PB.

Charles Banks, Jr. and Liz Mello, P.E. were present.

The Board acknowledged the April 30, 2013 request of Charles Banks, Jr. for the final 90-day extension of time.

Mr. Banks advised that this project had been held up in the Health Department.

Ms. Mello advised that the gas companies have agreed to cover the additional costs associated with the ultraviolet system that the Health Department is now requiring. She advised that she had a phone conversation with Heather McVeigh of the Health Department and believes that they are close to having everything that is now being requested. The Meadows is close to selecting a contractor. The work should be completed within five to six weeks once it has commenced.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted the final 90-day extension of time to the August 14, 2013 resolution granting Site Development Plan Approval and Wetland Activity Permit Approval.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

VI. TOWN BOARD REFERRAL

Proposed Zoning Text Amendment – Proposed Amendments to § 220-23 Schedule of Regulations for residential districts, regarding minimum acreage and number of horses permitted and § 220-47 Waiver of Application Procedures, regarding agriculture uses on properties located within a state or county agriculture district

The Board discussed the proposed changes to Zoning Ordinance proposed to the Town Board relative to riding academies forwarded to them by the Town Attorney Anthony Molé and prepared by Mr. Johannessen.

RESOLUTION

BE IT RESOLVED, that:

The Planning Board is in favor of the seven page draft legislation forwarded by the Town Board amending §220-2 – Definitions, §220-23A – Schedule of regulations for residential districts, §220-35 – Places of Worship or religious instruction, the addition of a new §220-35.1 – Private schools, colleges, public libraries, museums and art galleries, the addition of a new §220-43.3 – Riding academies, and the amendment of §220-47A – Waiver of application procedures.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman the Board adopted by the above resolution.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

VII. CORRESPONDENCE & GENERAL BUSINESS

South Salem Fire District

Mr. Johannessen discussed three wetland applications submitted by the South Salem Fire District relative to the repairs to existing dry hydrants. With respect to the project on Oscaleta Road, the applicant had submitted the consent from the Supervisor Parsons for the work being done in the Town's right-of-way as well as the consent from the Wildlife Preserve who owns the parcel where the activity will occur. The Fire District has contacted the NYSDEC for the requisite permit.

Mr. Johannessen discussed the application submitted for the replacement of an existing dry hydrant and the addition of a new dry hydrant located in a pond on their property. The pond is a man made pond and is not within the jurisdiction of the NYSDEC.

The Board granted the Wetland Inspector the authorization to issue the permit on an administrative permit.

The third application is for a dry hydrant located on Silkman Lane. The Fire District wants to replace the 6x6 timbers that surround the dry hydrant as well as the hydrant standpipe. They do not have to do any work to the pipe that extends to the pond but they have to replace the strainer at the end of the pipe. The pond is not within the jurisdiction of the NYSDEC. The Fire District has advised that they have an easement.

The Board granted the Wetland Inspector the authorization to grant the wetland permit administratively subject to the proper authorization.

Luelsdorf

Mr. Johannessen reviewed an application for a wetland permit received to replace the decking material on a floating dock at 51 Truesdale Lake Drive.

The Board granted the Wetland Inspector the authorization to grant the wetland permit on an administrative basis.

VIII. MINUTES OF April 9, 2013

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the minutes of April 9, 2013 were adopted as amended by Mr. O'Donnell.

Vote: In Favor: Tetelman, LaSorsa, O'Donnell
Abstain: Kerner
Absent: Goett

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board entered into Executive Session with counsel at 9:20 P.M. under attorney/client privilege.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

On a motion made by Mr. LaSorsa, seconded by Mr. O'Donnell, the Board exited the Executive Session at 9:50 P.M.

Vote: In Favor: Tetelman, LaSorsa, Kerner, O'Donnell
Absent: Goett

On a motion made by Mr. LaSorsa, seconded by Mr. O'Donnell, the Board adjourned the meeting at 9:52 P.M.

Respectfully submitted,

Aimee M. Hodges
Planning Board Secretary