

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, November 18, 2014 at 7:30 p.m.

Present: Jerome Kerner, Chairman  
Robert Goett  
Gregory LaSorsa  
John O'Donnell  
Ron Tetelman  
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel  
Greg Monteleone, Esq., Special Counsel  
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant  
Joseph Cermele, PE, Kellard Sessions Consulting, Town Engineer  
Lisa Pisera, Planning Board Secretary

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

The Chairman called the meeting to order at 7:30 p.m. and noted the exits.

## **I. PUBLIC HEARING**

### **JT Farm (Peace & Carrots, LLC), 1125 Route 35, South Salem – Application for Final Subdivision Plat Approval Subdivision – Lot Line Change - Cal# 9-13PB**

The Chairman announced the commencement of the Public Hearing. There were no objections to the time, place or advertisement of the public hearing.

Stephen Spina, John Meyer Consulting, was present on behalf of the applicant.

Prior to the start of the meeting, Mr. Spina submitted the green cards from the certified mailing for the public hearing to the Planning Board Secretary.

Mr. Johannessen stated that all outstanding Kellard Sessions comments had been addressed.

There were no comments by the CAC.

There were no comments from the public.

Mr. Johannessen stated that prior approvals on the two lots are addressed in the resolution. The applicant is in compliance with prior approvals and existing requirements. Mr. Siebert confirmed that conditions of prior approvals would remain in effect for both lots.

Mr. Johannessen stated that a condition of the resolution states that prior to any transfer of ownership, the Third Party must appear before the Planning Board for amended approvals.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell the Public Hearing for JT Farm (Peace & Carrots, LLC), 1125 Route 35, South Salem – Application for Final Subdivision Plat Approval Subdivision – Lot Line Change - Cal# 9-13PB was closed.

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

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the resolution dated November 18, 2014 granting Final Subdivision Plat Approval Lot Line Change and SEQR Negative Declaration Notice of Determination of Non-Significance to JT Farm (Peace & Carrots, LLC), 1125 Route 35, South Salem was adopted.

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

**Oakridge Condominium Association – 400 Oakridge Drive, South Salem – Applications for Waiver of Site Development Plan Procedures, Wetland Activity Permit Approval and Stormwater Permit Approval to replace existing pool deck and underground drainage system; demolish a portion of existing tennis court; resurface remaining portion of existing tennis court and portions of existing sidewalk; install a picnic grove, asphalt sidewalk, pergolas and landscape areas – Cal# 7-14PB, Cal# 50-14WP, Cal# 7-14SW**

The Chairman announced the commencement of the Public Hearing. There were no objections to the time, place or advertisement of the public hearing.

Rich Williams, Insite Engineering, was present on behalf of the applicant.

Prior to the start of the meeting, Mr. Williams submitted the green cards from the certified mailing for the public hearing to the Planning Board Secretary.

Mr. Williams reviewed the application.

Mr. Johannessen stated that the applicant had addressed all outstanding Kellard Sessions comments.

The CAC had no comments.

In response to Mr. O'Donnell, Mr. Williams stated that a permit had been filed with the Westchester County Department of Health; as of last week, the permit had not yet been issued.

In response to Mr. O'Donnell, Mr. Siebert confirmed that the notice materials indicated that there was a mailing to the Town of Pound Ridge.

Pamela Nathe, President of the Oakridge Condominium Association Board, confirmed that the Condominium Board approved of the application to the Planning Board.

There were no comments from the public.

A change was made to the resolution prepared by Kellard Sessions. On page two, paragraph eight, the words, "and observations made at site visits", were stricken and the change was initialed.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman the Public Hearing for Oakridge Condominium Association – 400 Oakridge Drive, South Salem – Applications for Waiver of Site Development Plan Procedures, Wetland Activity Permit Approval and Stormwater Permit Approval – Cal# 7-14PB, Cal# 50-14WP, Cal# 7-14SW was closed.

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

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the resolution dated November 18, 2014 granting Amended Site Development Plan Approval, Wetland Activity Permit Approval, Town Stormwater Permit Approval and SEQR Negative Declaration Notice of Determination of Non-Significance to Oakridge Condominium Association – 400 Oakridge Drive South Salem was adopted, as amended.

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

**Shelby White, 199 Elmwood Road, South Salem – Applications for Final Subdivision Plat Approval and Wetland Activity Permit Approval – Cal# 6-14PB and Cal# 65-14WP**

The Chairman announced the commencement of the Public Hearing. There were no objections to the time, place or advertisement of the public hearing.

Prior to the start of the meeting, Mr. Riina submitted the green cards from the certified mailing for the public hearing to the Planning Board Secretary.

Jim Coleman, James Coleman Architecture, Joe Riina, Site Design Consultants, and Bruce Donohue, Wetland Consultant, were present on behalf of the applicant.

Mr. Johannessen stated that outstanding Kellard Sessions comments had been addressed.

Mr. Johannessen stated that the proposed wetland mitigation is adequate, having a ratio greater than 1:1.

Ms. Andersen, CAC, suggested that the applicant consider a microbial treatment system (or other advanced treatment system) in order to lessen impacts on the buffer.

Mr. O'Donnell noted that annual inspection is a condition of the resolution.

Mr. Riina stated his opinion that because the proposed septic is over 100 feet away from the pond, the impact to the pond would not be lessened by implementing a pre-treatment system.

The location of the septic system was discussed.

On a motion made by Tetelman, seconded by Mr. Goett the Public Hearing for Shelby White, 199 Elmwood Road, South Salem – Applications for Final Subdivision Plat Approval and Wetland Activity Permit Approval – Cal# 6-14PB and Cal# 65-14WP was closed.

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

On a motion made by Mr. Goett, seconded by Mr. O'Donnell, the resolution dated November 18, 2014 granting Final Subdivision Plat Approval Lot Line Change and SEQR Negative Declaration Notice of Determination of Non-Significance to Shelby White, 199 Elmwood Road, South Salem was adopted.

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

**II. DECISION****Pinheiro Subdivision, 930 Old Post Road (Route 35), Cross River – Applications for Preliminary Subdivision Plat Approval, Final Subdivision Plat Approval, Wetland Activity Permit Approval and Stormwater Permit Approval - Cal # 1-14PB, Cal# 7-14WP, 1-14SW**

Krista Yacovone, Esq., Zarin & Steinmetz, represented the applicant. Keith Staudohar, Cronin Engineering, was present on behalf of the applicant. Fernando Pinheiro, applicant, was also present.

Mr. Johannessen stated that all outstanding Kellard Sessions comments had been addressed.

There were no comments by the CAC.

There were no questions from the Board.

On a motion made by Mr. Goett, seconded by Mr. O'Donnell, the resolution dated November 18, 2014 granting Preliminary Subdivision Plat Approval, Final Subdivision Plat Approval, Wetland Activity Permit Approval, Town Stormwater Permit Approval and SEQR Negative Declaration Notice of Determination of Non-Significance to Pinheiro Subdivision - Fernando and Maria Pinheiro (owners of record) - 930 Old Post Road (Route 35), Cross River was adopted.

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

**Oakridge Gardens (Smith Ridge Housing, LLC, owner of record), NYS Route 123, Vista – Applications for Waiver of Site Development Procedures - Amendment to the resolution dated June 12, 2012, last amended September 24, 2012 – Cal# 6-02PB**

Phil Pine, owner, was present.

Mr. Pine stated that ACARC approval was received on November 13, 2014.

Mr. Pine displayed the plans showing all single car garages.

Mr. Johannessen stated that the plans provided were for exterior elevations, Unit C floor plans, and Unit D floor plans. Mr. Pine stated that there is a Unit C, single garage, master bedroom down plan. Mr. Pine agreed to provide the Planning Board Secretary with a copy of this plan.

Mr. Pine stated intent to blacktop next week, or the week after next.

Mr. Johannessen reviewed the resolution for Amendment #7 Approvals. The resolution allows for the master bedroom down, in the C and D units; and requires the applicant to install the Downstream Defender on or before December 31, 2014.

At the request of Mr. Pine, the Board agreed to amend the resolution to require the Downstream Defender be installed on or before January 31, 2015, rather than December 31, 2014. The dates were changed and initialed.

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the resolution granting Amended #7 Approvals, Wetland Activity Permit, Town Stormwater Permit and Site Development Plan to Laurel Ridge (a.k.a. Oakridge Gardens), NYS Route 123, Vista was adopted, as amended.

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

Mr. Pine reviewed his request for the release of \$190,281 of the \$243,770 Performance Bond held by the Town as security for the construction of water and sewer improvements.

Mr. Cermele provided a status update: Kellard Sessions met with Mike McLaughlin, plant operator. The sanitary sewer is complete. As-builts have been submitted to the WCDH. The WCDH approval is pending the submission of test results/bacteriological results of the water system. The water system is near completion; it is expected to be completed within the next two weeks. Once completed, Kellard Sessions will witness testing and review lab reports on the bacterial testing in order to make submission to the WCDH. An expedited approval from the WCDH is expected. Mr. Cermele was uncertain as to whether or not a completion date of December 16, 2014 could be met.

Mr. O'Donnell suggested that Kellard Sessions provide an update as to the status of completion to the Board by December 9, 2014.

Mr. Johannessen clarified for the Board that the bond cannot be released without authorization from Kellard Sessions and WCDH approval.

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the Board resolved, that in anticipation of Town Board approval and authorization, the bond reduction be tentatively placed on the Planning Board's December 16, 2014 agenda for public hearing.

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

### **III. EXTENSION OF TIME**

**Homeland Towers, LLC, and New Cingular Wireless, PCS, LLC (AT&T), applicants (Francis Coyle, Jr., and Ash Tree Development, LLC, owners of record) 117 Waccabuc Road, NYS Route 138, Goldens Bridge – Request for Extension of Time for Special Use Permit, Cal # 5-12PB and Wetland Activity Permit, Cal # 85-13WP**

Manny Vicente, Homeland Towers, was present.

Mr. Vicente modified the length of the extension of time requested from six months to 12 months,; stating that invasive species treatment may go into the fall of 2015.

Mr. Vicente provided an update on the site: Mr. Vicente stated that the site is essentially complete in terms of construction. Both telecommunication and power exist at the site. Verizon is installed on the site, is 100% on air with data, and is in the process of testing voice. AT&T has put most of their projects on hold until 2015. Mr. Vicente stated that it is his understanding that AT&T will be starting construction in 2015. Homeland Towers has informed the Town Supervisor of AT&T's status, as Mr. Parsons has received calls from the public regarding cell service. The AT&T governmental affairs contact number was also given to Mr. Parsons.

Mr. Vicente stated that Homeland Towers meets regularly with all carriers. Sprint has expressed interest in co-locating on the tower.

In response to Mr. O'Donnell, Mr. Vicente stated that Verizon must integrate into the E911 System. This process could take approximately six months.

Mr. Kerner suggested that a statement be made by Homeland Towers to the press regarding the status of the tower and cell service availability; as often calls and letters are often misdirected to the Planning Board.

Mr. Vicente stated that Homeland Towers is careful to communicate the status of other parties (carriers). Homeland Towers is providing carrier contacts to the Town Supervisor.

Mr. Vicente stated that consumers are the best advocates to encourage carriers to change their schedules. Detailed letters from the consumer to the carrier are most effective in getting results. Homeland Towers is applying as much pressure as possible.

Mr. Johannessen stated that Kellard Sessions visited the site last week. All of the site improvements and wetland mitigation is complete. However, the approvals granted were for Homeland Towers and AT&T; they came in as co-applicants. Until AT&T is up and running, both permits must remain open.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, an extension to December 11, 2015 was granted to Homeland Towers, LLC, and New Cingular Wireless, PCS, LLC (AT&T), applicants (Francis Coyle, Jr., and Ash Tree Development, LLC, owners of record) 117 Waccabuc Road, NYS Route 138, Goldens Bridge, to comply with the resolution dated December 11, 2012 granting Special Use Permit and Wetland Activity Permit Approvals.



In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Opposed: Mr. LaSorsa

#### **IV. PROJECT REVIEW**

##### **Guillermo Arias & Lexus Holding Company, LTD, 411 Smith Ridge Road, Vista – Application for Final Subdivision Plat Approval of a two (2) lot subdivision – Cal# 12-13PB**

Joe Riina, Site Design Consultants, was present on behalf of the applicant. Mr. and Mrs. Arias were also present. Mr. Riina stated that the applicant is requesting an extension of time to comply with the conditions of the February 25, 2014 resolution granting Preliminary Subdivision Plat approval.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, an extension to May 18, 2015 was granted to Guillermo Arias & Lexus Holding Company, LTD, 411 Smith Ridge Road, Vista, to comply with the resolution dated February 25, 2014 granting Preliminary Subdivision Plat approval.

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

#### **V. DISCUSSION**

##### **Septic Compliance Administration**

Julie McCormick, responsible for maintaining the septic compliance report, was present.

Mr. Kerner stated that the discussion taking place this evening is in regard to the septic inspection/pumping requirements set by the Planning Board; not in regard to the 5-year pumping requirement of the County.

Ms. McCormick reviewed the Septic Compliance Report created for the Planning Board. There are currently 50 properties which have a septic inspection/pumping requirement set by the Planning Board. The definition of "inspection" as used in the Planning Board resolutions and Wetland Activity Permits is different than the definition contained in the Town Code.

The completeness and process of updating the report was discussed. An exact date as to how far back the report goes could not be determined. Mr. O'Donnell expressed his concern as to the thoroughness of the process.

Mr. Johannessen stated that the verbiage regarding inspection/pumping requirements contained in past resolutions has been inconsistent throughout the years. Mr. Johannessen suggested that a standard verbiage to be used going forward be agreed upon.

When a licensed hauler inspects or pumps a septic tank, a standard form developed by the County is filled out. This is a detailed form which provides information as to the condition of the septic. Mr. Johannessen suggested that the Planning Board require that a copy of the form be submitted as proof of fulfilling the requirement. Once the form is received in the Planning Board office, a copy would be provided to Kellard Sessions for review.

Mr. Siebert stated that if an individual requests a modification to the frequency of his/her requirement, the individual must submit the request and appear before the Planning Board. The Planning Board cannot retroactively modify resolutions en masse.

Discussion took place regarding policy decisions, who is responsible for enforcement, and administrative procedures.

Mr. O'Donnell pointed out that a conversation had taken place between the Wetland Inspector, Chairman, former Counsel, and Town Supervisor over a year ago regarding this topic. Mr. Tetelman suggested that a letter be sent to the Supervisor following up on the discussion.

The Board recommended that Kellard Sessions work with Mr. Monteleone to develop a proposed plan for review and comment by the Planning Board at the December 16, 2014 meeting, prior to sending to the Town Board.

Discussion of how residents would be notified of the County requirement took place.

#### **VI. CORRESPONDENCE AND GENERAL BUSINESS**

Mr. Tetelman inquired as to when a construction site is required to comply with Best Management Practices: silt fencing; controlling runoff. In response, Mr. Johannessen stated that an erosion and sediment control plan is required any time the amount of land disturbance meets or exceeds 5,000 square feet.

Mr. Tetelman stated his opinion that Best Management Practices should be required regardless of how large or small the project is. Mr. Cermele suggested that this could be a condition of the building permit.

Discussion took place as to how to enforce Best Management Practices in circumstances when no permit is required.

Mr. Johannessen suggested consideration of a modification to the Erosion Sediment Control Law which would require Best Management Practices under any level of ground disturbance, and could be enforced by the Code Enforcement Officer. Mr. Tetelman requested that Kellard Sessions draft the modification to the Erosion Sediment Control Law for review by Mr. Siebert. The modification would to be submitted to the Town stating that it is addressing a gap in Town regulations.

Mr. Kerner stated that he had noticed a large rock pile at Oakridge Gardens. Mr. Cermele stated that he would discuss the issue with the engineer at Kellard Sessions who has been doing the site inspections.

#### **VII. MINUTES OF OCTOBER 21, 2014**

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the minutes of October 21, 2014 were adopted.

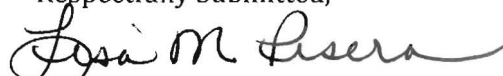
In favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

#### **VIII. ADJOURNMENT**

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the meeting was adjourned at 9:05p.m.

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

Respectfully Submitted,



Lisa M. Pisera

Planning Board Secretary