

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, August 13, 2013 at 7:30 p.m..

Present: Jerome Kerner, Chairman
Ronald Tetelman
Gregory LaSorsa
John O'Donnell
Robert Goett
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant
Joseph Cermele, PE, Kellard Sessions Consulting, Town Engineer
David Sessions, RLA, AICP, Kellard Sessions Consulting, Wetland Inspector
Margaret Clark, Esq., Special Counsel

Also in Attendance: Janet Andersen, Conservation Advisory Council (CAC).

The Chairman called the meeting to order at 7:40 p.m. and noted the emergency exits.

I. DECISION

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 to co-locate 12 panel antennas and four (4) GPS antennas at 137'-9" AGL and a 12' x 20' equipment shelter, a 50kw diesel generator, and related equipment within the approved compound area, Cal# 1-13-PB

Michael Sheridan, Esq., Snyder & Snyder, represented the applicant. Mr. Sheridan reviewed the application of Verizon Wireless and the resolution dated December 11, 2012.

Mr. Johannessen found the Tectonic report submitted at the July 16, 2013 meeting to be in order.

There were no comments from the Board.

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the Board adopted the Negative Declaration of New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant (Ash Tree Development, owner of record), 117 Waccabuc Road, Goldens Bridge.

All In Favor: Mr. O'Donnell, Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. Tetelman

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the Resolution dated August 13, 2013 granting Special Use Permit Approval and Wetland Activity Permit Approval to New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant (Ash Tree Development, owner of record), 117 Waccabuc Road, Goldens Bridge was adopted.

All In Favor: Mr. O'Donnell, Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. Tetelman

II. SKETCH PLAN REVIEW

Estate Motors Mercedes Benz, (Charisma Holding, Inc., owner of record), 321 Main Street (NYS Rte. 22), Goldens Bridge, - Application for Waiver of Site Plan Approval Procedures – Approval to demolish two old wood frame buildings located on property, Cal# 4-13PB

Bob Roth, John Meyer Consulting, was present on behalf of the applicant. Lewis Visconti was present as the representative of Estate Motors.

Mr. Roth reviewed the application for waiver of site plan procedure. Mr. Roth noted that the site has an approved site plan; however the applicant is struggling with some financial issues associated with the construction. Mr. Roth stated that there are two frame buildings on property: one a former children's clothing store along Route 22; the other a residence. Both buildings are vacant. The insurance company recommended that the buildings be removed because they pose a potential safety hazard.

The Building Department referred the applicant to the Planning Board. Mr. Visconti stated that he had given Mr. Peter Barrett, Building Inspector, a letter from the insurance company.

Mr. O'Donnell noted that the last time the Board heard about the project, the applicant was still awaiting approval from the New York City Department of Environmental Protection (NYC DEP).

Mr. Roth stated that the applicant did apply for a waiver from the NYC DEP. The NYC DEP decided that any alteration of a non-conforming, regulated activity was not permitted under the watershed regulations. The applicant has a septic system that they would like to continue to use for the new building. The NYC DEP considered this an alteration because the applicant would be demolishing the current building, moving people to an expanded building, and delivering the wastewater back to the existing septic system to pump.

An application was submitted and a waiver was received from the NYC DEP in March 2013. The Westchester County Health Department (WCHD) continued its coordinated review and issued an approval of plans. The applicant has WCHD approval to continue using the existing septic system.

Mr. O'Donnell asked if there are any other permits required by the applicant to start the project. Mr. Roth responded that applicant currently has an application before the Board of Health for approval of the water system for the new building. The new building will have a water treatment system which will disinfect the water storage pump. That application has been with the Board of Health since May. Mr. Roth stated that he believes this is the only permit still outstanding.

Mr. O'Donnell asked Mr. Roth to confirm that other than financial considerations, the applicant is ready to start the project. Mr. Roth responded that they are ready to start as soon as the permit is received.

Mr. Tetelman asked about the location of the new well. Mr. Roth stated that there are two existing wells: one outside of the existing showroom; and one by the service building.

Mr. O'Donnell asked that the issues regarding the northern properties be discussed.

Mr. Roth noted the concern of the Board with regard to the properties along the northern property line. Mr. Roth stated that although it is not shown on the plan, it has been discussed with the owner and the applicant will put in a berm, including a fence. Mr. Roth stated that the balance of the drainage system could not be put in because there was a catch basin proposed in same corner.

Mr. Visconti stated that the houses are a hazard. The applicant would like to demolish the houses, but cannot commit to any drainage plans, as provided in the original plans.

Mr. O'Donnell asked Mr. Visconti to explain why they cannot start the project. Mr. Visconti did not respond. Mr. Kerner asked if there was any project schedule, where the financing stands, and if the applicant can commit to a start date. Mr. Visconti replied that he could not commit to a start date. The project is way over budget. Mr. Roth stated that the sites considered for demolition will be grassed over in the interim. Mr. Roth confirmed that there is no intent to park cars.

Mr. Visconti again emphasized that the houses are a hazard.

Mr. Kerner stated that the Board is concerned about safety, but also has concerns regarding the flooding conditions on the north end of the site. The applicant is the recipient of a resolution that says that these conditions will be addressed.

Mr. Johannessen reviewed the Kellard Sessions memo dated August 9, 2013.

Joseph Cermele, Kellard Sessions, stated that with regard to stormwater, the approved plan had a drainage system that would collect the water that would run toward the north end of the property. Absent the drainage system, and with creation of the berm, there is potential for water to pool along the north end of the parking area. An interim measure was suggested if the building demolition were to take place.

Mr. Kerner asked if soil testing had been done. Mr. Roth stated that testing was not done in the area being discussed.

The applicant was instructed to evaluate the soil and appear at the September meeting.

Mr. O'Donnell noted that the letter from insurance agent was May 31st. Application to planning board was received on July 5, 2013. The first conversation between applicant and Kellard Sessions took place between May 31, 2013 and July 5, 2013.

The applicant was instructed to resubmit for the September 17, 2013 meeting. Mr. O'Donnell suggested that applicant request an extension of October 13, 2013 deadline on the project unless financing is received before then.

The applicant is to submit the letter from the insurance company addressing the hazard presented by the two buildings requested to be demolished. The applicant is also to revise plans to illustrate installation of landscaping berm/fence along the northerly property line and intermediate drainage plan (to be installed prior to demolition of the houses). The applicant is directed to discuss the drainage solution with KSC and resubmit for continued review.

Waccabuc Country Club, Waccabuc, - Applications for Wetland Activity Permit and Sketch Plan Review of Site Plan Development – Relocation of snack shack, providing additional gravel parking area with retaining wall, providing a handicap parking space; relocation of BBQ pits

Edward Delaney, Bibbo Associates, was present on behalf of Waccabuc Country Club.

Mr. O'Donnell discussed his relationship with various members of the Country Club.

Mr. Kerner asked if the applicant's legal counsel was present. Mr. Kerner stated there is a concern because the project is an expansion of a non-conforming use and may have to go to the Zoning Board of Appeals (ZBA). Mr. Delaney stated that Waccabuc Country Club has made a full application. The plan has been reviewed by Kellard Sessions and the applicant has received comments. Mr. Delaney stated that the comment of concern is that the application may be subject to section 220-9 of the Town Zoning Code regarding Non-conforming Uses and Structures. Mr. Delaney acknowledged that the subject use may be a non-conforming use and subject to the code. This would require the project to go to the ZBA before appearing before the Planning Board.

Mr. Johannessen stated that the property has been before the ZBA in the past for special use permits. The code may have changed since then. The use may have been listed at that time as requiring a special use permit. There is a provision in the code for "Private, community or fraternal recreation clubs". The snack shack received a special use permit from the ZBA in the past. This is a building department clarification.

The applicant was instructed to set up a meeting with Anthony Mole, Town Attorney. Mr. Johannessen, Mr. Praga, and possibly Ms. Clark will meet with building department to discuss zoning issues.

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, the application of Waccabuc Country Club was referred to the Architectural & Community Appearance Review Council (ACARC) for review.

All In Favor: Mr. LaSorsa, Mr. Tetelman, Mr. Kerner, Mr. Goett, Mr. O'Donnell.

It is the applicant's responsibility to make application to ACARC.

Mr. Delaney hopes to have technical responses to Kellard Sessions in time to appear at September 17, 2013 Planning Board meeting.

Ms. Andersen reviewed CAC memo dated August 9, 2013.

Mr. Delaney addressed the CAC's concern with the ramifications of a failed pump. He also stated that with regard to wastewater flows, and water treatment, the applicant has received Westchester County Health Department (WCHD) approvals and New York State Department of Environmental Conservation (NYS DEC) approvals. Basically, the project replaces an equal number of fixtures in the snack house. And the snack bar will operate under the same permit as now. There is no expansion of services.

Ms. Andersen suggested that the current stormwater practice (riprap and dirt swale and ditch) be upgraded because of the amount of dirt coming into the parking lot. Mr. Johannessen stated that some work has been done in the last couple months.

Ms. Andersen also suggested that if the entire lawn frontage is not used for lake access that the applicant consider lakeside buffer plantings. Mr. Delaney agreed to look into the matter further.

Mr. Tetelman questioned the use of flexi pave, suggesting that the applicant look into other materials.

Mr. Tetelman also noted that the Notice of Intent (NOI) states that the total site area is six acres while the Town form states 9 acres. Mr. Delaney responded that there are two lots and the combined acreage is 9.05 acres. The lot that includes improvements to the beach club is 6.1 acres. Mr. Tetelman asked that the total disturbance of 0.2 acres be confirmed. Mr. Delaney stated that the area of disturbance is less than one acre, requiring an Erosion Control SWPPP.

Mr. O'Donnell referred to page 4 of the Stormwater Plan suggesting that some changes may need to be made. Ms. Anderson questioned whether work is planned to be done on an area to the left of the boat house. Mr. Delaney stated that the work Ms. Andersen is referring to is off the table for now. The priority is to provide handicapped bathrooms. Mr. O'Donnell stated that discussion pertaining to this matter took place at the September 8, 2012 site walk.

III. PROJECT REVIEW

Bacio Trattoria, 12 North Salem Road, applicant (Owner of Record: K&K Real Estate, Inc.) Site Development Plan and Wetlands Applications - Cal #9-10PB

Edward Delaney, Bibbo Associates, represented K& K Real Estate, owners of Bacio.

The applicant is still in the process of NYC DEP watershed review.

The Environmental Assessment Form (EAF) has been corrected to reflect the new configuration of parking and drainage.

The EAF has been reviewed with Kellard Sessions.

Mr. Delaney stated that prior to the Planning Board issuing a Negative Declaration, the previous landscape architect's lighting and landscaping plan will be included in the plan.

Michael Sirignano, Esq., expressed his concern that ZBA variances expire in January. In order to get the NYC DEP to move forward, a Negative Declaration must be issued by the Planning Board.

Mr. Goett asked what is in the plans to diminish the amount of headlights spilling out. Mr. Delaney stated that a healthy amount of trees are being planted.

The applicant was instructed to submit a revised EAF and incorporate a landscaping plan, lighting plan, driveway profile and wetland mitigation into the plan set. Materials must be submitted by September 9, 2013 for appearance at the September 17, 2013 Planning Board Meeting.

Mr. O'Donnell reminded the applicant that at the previous Planning Board meeting, it was requested that the applicant send a copy of the ZBA and Architecture/Community Appearance Review Council (ACARC) approvals. Mr. Delaney stated that he will send the requested information

The Board discussed wetland mitigation options. A bio-retention pond is being provided for the drainage going into the smaller wetland. A no-mow zone is also being provided outside of the area of disturbance. The septic area would be fully mowed and aerated.

IV. REQUEST FOR EXTENSION OF TIME

Pasquale Popoli & Angelo Sicuranza, 1437 Route 35, South Salem – Application for Final Subdivision Plat Approval – Cal. #8-02 PB

James DeLalla, DeLalla Associates, was present on behalf of applicant.

Mr. Sessions stated that he has been to the property and there has been no change to the property in the past 1 ½ to 2 years

On a motion made by Mr. Goett, seconded by Mr. Tetelman, a 90-day extension to September 19, 2013 was granted to Pasquale Popoli & Angelo Sicuranza, 1437 Route 35, South Salem to comply with a resolution dated December 8, 2009.

All In Favor: Mr. Goett, Mr. Tetelman, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell

Sarner/Trunzo Lot Line Change, Bishop Park Road, Pound Ridge – Application for Lot Line Change from Adam and Nancy Sarner, 25 Bishop Park Road, Pound Ridge N. Y. and Stacy Trunzo, 27 Bishop Park Road, Pound Ridge, N. Y Cal. #9-12 P.B.

Charles Banks, Esq., Shapiro, Gettinger and Waldinger was present on behalf of applicant. Mr. Banks stated that the WCHD has waived jurisdiction.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, a 90-day extension of time to November 11, 2013 was granted for the Sarner/Trunzo Lot Line Change, Bishop Park Road, Pound Ridge to comply with a resolution dated February 19, 2013.

All In Favor: Mr. Tetelman, Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell.

V. SITE WALK REPORT

Rudolph Petruccelli, Oscaleta Road, South Salem – Application for Wetland Activity Permit Approval to construct a single-family residence – Cal #8-12PB and Cal #61-09 WP

Mr. Kerner stated that the site walk took place on August 6, 2013.

Mr. Kerner stated that he believes it would be beneficial to have a cross section through the property from Oscaleta to the westerly boundary which would indicate distance to the lake, existing grade and proposed fill. It is preferable to eliminate the fill all together, ideally by removing the walk out patio.

Mr. Goett noted that the property stake in one corner is right up to wetland. Some future activity will be four feet into the wetland. Mr. Petruccelli stated that this was the reason for the wetland application. Mr. Kerner stated that the cross section will show these concerns.

Mr. O'Donnell reviewed the site walk. All Board members, with the exception of Mr. Tetelman were present on the site walk. Mr. Tetelman had previously recused himself. Mr. Petruccelli attended the site walk, but remained on the street. Mr. Petruccelli's associate (unidentified) accompanied the Planning Board. Dave Sessions, Kellard Sessions was present. When the property was entered, the Board inspected the area of the property line of the northerly neighbor, including the PVC pipe belonging to the neighbor situated on the bridge. The Board questioned what the PVC pipe drained. Mr. Petruccelli stated that he had sent a letter to the neighbor but had never received a response. The Board then walked the southerly end of the property. The property was not staked, however, there were flags on tree branches. The Board stood on top of the berm, in an effort to determine where the Town of Lewisboro property line was, as well as the distances from the top of the berm to Mr. Petruccelli's property line, Mr. Petruccelli's septic field and septic expansion area, to the Town of Lewisboro line and also to the Lake. The greenery made it difficult to view. Mr. Petruccelli was requested to submit, at a later date, a response. Mr. Kerner stated that the cross-section should provide this information.

There was reference made to the boat house on the property to the north and west, and whether a schematic was available to show its location . An aerial shot was suggested. There was substantial discussion as to the height of the fill and the volume of the fill. There was discussion as to the amount of water during different seasons. Mr. Petrucci was asked to submit photographs to show the water during different seasons of the year.

A Public Hearing was scheduled for September 17, 2013 for both the Subdivision and Site Plan applications.

Tracey B. Weisberg, 25 Benedict Road, South Salem, Application for Wetland Permit Approval to replace wood dam with stone and concrete dam at same elevation; remove invasive plants and re-plant with native plant species; refurbish wood bridge – Cal #56-13WP

Bill Meyer, John Jay Landscaping was present on behalf of applicant.

Mr. Kerner stated that the site walk took place on August 6, 2013. The Board was satisfied with the approach of John Jay Landscaping and felt that the matter was headed in the direction of Administrative review.

Mr. O'Donnell asked if any notification or attempt to reach out to neighbors has been made. Mr. Meyer stated that it had not. Mr. O'Donnell stated that having been to the property, he felt that the neighbors would not be able to see or be affected by what is proposed. Mr. O'Donnell felt that if determination was made to handle administratively, one of the conditions should be that notification to the neighbors be made.

Mr. O'Donnell reviewed the site walk. Present on site walk were all members of the Planning Board with the exception of Mr. Tetelman; Dave Sessions and Bill Meyer. The sense of Board as the property was walked was that the project was nicely conceived and that the project and Mr. Meyer's comments were sensitive to the environment. Mitigation was impressive. No neighboring homes were visible.

The Board determined that the proposed action would be processed administratively by the Town Wetland Inspector.

VI. DISCUSSION

Oakridge Gardens (Smith Ridge Housing, LLC, owner of record), NYS Route 123, Vista – Applications for Waiver of Site Development Procedures & Wetland Activity Permit Approval - Cal. #6-02 PB – Request to modify conditions of approval of the resolution dated June 12, 2012, last amended September 24, 2012; Town Board Request to reduce bond proportional to construction progress

James DeLalla, DeLalla Associates was present on behalf of the applicant. Phil Pine, Smith Ridge Housing LLC was present.

Mr. DeLalla reviewed the three requested changes to the conditions of the Resolution dated June 12, 2012, last amended September 24, 2012 as outlined in Mr. Pine's letter to the Board dated July 22, 2013 beginning with the request to use propane heating rather than electric heat pumps.

In response to a question by Mr. Kerner, Mr. Pine stated that the 11 tanks are for proposed units, being individually metered.

Mr. LaSorsa asked for clarification on the concentration of the tanks with respect to the total site acreage. Mr. DeLalla stated that the 11 tanks are concentrated within a 9 acre site. Mr. DeLalla stated that the tanks would be buried a minimum of 10 feet from the buildings.

The Board discussed access and how the propane tanks would be filled.

Mr. Kerner asked if the intent was to use the new condensing gas units which have a low flu temperature and are much more energy conserving.

Ms. Andersen discussed the CAC memo dated August 9, 2013 suggesting that the applicant consider providing solar panels as an additional feature.

Mr. Johannessen stated that he did not see any issue with the use of propane tanks.

Mr. DeLalla reviewed the request to provide a construction trailer on the site for better access to the construction activity. The Board discussed condition SP18 of the September 24, 2012 amendment to the June 12, 2012 Resolution. Mr. Johannessen suggested that the applicant speak to Peter Barrett, Building Inspector, to discuss placement of the trailer. Mr. Kerner stated that the site should be restored to a naturalized state after the construction is completed.

The building exterior changes requested in Mr. Pine's July 22, 2013 letter were discussed. Because ACARC did the original review, the Planning Board referred the applicant's request to ACARC for review.

The applicant was instructed to submit a "Waiver of Site Development Plan Procedures" application and revised site plan/architectural drawings.

Pending timely submission, the applicant will appear on the September 17, 2012 agenda for decision.

The Board discussed the security agreement with the applicant. The applicant requested partial release of funds as construction is completed and approved. There were no objections from the Board. Mr. Kerner will write a memo to the Town Board advising that the Planning Board has no objections to partial release of funds.

South Salem Fire District, Gilbert Street, South Salem - Dry Hydrant Installation

Michael Lombardi, South Salem Fire Department, was present on behalf of the applicant to discuss the project.

Mr. Johannessen stated that an application was received from the South Salem Fire District for a dry hydrant on Lake Truesdale. Mr. Johannessen stated that the parcel is located at the corner of Indian and Gilbert; the property is owned by the Truesdale Lake Property Association. Submitted with the application was a letter from the Association stating their support; full set of construction plans; and specifications. Mr. Praga and the Board had not seen the request. Mr. Johannessen confirmed that the letter was from John Bergstrom, Vice President of the Truesdale Lake Property Association.

The Board instructed that Mr. Praga receive a copy of the letter.

The Board determined that the proposed action would be processed administratively by the Town Wetland Inspector.

Ms. Andersen asked the applicant to review the location of the hydrant with respect to the dam. Mr. Lombardi stated that this was part of the study that was done throughout all of the South Salem Fire District. The location of the hydrant was on that survey. The Vice President of the Truesdale Lake Property Association asked that the hydrant be placed. Mr. Kerner requested clarification of the area of disturbance. Mr. Lombardi stated that the area in question is barren, consisting of compacted dirt, with no grass growing; this is the area where residents keep their boats. Mr. Johannessen stated that the pipe will go out thirty-one feet from the shore line. It will sit on pre-cast blocks and a portion of the pipe will be buried until it protrudes at the ground.

Mr. Lombardi provided an update on the prior hydrants that were approved. All are being handled administratively. The hydrants at the Fire Station pond is working. The hydrant on Silkman Lane is being repaired. Mr. Lombardi stated that the hydrant at Oscaleta Road is still on hold. The New York State Department of Environmental Conservation (NYS DEC) only recently notified the applicant that the Army Corps of Engineers is involved. Mr. Lombardi is hopeful that this will be completed by the end of August.

VII. CORRESPONDENCE AND GENERAL BUSINESS

Septic Compliance/Wetland Violations

Mr. Sessions stated that a meeting is set up with supervisor next week to discuss ongoing administration of that program.

The update on wetland violations will be discussed at the September 17, 2013 meeting when Ms. Clark is present.

Continuing Education/Education Requirements

Mr. O'Donnell noted that prior approval by the Town Board of Planning Board training only included video and webinars. Mr. O'Donnell submitted a proposed piece of legislation to the Chairman concerning approval of training. Topics proposed included tracking an application, what the stages are, and what the costs might be. A modification might include tracking a subdivision application. Other topics and sources include: a discussion of disqualification of board members; off site enhancement; whether impact on schools is considered; and the possibility of recusal by a board member. The other topics that have been mentioned are: the differences between administrative and criminal adjudication; administrative and civil adjudication; and sources of training with the New York Secretary of State, NYMIR, and the Westchester County Municipal Planning Federation. Mr. O'Donnell also put together some examples of the materials provided by various providers.

VIII. MINUTES OF July 16, 2013

Mr. O'Donnell raised questions with regard to the July 16, 2013 minutes. With regard to the Verizon co-location, there is a reference to a "sheltering site" in Mr. Botta's comments. Verification of this term was requested.

Mr. O'Donnell questioned references to emails from Ted Sohonyay. Mr. Kerner stated that he would forward them to the Board.

With respect to discussion of wetland violations, there was a reference to wetland violations that would be brought by Ms. Clark. Mr. O'Donnell believes that wetland violations would be brought by the Wetland Inspector. Ms. Clark was not present to respond.

Approval of the minutes was tabled upon clarification of the comments made by Mr. O'Donnell.

IX. ADDITIONAL GENERAL BUSINESS AND ADJOURNMENT

Mr. O'Donnell stated that he is also interested in the status of the Agriculture & Markets legislation, which should be discussed at a time when Mr. Praga is present. A discussion of the legislation will take place at the September 17, 2013 meeting.

Mr. O'Donnell requested an update on the Verizon Wireless project at the Town Park. Mr. Johannessen stated that he believes it is approximately 99% complete. The drainage is installed and the tower is operating. The only item not completed is the landscaping.

Mr. O'Donnell requested that more Planning Board material be put online, particularly information regarding Petruccelli. The Chairman suggested that the Planning Board Secretary discuss this issue with the Deputy Town Clerk.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell, the meeting was adjourned at 9:23 p.m.

All In Favor: Mr. Tetelman, Mr. O'Donnell, Mr. Kerner, Mr. LaSorsa, Mr. Goett.

Respectfully submitted,



Lisa M. Pisera
Planning Board Secretary