

Philipstown Planning Board
Meeting Minutes
June 19, 2008

The Philipstown Planning Board held its regular monthly meeting on Thursday, June 19, 2008 at the VFW Hall on Kemble Avenue in Cold Spring. The meeting was opened at 7:30 p.m. by the Chairman, Anthony Merante.

Present: Anthony Merante
Josephine Doherty
Michael Gibbons
Kerry Meehan
Andrew Pidala
Pat Sexton
Stephen Gaba, Counsel
Gene Richards (for Ron Gainer, Planner)

Tyjan Corporation - Site Plan Application - 2560 Route 9, Cold Spring: Discussion of filed changes

Mr. Merante said that the Board had received a letter from the Building Inspector with regard to the application and read the letter aloud (on file at Town Hall). He asked if Mr. Monroe was present.

Mr. Monroe was not present.

Mr. Merante asked the applicant to explain the circumstances.

Mr. Gannon said that he thought it would be nice if the siding matched the existing building below. He said that he thought the wood would start to flake and curl after a while and he wanted something maintenance-free. Mr. Gannon said that someone said to call the Building Inspector and he would tell him if he could change the siding. He did so. Mr. Gannon said that he told Mr. Monroe he was going to order siding, wanted to run it past him, wanted to do vinyl because he did not think the wood was going to last and he asked Mr. Monroe if there was any problem. The applicant said that he said, "no, there's nothing in the code about it, etc.". Mr. Gannon said that he asked about the color and Mr. Monroe said they don't want him using pink and stuff, they don't want metal siding/buildings, but there'll be no problem with the vinyl. The applicant said that he asked Mr. Monroe if he was sure because he had to special order the vertical siding. He said that Mr. Monroe said, "no...there shouldn't be a problem at all." So it wasn't a problem. Mr. Gannon said that he custom ordered the vertical siding costing thousands of dollars. The guy came, asked Mr. Gannon if he was sure he wanted the stuff and told him that if there was a problem, it could not be returned. Mr. Gannon said no - he got approved. Mr. Gannon said that his wife asked if he had received a letter from the Building Inspector and Mr. Gannon said no, as he had told him it was not a problem and that if he told him it was o.k., why should he worry about it. He said that they were putting up the siding, and Mr. Monroe came into the building. Mr. Gannon said that Mr. Monroe said that somebody came in and said he

Philipstown Planning Board
Meeting Minutes
June 19, 2008

can't be doing that. He said that Mr. Monroe showed him a set of plans that weren't even the plans he had submitted. Mr. Gannon asked him where he got the plans. Mr. Monroe said that those were the plans Mr. Gannon gave and Mr. Gannon said that there were not - that was with the original roof line.

Mr. Merante asked if he had the approved plans in front of him.

Mr. Gannon said no - he was looking at his first set.

Mr. Merante said that he didn't see the Resolution either with the description Mr. Gannon gave on the original application to have the horizontal wood.

Mr. Gannon said exactly. He said that he made sure because he's on the spot light right now. Mr. Gannon said that he's trying to keep things perfectly by the book to keep everyone happy and wouldn't go out and spend thousands of dollars on siding knowing that there's going to be a problem. He said that was never his intent.

Mr. Merante said that the applicant's wife was right with regard to not getting anything in writing from the Building Inspector. He said that in the Resolution was something that he and his professional planner put down that it was going to be horizontal wood siding. Mr. Merante said that it is one of the cases where they've taken heat in the past because people say, "well, the rule of thumb in Town is do what you want and then go for your approvals" and that this is sort of the other side of the coin. He said that the applicant gave the Board something he was going to do, the Board approved it as such, and now it's been changed. Mr. Merante asked the Board for comment.

Ms. Sexton asked what color the siding was.

Mr. Gannon said the same color as his building - gray.

Ms. Sexton asked if there was any reason why he was putting it vertical instead of horizontal like a regular building.

Mr. Gannon said because even on his regular building it is vertical.

Mr. Gibbons said that he drives by it every day and he's got it about half-way completed and it is not unsightly. He said that the tone might be off a little, but with lettering it might look pretty much the same. Mr. Gibbons said that he has no problem with his request that the Board amend the Resolution that way.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Meehan said that he has no problem, but thought if the applicant had talked to Mr. Watson and had come to the Planning Board....it's been a couple months now since he's put the siding on.

Mr. Gibbons said that he spoke to Mr. Monroe about it and that apparently, somebody made a complaint that it wasn't per the Resolution and that's why it was stopped.

Mr. Meehan said that he thought if the applicant had come to the Board, it would have done something for him.

Mr. Gannon said that he wants to play by the rules and that has been his game from day one. He said that he even eliminated all the trailers already.

Mr. Meehan said that he had no objection to what the applicant was doing, but was trying to say he might have been able to do it easier rather than sitting there all flustered.

Mr. Pidala said that the vertical looks good. He said that he thought as they go forward on jobs that the Planner should be more involved with the projects once the Board approves them because that is where they run into trouble.

Ms. Doherty said that she agreed with Mr. Pidala and said that she wished it hadn't happened this way, but since it has and the fact that the applicant did go through the Building Inspector and ask him if it was going to be o.k., she thought the Board should give him the benefit of the doubt since he has the material on hand and the project partially completed. She said that she had hoped the Board could do something so that it doesn't happen again.

Mr. Merante said that was his problem. He said that the Board had been doing everything it could for the last several years to try and facilitate communication between the boards and the Building Department and this is a little more than minor, but it's not significant. He said that still, it could have been significant and the avenues of communication sounds like they were cut. Mr. Merante said that if he had an original plan of the applicant's and an outline of the building that had long been surpassed, he found it ridiculous that the Code Enforcement Officer was so far behind on this issue. He said that he had looked at the site several times and it actually looks pretty good.

Mr. Gaba asked if there was a note on the site plan regarding the vinyl siding.

Mr. Merante said yeah there is.

Mr. Gaba said that there are two routes that can be taken when something like this happens. The

Philipstown Planning Board
Meeting Minutes
June 19, 2008

first one is what he thought the applicant attempted to do with the Building Department and that's called a field change - when you have a development that's being constructed in accordance with whether it's a subdivision plat or a site plan and it substantially conforms to the terms of it, but if there's some very minor deviations, the Building Department can approve those as being substantially compliant to the plans and they don't have to come back to the Planning Board. Mr. Gaba said that a field change doesn't require a Resolution from the Board and doesn't require an amendment to the plans - there's an end to it. If however, that deviation is substantial - if it goes against a note on the plans or something like that, then you have to have an amendment to the site plan or subdivision and the applicant has to submit a revised subdivision plat eliminating the note and has to have a formal Resolution approving the amended site plan. You don't need a public hearing. Mr. Gaba said that the Board needs to decide which route it wants to vote.

Mr. Merante asked Mr. Gaba and Mr. Richards what their past experience had been with something of this nature.

Mr. Gaba said that if you have a specific note, he didn't know how you'd get around having an amendment to the site plan. He said that if it says what he believed it said - that he's going to put one type of siding on and he's putting something completely different or if it even went the same way and was just different in color, maybe the Board could, but he thought they'd be hard-pressed to find this a field change.

Mr. Merante said o.k., so they'll have to amend the site plan.

Mr. Watson said that he did not think there was a note on the plan that says that. He said that regulations require the submission of preliminary architectural plans. Mr. Watson said that he did not think it ever went anywhere. He said that he did not think there was a note on the site plan that said this building must be constructed in accordance with the architectural plans by Zeller.

Mr. Gaba said that if there's not, then he would open the door for going the field change route, but he did not have a plan in front of him.

Mr. Watson said that he was not a hundred percent certain, but that would be a very unusual note on the site plan.

Mr. Merante said that when the Board approved this, they all assumed it was done and he didn't think anyone kept the materials.

Mr. Watson said that he'd get a copy of the site plan tomorrow and will get it to Mr. Gaba. He

Philipstown Planning Board
Meeting Minutes
June 19, 2008

asked if the Board would give him a Resolution that finds it to be a field change and if they can't prove that, then they'll bring it back next month.

Mr. Merante asked Mr. Gaba if they were stretching.

Mr. Gaba said that it is a stretch, but it's doable.

Mr. Merante asked for a motion to adopt a Resolution finding the proposed change constitutes a field change subject to verification that there is no note or restriction on the site plan requiring horizontal siding instead of vertical.

Ms. Doherty asked if it would be in the Resolution.

Mr. Gaba said that it is a field change and he doesn't really need a Resolution.

Ms. Doherty asked if it would be an approval Resolution.

Mr. Watson said a site plan or Resolution.

Mr. Gibbons said that he believed there is a stop work order and he didn't think that would have been issued without it at least being felt by the Building Inspector that it does say that it should be horizontal. He said that the applicant is losing at least a month now. No construction has been going on. Mr. Gibbons said that he would rather do a Resolution contingent, so that he can get going on his project again.

Mr. Gaba said that if it turns out that it does, in fact, appear as a note on the site plan or if it is written in the Resolution, then he'll tell Mr. Monroe that he can't lift the stop work order and the applicant has to come back and get an amended site plan. But if it's not in there, the Resolution stands and he can continue.

Mr. Meehan made that motion. Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Mr. Merante said to Mr. Watson that it would be contingent on verification.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Watson said that he'd get a copy of the Resolution to Mr. Gaba's office tomorrow.

Public Hearing

Joe Tuana - Application for a three-lot subdivision - 992 Old Albany Post Road: Discussion

Mr. Gaba asked the applicant to introduce the project briefly and said that there were two main issues he was going to want to explain to the Board. He said that the first one is why the delay in completing the conditions that have been imposed on the granting of subdivision approval and the other was to establish that there has been no change in circumstances since the granting of the subdivision approval.

Mr. Tuana said that when he purchased the property, it was subdivided. It was subdivided by deed before he acquired it. Mr. Tuana said that he had been asked to go back through the Planning Board and Health Department process because it was subdivided by deed with a zoning error in it. He said that he was using an attorney/engineer/surveyor - all the same person, to handle it for him and essentially he went awol. Mr. Tuana said that his application to the Board of Health was not aggressively prosecuted, so he is in the process of switching firms. He said that the reason for the delay is that the Health Department asked for some deep holes to be dug and he left it up to the engineer and they were not dug in time, so the inspection did not occur. Mr. Tuana said that he didn't fully understand that the subdivision needed to be re-approved formally until a few weeks before. He said that addresses why they have a delay. Mr. Tuana said that he is hiring Insight from Carmel to do the work. He said that nothing from the plat that they filed from the first time has changed at all. Mr. Tuana said that he's just needing more time to get to the Board of Health.

Mr. Merante asked the Board if it had any questions.

Mr. Gibbons said that with regard to the technical memo, there is quite a bit that's lacking on the prints.

Mr. Richards said that their memo lays out a number of comments regarding subdivision and since the applicant is getting a new engineer, he suspects they'll be preparing their own, and at the same time that they do that, they can address their comments. Mr. Richards asked if Mr. Tuana saw their comments.

Mr. Tuana said no he had not seen Stantec's comments.

Mr. Meehan said that there are quite a few problems.

Mr. Gibbons said that the applicant didn't even have six thousand square feet on some of the

Philipstown Planning Board
Meeting Minutes
June 19, 2008

lots.

Mr. Tuana asked if he was talking about the level area.

Mr. Merante said the minimum buildable area.

Mr. Tuana asked if that was based on an inspection of the land.

Mr. Richards said not at all. He said that it is based on reviewing the plans by Mr. Noviello.

Mr. Tuana said, so this is a critique of what was previously approved.

Mr. Richards said that he did not know the status of the plan. He said that they had a single subdivision plat that they received and that is what his office had reviewed. Mr. Richards said that he guessed it was probably the same thing that he had approved in the past.

Mr. Tuana said no. He said that when he purchased the land four years ago, it was a subdivision by deed and it complied with everything according to the Town. They wrote him a letter before he bought it telling him that the land complied and that the subdivision was legal. Mr. Tuana said that he got separate mortgages, he has separate title - everything. Then when he went to renovate a barn and change the windows, there was a discovery that there was a zoning issue. Mr. Tuana said that there was a setback of twenty feet and not thirty. Then he went to Zoning, and then Planning.

Mr. Richards said that Mr. Tuana received a variance for that.

Mr. Tuana said that he did get a variance for that. He said that he didn't know how to respond to the comments (from Stantec) - he hadn't read them.

Ms. Doherty said that the Board approved the subdivision last year.

Mr. Richards said that that approval lapsed at some point.

Ms. Doherty asked if the Board approved it with all the deficiencies.

Mr. Merante said that was a previous Planner.

Mr. Richards said that if the Board wished, it could waive the comments...the requirement for addressing their technical comments, but there was one comment he probably should address and that involves the septic system on Lot Three. He said that it's shown carrying over the hundred foot setback line from the wetlands.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Tuana said that is going to be completely re-designed by Insight Engineering.

Mr. Richards asked who Mr. Tuana's Planner was.

Mr. Tuana said John Watson.

Mr. Merante said that he thought it was going to be very difficult for the Board to go ahead with this with all the technical issues.

Mr. Gaba said that there are two that pretty much prevent them...he was looking at the other requirements.

Mr. Merante said six thousand square feet.

Mr. Gaba said yes. He said that they don't appear to meet that and they would need something that shows it more clearly. He said that he thought probably the best thing to do was to hold the public hearing open until next month and let the applicant come back and address the comments. Mr. Gaba said that if everything works out, the Board can re-approve it subject to the other technical comments.

Mr. Tuana said that the first time he had come to the Planning Board, it was a question then too. He said that Mr. Noviello addressed it and since he is an engineer and surveyor, Mr. Tuana relied on him. Mr. Tuana asked if there was something that shows on the plan that there's not six thousand square feet available.

Mr. Richards said no, it's just a matter of showing that on the plan.

Mr. Tuana said that he's hiring Insight to handle the septic aspect of Lot Three, which is the main problem as far as he understands. He asked if they were qualified to address the other issue or he needed to hire another firm.

Mr. Richards said that there's no question - they've worked with Insight and other towns and they are very qualified, so that would not be an issue. He said that they are surveyors and engineers and they prepare plats all the time and they know the Town codes.

Mr. Merante said that there is a possibility - it's not official, that the July meeting will be moved to the 24th.

Mr. Tuana asked what he needed to do between now and then.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Merante said to talk to Insight and address the issues.

Mr. Tuana said that they would send the Board a letter. He asked if there was a back and forth process whereby the Board would evaluate their work so that by the time they get it to the Board, it is to the Board's satisfaction.

Mr. Richards said that it's often what will happen. Then they'll get it down to maybe a minor comment or two and the Board is more comfortable granting a conditional approval on that basis.

Mr. Gibbons said that the Town has hired the engineering firm to be in Town Hall one day a week if needed, so Mr. Tuana could call the Building Inspector and set up an appointment when he feels he's ready and he'll let him know when the planning firm will be there and he can go over the paperwork then before he comes back to the Board.

Mr. Tuana thanked the Board and left.

Mr. Merante asked if anyone in the public wanted to comment on the application.

There was no comment.

Mr. Merante said that the matter will remain open until the issues are resolved - hopefully by next month.

Ms. Doherty made a motion to continue the public hearing next month. Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

**David Kaiser - Approval of four-lot subdivision - East Mountain Road, Cold Spring:
Request for re-adoption of Resolution PPB#12-07**

Mr. Watson said that they are asking the Board to re-adopt the Resolution. They have not secured Health Department approval, but are very close. He said that they may actually make it before the extensions expire, but to be on the safe side, they applied for approval. Mr. Watson said that the Health Department issue went to the area of the fill system on Lot Two, where the fill was into the wetlands. He said that it was an exempt matter. There's been some discussion

Philipstown Planning Board
Meeting Minutes
June 19, 2008

between whether or not it's exempt. But they did go back to the Wetlands people and have them inspect it and, in fact, what has happened in the meantime is the Wetlands Inspector said that the Board's consultant overflagged the wetlands - he was too aggressive. Mr. Watson said that he thought he was wrong. He said that he had his consultants go back and re-flag the wetlands. They got smaller with a very minor amount of fill going just into the buffer for the wetlands - not into the wetlands itself. Mr. Watson said that they've changed the map to reflect the current wetlands and are now having to run after a couple of signatures to get that verified and then the Health Department has given its verbal o.k. He said that if they get that done, they'll be done before the expiration date. Mr. Watson said that the Planning Board doesn't generally meet in August, so he was asking the Board to consider re-adoption so that they don't run into a catch-22.

Mr. Merante asked Mr. Watson when they first applied to the Health Department.

Mr. Watson said months and months ago.

Mr. Gaba said that once they get their conditional final approval, they have 180 days to fulfill the conditions, come back, have a consultant sign off on it, and get the plat signed. He said that they can get two ninety-day extensions and cannot get anything more than the two ninety-days. Mr. Gaba said that the second one expires he thought the 16th of August.

Mr. Merante said August 10th.

Mr. Gaba said August 16th was how he calculated - but August. He said that it's been the practice and procedure of the Planning Board and many other Boards in the area that when an applicant is in this situation, they'll allow them to surrender their grant of conditional approval, then have a public hearing and adopt it again, and start the 180-day and two 90-day extension clocks running all over again. Mr. Gaba said that if that's what the applicant wanted to do, he did not see any problem with that. He said that he did not see how you could just move onto it and go for an approval at the same time.

Mr. Watson asked if it could be instantaneous.

Mr. Gaba said sure.

Mr. Watson said that would be fine.

Mr. Gaba asked Mr. Watson if he actually wanted to surrender it until the Board notices the public hearing and everything else.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Watson said no, he wanted to surrender it instantaneously with the Board's re-adoption.

Mr. Gaba said that's not going to happen.

Mr. Watson asked why.

Mr. Gaba said because they won't go forward with it unless Mr. Watson is going to surrender it. He said that they'll let him go up to the time of the public hearing, but they can't re-adopt it.

Mr. Watson asked if they'd let him go up to the time of the public hearing without surrendering.

Mr. Gaba said absolutely.

Mr. Watson said that's fine.

Mr. Gaba said that once the public hearing's kicked off, Mr. Watson's approval is gone.

Mr. Watson said that he did not think he had any choice.

The Board agreed to schedule a public hearing on this matter.

Mr. Gibbons said that he remembered there was a no-cut area northwest. He asked Mr. Watson if the issue they were having was having any affect on where the house was going to be built.

Mr. Watson said no. He said that there's literally no change in the plan except that the wetlands got smaller and the final edge of the buffer is consequently less because the buffer line moved away from the septic system.

Mr. Merante said, so the flag area was reduced in size by the Wetlands Inspector.

Mr. Watson said no the Wetlands Inspector wouldn't do it. He called his consultant, Steve Coleman, who re-flagged it and issued a report. That was submitted to David Klotzle and he went up there and verified it. Mr. Watson said that Mr. Klotzle did take some tests and it was discussed at the last CAC meeting, where he reported that he and Coleman now agree.

Mr. Gibbons made a motion to schedule a public hearing. Ms. Sexton seconded the motion. The vote was as follows:

		Anthony Merante	-
		In favor	
Josephine Doherty	-	In favor	

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Mr. Watson asked that the Board schedule it at their August or September meeting, as it would give them an extra month.

Mr. Merante said that the Board wasn't certain they would be holding an August meeting.

Mr. Gaba said that with regard to setting it in September, it is a problem for Mr. Watson, because if it expires, they can't get it re-approved.

It was agreed that a public hearing on this matter would be held in July.

Mr. Pidala said that most of the applicants that come before the Board, go to the Board of Health and most of them are starting to come back because they just can't get the approvals fast enough. He asked Mr. Watson if there was something he could do to change that.

Mr. Watson said that he could give the Board a couple of names of people.

Mr. Pidala asked if they could make longer extensions or change them.

Mr. Watson said no. He said that he thought he would apply for major subdivision all the time and not take the minor route anymore and then he gets a preliminary approval that doesn't expire unless you withdraw the expiration. Mr. Watson said then you can give extensions. You can build in 180 days - expiration automatically. You can then at will extend a major subdivision. You can extend that approval because it's preliminary. Mr. Watson said that it's only the conditional final approval that has the two 90-day extension limits. He asked Mr. Gaba if he was correct.

Mr. Gaba said that he believed so. He said that he was not sure what the Code says on that.

Carlson Construction Management - Torchia Road, Cold Spring: Request for re-adoption of Resolution PPB#13-07

Mr. Watson said that Carlson is essentially the same situation - he's running out of his 360 days. The Board has already granted extensions. Mr. Watson said that he has completed the roads. They have made the as-built survey. He's paid all of his fees. Mr. Watson said that again, he's trying to put himself in a safe position with regard to the applicant's approvals. He said that the Board is aware that Mr. Carlson has built the road, the bridge, put the road in and it's paved. Mr. Watson said that he has his suspicions there will be some remedial work required by whichever

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Town engineer is reviewing it. He said that they have Health Department approval and have had approval for two and a half years.

Mr. Merante asked if it expired on August 11th.

Ms. Doherty said that the date was wrong - it should be September 12th.

Mr. Watson asked when it was granted.

Ms. Doherty said September 2007. She said that Mr. Watson's letter says that the correct expiration date should have been September 12th, rather than August 11th.

Mr. Watson said that it's five days less than a year.

Ms. Doherty said that it was September of 2007.

Mr. Gaba said that Mr. Watson was referring to the Board's April Resolution that recites the correct dates but when you get down to the WHEREFORE clause, for some reason it says it is granting it through August instead of September. He said that he did not know if that was a terribly important point though based on what they want to do. Mr. Gaba said that he has a corrected Resolution the Board could adopt if it wanted, but it doesn't sound like they're going to need it. He said that he guessed they would want to surrender their approvals and get re-approved now for a third time and hopefully the final time. Mr. Gaba said that if they are put on for the July meeting, he would be well within the time frame.

Mr. Merante asked if the Board had any comment.

There was no comment.

Mr. Gibbons made a motion to schedule a public hearing for this application. Ms. Sexton seconded the motion. The hearing will be scheduled for the July meeting. The vote was as follows:

		Anthony Merante
	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-	In favor	
Pat Sexton	-	In favor

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Boscobel Restoration, Inc. - Two-lot subdivision - 1601 Route 9D, Garrison: New submission

Mr. Gibbons recused himself and left the table.

Mr. Watson said that Boscobel Restoration owns several parcels of land. They are dealing with a single parcel of land that contain a little over five acres. He said that there's a small 1950's cottage house on the property. Mr. Watson said that there's actually two pieces of property involved. There's the basic property that contains the house and there's a little sort of a left over parcel that Dr. Klein owned and gave or sold it to Boscobel. Mr. Watson said that the two together total 5.4 acres and they want to subdivide that into a 2.8 acre lot and a 2.6 acre lot. He said that if the Board looked closely at the tax maps, the parcel (pointed out) is more like 8 or 9 acres on the tax map and it goes further back, but if you read the deeds and look at it, (this is Durisol Road and) its extension up to Bell Lane is not owned by Boscobel. Mr. Watson said that it is a land-locked parcel, they have a right to get to it, but it is not part of the property. So they are seeking to subdivide it into two parcels. They've laid out a subdivision with an easement to use as a single access, so they'll be no new access on Route 9D and a driveway to a proposed house on the northerly lot. Mr. Watson said that they've done testing out there and didn't see any problem with the septic system.

Mr. Meehan asked if Mr. Watson couldn't put the driveway on the proposed house (inaudible) Bell Lane.

Mr. Watson said that they don't have rights to Bell Lane.

Mr. Meehan said so he's going to need an easement over the property in the event it is sold some day.

Mr. Watson said yes, exactly. He said that what will happen is Boscobel will dispose of one or both pieces of property and probably to separate owners and when they dispose of the vacant lot, it will go with an easement. Mr. Watson pointed to a location on the plan and said that if they dispose of this, it will go subject to an easement.

Mr. Pidala asked if there should be a turnaround or cul-de-sac when you pull in.

Mr. Watson said that it is a common driveway and not a private road, so there's no requirement for a cul-de-sac and they've provided turnarounds at the garages.

Ms. Doherty said that there's a beautiful stand of trees just south of Bell Lane. She said that she was assuming they were going to try and keep as many of them as they could.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Watson said that they placed the septic system fairly far back on the property. He said that he was sure Boscobel would have no objection to putting a no-cut zone if that was the Planning Board's desire on the front of the property.

Mr. Merante said that he walks the road everyday and is aware of the traffic on 9D. He said that he believed the caretaker or somebody associated with Boscobel is living there now. Mr. Merante said that he knew that they did clear the trees along the road from that driveway entrance to the south to give visibility, but it is still a tough place and with two cars at the existing house and you'd probably put at least two more on the proposed residence, he was really concerned about the access. He asked if there was any possibility of getting an easement access onto Bell Lane. Mr. Merante said that with the traffic in the morning going south and in the evening coming north, they are flying. He said that as Ms. Doherty brought up, there is a beautiful stand of trees, and when they get into the public hearing aspect of this, he'd really like to see minimal intrusion into that.

Mr. Richards said that it seems to be the definition of a minor subdivision and the Board would want to deem it as such, unless Mr. Watson doesn't want to go that route. He said that it could be scheduled for a site inspection. Mr. Richards said that they could start SEQRA as far as the Board declaring itself Lead Agency and if it wanted to do a Coordinated Review, the Board could surely do an Uncoordinated Review and hold the public hearing at some point.

Ms. Doherty asked if there were any other permitting agencies.

Mr. Richards said that there is just one - the Health Department. He said that this also requires a 239 referral to County Planning.

Ms. Doherty asked if there was any reason the Board couldn't do an Uncoordinated Review.

Mr. Richards said that the Health Department could do their own SEQRA, so he didn't see...(did not finish sentence).

Mr. Gaba said that the Health Department would have to do their own SEQRA and they don't want to do their own SEQRA - they want one SEQRA, so do one SEQRA Review. He said that the DOH doesn't want to do this. Mr. Gaba said that he guarantees it. He said for the Board to declare itself Lead Agency, circulate the (inaudible), they are not going to do anything more than thirty days anyway as they have to wait for the 239 referral to come back. Mr. Gaba said that it is an Unlisted Action and the Board should declare it as such.

Ms. Doherty made a motion that the Board declare itself Lead Agency and declare this as an Unlisted Action. Ms. Sexton seconded the motion. The vote was as follows:

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	Recused
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Ms. Doherty made a motion to schedule a public hearing in July. Mr. Pidala seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	Recused
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

A gentleman from the public asked what designates a no-cutting zone.

Mr. Merante said that by direction of the Planning Board...they try to limit as much as possible...there is a beautiful stand of trees there and they want to limit it as much as possible. The Board works with the applicant. Mr. Merante said that as far as he's concerned, there's no description saying you can or cannot take a certain amount down.

Mr. Watson said that generally it takes the form of an easement - it can be private, it can be a conservation easement. It really prevents the clear-cutting or the cutting of trees. Mr. Watson said that those things always have a provision for health and safety reasons and that sort of thing.

Mr. Gaba said that he did not think the Board was looking at a conservation easement here. He said that he thought it was looking at a note on the plan in all likelihood some sort of restrictive covenant in the deed. Mr. Gaba said that there will be provisions for taking down sick and dying trees.

Mr. Watson said that he believed that such a note on Lot One would be beneficial to Lot Two because it's on the map and the owner of Lot Two could enforce (did not finish sentence)

Mr. Gaba said have a restrictive covenant.

Mr. Watson said yes, it would run in favor of the other lots if nothing else.

The Board agreed to meet at the site for an inspection on Wednesday, July 9th at 9:30 a.m.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Gibbons joined the table again.

**Hudson Highland Land Trust - Application for three-lot subdivision - Route 9D, Garrison:
Submission of revised plat**

Mr. Watson said that they were hopeful the Board would have a Resolution for them tonight. He said that the only issue that he thought remained was with regard to the wetlands. Mr. Watson said that he and Mr. Gainer spoke and they identified an area where the proposed improvement could happen without Planning Board approval. It would be residential zone. Typically on this lot, the Planning Board would not be involved in the building of a house. Mr. Watson said that there was concern about the amount of wetlands on the site. He said that they have identified an area where they have the potential for a house and septic system without going into the wetlands. Mr. Watson said that there was some discussion last month about flagging the wetlands. He said that Mr. Gainer made a suggestion that they outline an area, which they call "Area A". That Area A is accessible from the public road without going across the wetlands or wetlands buffer and any proposed activity would just go through the normal process - they'd get their building plans and go and get a building permit and would be allowed to build. Mr. Watson said that anything beyond Area A in Lot One will require Planning Board approval as for a site plan. He said not a normal thing with regard to residential properties, but they are prepared to accept a condition that makes any improvements on the site beyond Area A to be subject to site plan approval. Mr. Watson said that the other two lots - Lot Two and Three are actually being enlarged. The Hudson Highlands Land Trust is in contract to sell Mr. Lauch and Mr. Lyons property. Their property will become enlarged and that will be conveyed to them subject to a conservation easement. Mr. Watson said that when the subdivision is approved, Lot Two and Lot Three are already fully developed. Lot One has the potential for being developed, but that potential has been limited to an area where wetlands may not be disturbed. He said that again, there is the potential for the owner of Lot One to come in to seek site plan approval to go beyond/into the wetland buffer.

Ms. Sexton asked what exactly was the opposition to flagging the wetlands on this property and if it was money.

Mr. Watson said cost is part of it. He said that the action to approve this opposition does not authorize or prevent or precipitate any (inaudible) action on the property.

Ms. Sexton said that she knew that, but it doesn't do it on other properties that the Board has had either. She said that on Crest Road, the Board made them flag the wetlands on an eight acre piece and every other piece and this obviously is going to be sold for profit.

Mr. Watson said that they are not certain it is going to be sold for profit.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Ms. Sexton said that it sold with the idea that there's a house that's going to be on it.

Mr. Watson said that the difference is that the eight acre piece where they're flagging the wetlands, the Planning Board's approval will precipitate or allow something physical to occur in the vicinity of that wetlands. He said that this can occur today. Mr. Watson said that this action that the Board is dealing with neither prevents it nor permits it.

Ms. Sexton said that she doesn't know why they are doing it so differently for this piece of property than they do for every other piece of property.

Mr. Watson said that they don't flag all the wetlands on every single subdivision. He said that's just not true. Mr. Watson said that they flag the wetlands typically where the wetlands are where the proposal anticipates activities are going to disturb the wetlands with a wetlands buffer and the Planning Board's approval does not do that. He said that there is a different situation here than it is under most circumstances.

Mr. Gibbons said that he saw the zoning square. He asked where the six thousand foot square was.

Mr. Watson said that it is not shown, but he can add it to the plan. He said that it is right where the proposed house is.

Mr. Gibbons said that there's a driveway coming up the left hand side of the property. He said that if there were to be a house there, it would be just above the Area A.

Mr. Watson said yes, right.

Mr. Gibbons said that the house itself would not constitute getting into the wetlands buffer.

Mr. Watson said right.

Mr. Gibbons asked if the applicant was willing to indicate that that is where the house would go.

Mr. Watson said no. He said that the applicant is willing to say they will not build anything anywhere except within Area A unless it has site plan approval from the Planning Board.

Mr. Gibbons said that the new owner would have to come before the Board.

Mr. Watson said if they wanted to build in the lot, but outside Area A. He said that basically they are restricting building to Area A, except they have the opportunity to present a plan to the

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Planning Board if they want to build somewhere outside that area.

Mr. Gibbons asked Mr. Watson to show the Board Area A.

Mr. Watson pointed it out on the plan. He said that it contains the septic area, the proposed house and the proposed driveway. Mr. Watson said that there's three acres of Area A.

Mr. Merante said, which is very irregularly shaped.

Ms. Doherty asked if the wetlands boundary was the real wetlands boundary or estimated.

Mr. Watson said estimated.

Ms. Sexton asked how Mr. Watson could make a buffer zone for a wetlands if he doesn't even know where they are and hadn't flagged them. She said that it doesn't make any sense.

Ms. Sexton said that if they haven't delineated them, they don't really know where they are.

Mr. Merante said that it shows estimated wetlands.

Ms. Sexton said that the buffer zone is also estimated and it is not delineated, so Mr. Watson is asking the Board to approve something he didn't even know where it is and neither does the Board. She said that somehow it just doesn't seem right. Ms. Sexton said that they wouldn't do it for any other person and asked why they are doing it here.

Mr. Meehan asked if the two owners have agreed to the conservation easement and everything was in place.

Mr. Watson said that he thought he could say that there are contracts out for Mr. Lyons to enlarge Lot Two and with Mr. Lauch to enlarge Lot Three. Those will be sold subject to a conservation easement that prevents any building on the lot - period.

Mr. Meehan asked how the Board's Chairman was going to sign off on it. He said that he would think that stuff should be in place before final approval.

Mr. Watson said that they could submit the Board copies of the contracts. He said that they can't close this deal until the Board approves it. Mr. Watson said that there's a big note - these areas are to be subject to conservation easements retained by the Hudson Highlands Land Trust and they could certainly take a condition that the conservation easement be submitted to the Board's attorney for a review.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Meehan asked Mr. Gaba if there were any problems with the conservation easement.

Mr. Gaba said that the conservation easements he had no problem with. He said that with regard to the wetland delineation, the only reason the Board would treat them differently is because they are the Hudson Highlands Land Trust and reserving the right to sell it later on, but it isn't a typical buyer who comes in. He said that the idea about making it subject to site plan review - it's kind of kicking the can down the road. In the event somebody wants to build in the future, they would have to delineate the wetlands. Mr. Gaba said that the Board has no authority to impose the site plan approval as a condition of subdivision approval - not for residential homes. He said that if they want to come to the Board and say, "we don't want to do wetlands delineation on those lots, we will offer as an aspect of our proposed subdivision to make any future approval - we'll put a covenant in our deeds, any future improvement on these lots is going to be subject to site plan approval by the Town", it's a little unusual but he's seen a couple municipalities where a residential lot can be subject to site plan approval. Mr. Gaba said that it is not completely unheard of - the structure of it needs a little bit of work.

Mr. Merante said that as soon as Mr. Gaba mentioned the covenant in the deed, it was the only thing that gave him a little respite from this. He said that it is something that's going to be sold to somebody and unless the Board has some control on this, and as Mr. Gaba said, the Board doesn't have any actual control of the...(did not finish sentence).

Ms. Doherty asked who's job it would be to enforce this understanding. She asked if it was going to be the Building Department. Ms. Doherty said that they saw tonight a fairly minor thing that came to be a major misunderstanding and the applicant had to come back to the Board to effectively change his approval. She asked how long it was going to take for another applicant or an applicant's representative to come into the Board and ask for the very same treatment. Ms. Doherty asked how the Board could have special treatment for them and not for other applicants.

Ms. Sexton said they can't.

Mr. Merante said that the other side of the coin is that it is the Hudson Highland Land Trust coming back again for some other piece of property with a similar situation.

Mr. Watson said if the proposed activity is not threatened by the wetlands, it does not threaten the wetlands. He said that the Board doesn't normally require the wetlands to be flagged and again, the Board is not authorized....the Board's approval does not precipitate or prevent exactly what's shown on the plat from happening today. Mr. Watson said that they have put a note on the plat. He said that in his mind a note on the plat is as good as a restriction. Mr. Watson said that he doesn't want to take a clubbing because the Town doesn't enforce the rules - that's not fair.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Ms. Doherty said that she felt personally, that what Mr. Watson is asking the Board to do, they are setting themselves up for a misunderstanding or for something else to just go by the wayside. She said that Mr. Watson had said before that this could go forward today as it is, but the difference is that he is there tonight asking for a subdivision approval, so the Board has to look out for wetlands and look at the entire application.

Mr. Merante said that the pond used to be an active playground for kids in the summer and winter. He said that it is almost totally silted over now. Mr. Merante said he would expect that the way things are going, it wouldn't be much longer before it is no longer a wetlands. He said that he thought this was a sensitive spot that has been allowed to be degraded by silting and he did not see any protection for it.

Mr. Pidala asked if Mr. Watson would put the utilities underground as there are a lot of trees through there. He said that if they put in an overhead line, they'd have to cut a lot of trees for that.

Mr. Watson said that he'd put a note on the plat.

Mr. Gaba asked if Mr. Watson could show a building envelope and access to the third lot, which is clearly outside of any wetlands. He said that if he could show a buildable lot without any infringement into the wetlands, particularly if they were willing to put in a stipulation that in the future, anything would be subject to site plan approval, he thought they'd be hard-pressed to say, well, you really ought to go and flag every wetland on the property even though there's an area that's clearly outside of the wetlands that you could build. Mr. Gaba asked Mr. Watson if he could do something like that.

Mr. Watson said that he thought that's what they did.

Mr. Gaba asked Mr. Watson to show him.

Mr. Watson said that he thought that's where Area A is.

Mr. Gaba said, but it doesn't show an area for a house and driveway.

Mr. Watson said yes, a driveway, septic area and it shows the house. He said that he thought that's exactly what they did.

Mr. Gaba asked if that was clearly outside of wetlands and there's no question.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Watson said that then they get into the question about how much do they locate the wetland.

Mr. Chmar said that they are following the guidance of the Town Planner and that is what Mr. Watson had just done. He said that he prepared the plat based on Ron Gainer saying "do it this way and it should satisfy the Planning Board's requirements". Mr. Chmar said that they keep saying, "you're going to sell this" and unfortunately because Town law requires him to say there's going to be a house on there and a house lot, it should be drawn, they have to do that. Mr. Chmar said that this is nothing more than a lot line change on an existing building lot to convey property to two property owners who want to buy it and conserve the land. He said that they can go out and flag the wetlands. It will cost them another thousand or two thousand dollars and will delay it another month, but they're still going to have the same preserve that they have right now. This happens to be twenty-seven acres and it's going to go down to twenty acres. Mr. Chmar said that they have no plans to sell this. This is a pristine piece of property. He said that in the future, it might happen, but they are trying to preserve seven acres of that and the Town Planner has suggested a means of doing it at not a great cost just to get the land conveyed to these two property owners without setting a precedent necessarily through marking on the map and through the notes on the map. He said that he thought what the attorney was saying was that as long as the building lot is there, it is a legal building lot, and it achieves what they are trying to achieve, which is get seven acres conveyed to two property owners - fully conserved, fully protected and nothing be built on, because undoubtedly this lot could have been built on. Mr. Chmar said that they are trying to minimize the cost and will do whatever the Board wants them to do. He said that they're just trying to make it as simple as possible within the Town law.

Mr. Meehan said that they could say some place on the plat where they show a buildable lot, there will never be a house built on that.

Mr. Gibbons said but that's not what they've indicated. He said that there may be a house eventually.

Mr. Meehan said that Mr. Chmar just said there may never be a house there.

Mr. Gibbons said that there may never or there may.

Mr. Chmar said that they are asking to help them fully conserve seven acres as part of the property.

Mr. Meehan said that that casts a different light on it. He said that Mr. Chmar said that it may not be a family dwelling - it may be a dwelling for someone to live in or a place to meet.

Mr. Chmar said that they have no plans for the property right now. He said that they don't know.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Gibbons said that he just asked if they would create a buildable envelope and the answer he got was no. He said that the wetland boundary that he has indicated isn't the wetland boundary. Mr. Gibbons said that it is what he feels may be a wetland boundary. He said that is the problem the Board is having. He said that if he makes the house twenty feet to the right, and made the wetland boundary forty feet to the left, he's in the wetlands buffer. Mr. Gibbons said that as Ms. Doherty indicated, they were there for a subdivision. He said that the Board has their hands tied to certain aspects. Mr. Gibbons said that Mr. Chmar was asking what was the easiest road to work with and it really sounds like what is the easiest way to get it through the Planning Board.

Mr. Chmar said that again, they are following the guidance of the Planner and unfortunately he is not there tonight, otherwise, he'd probably explain why he finds this acceptable.

Ms. Doherty said that the Board doesn't always agree with the Planner. She said that they are individuals and have their own feelings and opinions.

Mr. Merante said that the hottest issue that ever comes up on any of the applications is wetlands. He said that people continue saying that more property in Town is going under building or development, they keep running into more and more wetlands and they have to protect the wetlands and water supplies. Mr. Merante said that that is the same reason they are looking at that now for this issue and for any other issue.

Mr. Chmar said that he is in full agreement with Mr. Merante. He said that if Mr. Watson says to go out and flag the wetlands, they'll do that and they'll come back. It will be flagged and they'll be at the exact same place they are, but the Board will have a plat that it will feel comfortable with.

Mr. Watson said that locating all of the wetlands...he would like a Resolution or direction from the Board that (inaudible) what they have to flag to the boundary of Area A.

Mr. Merante asked what the Board's feeling was on that.

Ms. Doherty asked if the wetlands boundaries that are indicated on the rest of the property were also estimated.

Mr. Watson said that they are based on photogrammetric interpretation, which is basically an estimate. He said that they are not willing to do not buildable because of the possibility...one of the things that is being explored is a recreation use for that lake and restored use, which might mean some buildings having to do with a community asset, so they are not willing to put a restriction/no-build on the whole parcel. Mr. Watson said that they are willing to put a

Philipstown Planning Board
Meeting Minutes
June 19, 2008

restriction that says they'll come to the Planning Board if they go beyond Area A.

Ms. Doherty said, and they'll flag all of the area around Area A.

Mr. Watson said that he will define Area A as the wetlands buffer. He said that they'll construct the boundary of Area A to be a hundred feet from the wetlands boundary and they'll leave the note on.

Mr. Gaba said, and Mr. Watson will leave them the provision that anything outside of A would be subject to site plan approval.

Mr. Watson said yes, they have no problem with that.

Ms. Sexton made a motion that a Resolution be drawn up to that effect. Mr. Pidala seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Mary Ellen Finger - Application for a five-lot subdivision - Horseman's Trail Road, Cold Spring: New submission

Mr. Watson said that Dr. Finger resides on and farms the twenty-acre parcel. He said that she decided she would like to subdivide to create four new lots and maintain the farm in large part as it's seen operating today. Mr. Watson said that they made an application ODA plan - they substituted this plan which calls for the construction of a town spec road along the northerly boundary line to serve as two residential lots and two lots in the front, which today will be zoned industrial. He said that they are all zoned Industrial, but the vision here is that these (pointed out) will be residential lots in the back and they planned residential lots in the front. Mr. Watson said that the open development subdivision on a private road comes in and swings to the south and into the back of the property and the lots were larger. It made it such that the farm lot contained just over ten acres, but with the right-of-way in it, if you took the right-of-way out, the remaining land is under ten acres and once the farm goes to something less than ten acres, there are restrictions that become affected, particularly the number of animals that can be kept on the site. Mr. Watson said that they've designed the subdivision to take advantage of the existing farm to keep ten acres with the farm that is unrestricted, so they don't trigger that limitation.

Mr. Merante asked if that was why it comes behind the other two.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Watson said that it comes back there for more than that reason. He said that there are some farming activities that go on back there and there is a source of water for the farm. Mr. Watson said that there's a real reason to be there and keep that with the farm. He pointed out the main part of the farm to the Board. Mr. Watson said that they have good soils back there. He said that they've re-developed the subdivision as a standard-type subdivision with the town spec (inaudible).

Mr. Merante asked if on Lot Five, there was any particular reason for the serpentine driveway.

Mr. Watson said to get up the hill and maintain a reasonable grade on the driveway.

Mr. Merante asked if on Lot Five, the traveled way would remain. He said that it crosses the proposed driveway.

Mr. Watson said that will go in the course of construction.

Mr. Pidala said that he was pretty sure that Lot Five could be built on and asked Mr. Watson if he was right.

Mr. Watson said that he did not know.

Mr. Pidala said that he would plant a row of trees because when people build on Lot Five, Lot One is probably going to be complaining about the building.

Mr. Watson said that he thought that was a matter of site plan approval for whoever comes to the Board for site plan approval. He said that normally that is the responsibility of the commercial developer.

Mr. Pidala said that you're taking a piece of commercial property and you are going to change it to residential, so that guy has to plan all the trees?

Mr. Watson said that the typical scenario is the person who comes in with a commercial site plan for approval is the one that puts up the buffer. He said that if the lots were sold or put into industrial use, they would be subject to site plan approval, at which point, they would put up the buffer.

Mr. Meehan said that there are a lot of posts and fences that seem to traverse the different properties. He asked if they would be cleaned up.

Mr. Watson said that the road is going to have to be built. The detention pond is going to have to

Philipstown Planning Board
Meeting Minutes
June 19, 2008

be put in. He said that if there is a fence crossing the property, that probably won't be taken out until the lot is sold and somebody wants to build. But as far as the improvements to make the lots accessible and work - the drainage, the road, the re-configuration for the detention pond, that will all happen as part of the subdivision approval.

Ms. Sexton said that Mr. Watson said some of them would come out, so the traveled way that goes straight through Lot Two and goes all the way around.

Mr. Watson pointed out on the plan what would be re-located and what would go away.

Mr. Meehan said that the existing house has power now. He asked how it got power and if it was with telephone poles.

Mr. Watson said yes, there are utility lines across. He said that those would have to be re-strung and that will be done before building the road.

Ms. Sexton asked if they would go underground.

Mr. Watson answered (inaudible).

Mr. Gibbons asked why there were two proposed SST areas on Lot Four.

Mr. Watson said that it is actually only one system and an expansion area, and you are allowed to split that and they didn't find a large enough area to put the expansion area next to the primary area.

Mr. Gibbons asked if all twenty acres was farmland.

Mr. Watson said yes.

Mr. Gibbons said that on the project information sheet, he indicated that the agricultural area is zero acres and that the non-agricultural is twelve acres and asked if they could get that revised.

Mr. Watson said yes.

Mr. Gibbons asked if they were part of the Putnam County Agricultural District.

Dr. Finger answered (inaudible).

Mr. Gibbons said that the number of parking spaces is eight, but if there are five lots, to just make it ten. He said that on six and seven, it was asking if it is a single-phased project and what

Philipstown Planning Board
Meeting Minutes
June 19, 2008

the anticipated construction was. Mr. Gibbons said that they were not doing any real building though, and asked if that was right. He said that they were both answered “n/a”.

Mr. Watson said that needs to be looked at. He said that Mr. Gibbons made some good points. Mr. Watson said that he will revise it.

Mr. Gibbons said that it is also indicating that they are going to be removing subterranean material, but it is marked as nothing’s leaving.

Mr. Watson said that the materials were taken out.

Mr. Gibbons said that it needs to be marked. He asked if there would be any blasting.

Mr. Watson said they indicated they were not going to have to blast.

Mr. Gibbons said total anticipated water usage per day is four thousand gallons. He asked if that would be for all five lots.

Mr. Watson said yes.

Mr. Merante asked what the zone was on the lot next door owned by Harold Lyons.

Mr. Watson said that he believed that is also industrial.

Mr. Merante said that he knew the property, but asked for the record, if there was anything going on there that will impact the residential properties they are looking at.

Mr. Watson said not to his knowledge. He said that he does a lot of work for Mr. Lyons, but he never spoke about this property.

Mr. Meehan asked how steep the driveway on Lot Five was. He asked if he gave the Board a profile.

Mr. Gibbons said that it shows it at three percent.

Mr. Watson said that it’s steeper than three percent. He said that typically, he would grade it out at fourteen percent. Mr. Watson said that he did not have the scale.

Mr. Merante said that part of it is in a class three slope.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Watson said that it does not cross class three slope.

Mr. Merante asked if with regard to the driveway, it needed to be as serpentine as it is, rather than coming in straight.

Mr. Watson said it can't come in straight. He said that you need extra length. Mr. Watson said that when you have a lot of elevation to overcome, the driveway has to get longer.

Mr. Merante said that the closer you get to the house, it's fifteen percent grade.

Mr. Watson said that the first part of the driveway is flat, then it crosses the class one slope, then class two and back to class one.

Mr. Merante asked if it arrives at fourteen percent.

Mr. Watson said that he would check. He said that they wouldn't design it past fourteen percent.

Mr. Merante asked if Mr. Watson thought it would get to approximately fourteen percent.

Mr. Watson said that is his guess, but he will check on it.

Ms. Sexton asked if any of the stone walls were significant historical stone walls and if they were going to remain. She said that there is one down the middle of the main piece.

Mr. Watson looked at the plan, and pointed out what would stay.

Mr. Meehan asked if the Board wanted to have a site visit.

Mr. Richards said that maybe Mr. Watson could provide the Board with a profile for Lot Five's driveway.

Mr. Watson said yes, it would get a memo and certainly he will get a profile.

Mr. Merante asked Mr. Gaba if the Board had enough to schedule a public hearing.

Mr. Gaba said yes, it has to take care of SEQRA Review and cannot act until the time period is clear on that, but that doesn't prevent the Board from setting up a public hearing if the engineers are satisfied with the layout. He said that they need a 239 on this too. Mr. Gaba said that the Board should declare itself Lead Agency, type it an Unlisted Action and set up a site inspection.

Ms. Doherty asked if Mr. Gaba was saying the Board should do a Coordinated Review on this.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Gaba said a Coordinated Review is not a big deal.

Ms. Doherty said it's just that the Board had gotten in the habit of doing Uncoordinated Reviews.

Mr. Gaba said that the Board didn't want to get into a situation where the Planning Board can't act until the Zoning Board decides, etc., but with DOH...(did not finish sentence).

Ms. Sexton made a motion that the Board declare itself Lead Agency. Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Mr. Gibbons made a motion to schedule a public hearing in July. Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Correspondence

-Signage

Mr. Merante said to Mr. Shea that he should be getting a letter from the Planning Board regarding posting signs on properties that are up for application before the Planning Board.

Mr. Shea said that he had already received it.

1. Letter regarding Corten Guide Rails

Mr. Merante asked the reason for the change of policy on the corten guide rails.

Mr. Shea said that the Board adopted the Resolution for Highway because the State found that with corten, the rusting didn't stop, so the guide rails became ineffective. He said that until they find another solution, they're going to go back to the galvanized.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

2. Letter from Tina Merando regarding Mining Overlay District.
3. Letter from Glennon Watson to Code Enforcement Officer regarding Zeiderman approval of access.

Mr. Watson said that he needed the Chairman's signature on the site plan. He said that they've made all the changes and it needs Stantec's and Mr. Merante's signatures.

4. Letter regarding Ochsenshlager

Mr. Merante asked Mr. Watson to explain the letter. He said that he had a number of issues on this.

Mr. Watson they made all the conditional changes to the plat and submitted them to Stantec and basically asked them to review it and report to the Planning Board that they've fulfilled those conditions. He said that they were looking into the other things like making sure they paid all the money, etc. Mr. Watson said that the Health Department will not sign the plat until the owner signs the plat. He said that once the Health Department signs the plat, he can't change it, so he has to know that the Town is happy that he's got all the notes on correctly. The Town won't sign the plat until the Health Department signs the plat. Mr. Watson said that he was just trying to prevent a round-robin of signatures.

5. Memorandum from Stantec

Ms. Doherty said that the Board had received a few memos from Stantec regarding previously approved subdivisions. She said that she thought a lot of it was probably housekeeping regarding different notes on the plat and what should be there. Ms. Doherty said that she was particularly concerned about the Vamco one and wanted to make sure that there was a note on the plat that the Board wanted changed. She said that they wanted it that tractor trailers would not be permitted on that site. Ms. Doherty said that it was not specified in the memo, but the memo refers to a Town engineer memo of April 25th. She said that she believes that it may have been addressed in there, but she would really like to make sure before the plat is signed.

6. Statement from Stantec regarding Raymond and Erwin Ruckel Subdivision

New Business/Old Business

-Natural Resource Plan and Open Space Index: Board to review draft letter (by Steve Gaba) to the Town Board

Ms. Doherty said that she would personally like it to be stronger. She said that she thought in looking at the minutes, at least several Planning Board members were pretty vocal on it - particularly with "is there going to be a minimum size of wetlands that will be required?" Ms. Doherty also touched on the issue of property rights and felt that it was an infringement on property rights.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Shea said that the one thing that he would say about the Natural Resource Index and Open Space Protection Plan is that they are a set of recommendations - not to have the force of law, but they are guidelines they'd like to consider. He said to get overly concerned about these things being etched in stone...if you're going to get bogged down in that detail and not look at the overall picture of this thing...this is a set of recommendations. They are going to be looked at when people come in for subdivisions or buildings for a lot of things, but they are recommendations. They are not law.

Ms. Doherty said right - they are going to be part of the Comprehensive Plan.

Mr. Shea said right.

Mr. Gaba said that's more than a recommendation.

Ms. Doherty said, which is more than a recommendation.

Mr. Shea said it will become a factor that's weighed.

Mr. Gaba said more than that.

Ms. Sexton said more than that.

Mr. Gaba said that you can't act contrary to them.

Ms. Doherty said, to the Comprehensive Plan.

Mr. Gaba said you can't. He said that you can't enact zoning, you can't enact court provisions that are of the contrary and if you set forth strong policy in them, you have to act in accordance with the strong policy. He said that you can hold off on implementing it. You're not required to, but you really give direction to how your local laws are going to go once you adopt something like this.

Mr. Shea said that he thought that was debatable.

Mr. Gaba said that he had a pretty good idea which end of the debate he was going to come out on.

Ms. Sexton said that there have been five rulings on the Comprehensive Plan in New York City and it takes precedence under the law.

Mr. Shea said, when coupled with the zoning.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Ms. Sexton said yes when coupled and even when you're creating a zoning, when you're creating districts, all kinds of things. She said that she thought it was a little bigger than just adopting this. She said that she was not in disagreement with the basic concept of the whole thing. It really has a whole lot of good ideas in there, but it has great implications for taxes and people's property rights. Ms. Sexton said that she knows it's been presented many times and she saw it once on television.

Mr. Shea said that they look forward to getting the Planning Board's letter so they can move the process along at any rate. He said that it has been stagnant for a while.

Ms. Sexton said that maybe they could clip the minutes to the letter or make it stronger.

Ms. Doherty said that she thought the Planning Board should highlight some of the main points. She said that they really felt that changing the CAC would add an unnecessary burden to the applicant and it will definitely lengthen the process here.

Mr. Merante said yes, he thought there were two particular items. He said that the tax implications...he knew a couple of realtors who have spoken out against that.

Mr. Shea said that's surprising.

Mr. Merante said but they are part of the community and they are taking it from their perspective.

Mr. Shea said right...sell at all cost.

Mr. Merante asked if he wanted to put a burden on a young couple moving in. He said the housing in this area is expensive enough as it is - where the land is outrageous in Philipstown compared to nearby communities and they start out with a three or four thousand dollar bill just for the land and then put a seven hundred fifty thousand dollar house on top of it. Mr. Merante said that they are making it prohibitive even for a young couple to come in, never mind keeping our own here. Mr. Merante said that the other point is with regard to making the CAC a board. It's another level of regulation that someone has to go over and what happens is conflict between the Planning Board and the CAC and who takes priority.

Mr. Shea said that he would like to see the CAC become a board because then it takes the full onus off the wetlands inspector as being just the primary person who makes the decision regarding wetlands. He said that it goes to a vote for a full board and then a decision is rendered. Mr. Shea said that right now, the Board can be at odds with the wetlands inspector, and he can override them and they have people there who put in a lot of time as the Planning Board does,

Philipstown Planning Board
Meeting Minutes
June 19, 2008

they volunteer their time and do site visits. He said that they are a filter for the Planning Board right now regarding wetlands and environmental issues. Mr. Shea said those opinions need to be weighed more heavily. He said that there have been times when, if it came to a vote, certain lots wouldn't have gotten approved.

Mr. Merante said that he looks at that in the same way because it's been mentioned a couple of times, and he wants to compare it to what we have here. He said that they have advisors here and aside from when their legal advisor tells the Board this is law, that's one thing, but when they are giving advice, still it's the vote of the Planning Board that takes priority and is the final word. Mr. Merante asked why they'd have to create another board. He asked why the law, if it's possible, can't be modified to allow approval or final vote of the CAC in conjunction with the wetlands inspector. Mr. Merante said that he has heard that a couple of times, "the wetlands inspector...", but he is a professional wetlands inspector.

Mr. Shea said correct.

Mr. Merante said that the rest of the Board, just as the Planning Board, are citizens.

Mr. Shea said that you have an engineer on there and Eric Lind, who is a wetlands expert.

Mr. Merante said that he felt if there was some way to combine the efforts of the two different types of people - the wetlands inspector and the five or seven members of the CAC, rather than create another board, because he thought that creates another permitting agency and is a cost and time problem. Mr. Merante said that several of the Planning Board members felt that way.

Mr. Shea said that the way he looks at it is that they sort of unburden the Planning Board regarding environmental issues after the fact.

Mr. Merante said that he did not know if that would preclude the Planning Board from being the permitting agency. He asked if it would if they were to become a board.

Mr. Gaba said that it is the Board that issues the permit that's the permitting agency.

Mr. Shea said that he wouldn't see that happening anyway.

Mr. Chmar said that the Planning Board needed to understand that there is nothing in there also that says the Conservation Board, if it becomes a board, is a permitting board.

Mr. Merante asked if by definition, the Board was a permitting agency.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Chmar said no. He said that the wetlands inspector continues to be the permitting authority.

Mr. Merante said that if that is the case, how would they override him if he makes the decision contrary to their decision.

Mr. Chmar said that State law, he believed, specifies that they could be given that authority by the Town if the Town wishes to be the deciding authority to allow the wetlands inspector (did not finish sentence).

Mr. Merante asked if you need to be a board to do that.

Mr. Chmar said he thought so, yes. He said that the recommendation there doesn't even address that. Mr. Chmar said that all it says is that the permitting authorities have to recognize the comments of the Conservation Board and they have forty-five days to review and provide those comments. He said that it is not saying that they are a permitting board. He says that they are an advisory...they have the ability to provide written comments to the boards. Mr. Chmar said that the Town Board may decide they are going to give them a little bit more authority and say that the wetlands inspector can't issue a wetlands permit without their approval, just as the Planning Board was advised tonight on their application and decided to follow a different path. Mr. Chmar said that they would have the same level of authority.

Mr. Gaba asked if with regard to the letter to the Town Board if they were looking for a more detailed break down of commentary on the Natural Open Space Index/Natural Resources Plan, or if they were just looking for more strong language. He said that he really needed guidance to re-draft the letter.

Ms. Doherty said that a couple of things just jumped out at her. She said that one of the proposed changes would require an applicant who is looking for a building permit, who's in the open space index, there's a requirement that they would identify and map wetlands under a quarter of an acre. She said that she'd like to know if there's a minimum size that they wouldn't have to map or if they wanted everything that could possibly be wet - either by vegetation or rain. Ms. Doherty said that she thought the Planning Board felt that it was a real infringement on property rights.

Ms. Montgomery said that when the Planning Board is considering its letter, whether for or against it, that the consideration is for the property owner and these regulations that this will possibly impose on them, that possibly what the state and federal regulations impose on the Town, will ultimately become very costly for them. She said that these are all just tools for the Town to mitigate this stuff, so it is going to come down to all of them in the end anyway - whether it's the individual property owner or the Town as a whole that has to follow these regulations. She said that these are the tools that they are developing to protect our community

Philipstown Planning Board
Meeting Minutes
June 19, 2008

from that.

Mr. Merante said that as he said before, the Planning Board was asked for its opinions on this. He said that they may be a little stronger, but these are their opinions they are transmitting to the Town Board. Mr. Merante said that as Mr. Chmar said about the CAC, you can review it, you can swallow it whole, you can take a piece of it or you can reject it as a whole, but the Planning Board wants to get its recommendations to the Town Board and let it do with it as it will. Mr. Merante said that the Town Board has other input into this issue as well. He said that everyone has some strong feelings on this particular issue.

Mr. Meehan asked what would happen if the Conservation Board is adopted and how it would affect the Planning Board doing its job. He said not knowing what the Town Board is going to do for the Conservation Board, how is it going to affect how the Planning Board is going to do its job. Mr. Meehan said that he thought if the Town Board or someone had described what the Conservation Board is going to be and do and how the board was going to operate, it would have been more helpful than just looking at the state law.

Mr. Shea said that it is a process that will go on. He said that right now, this isn't the end of the process - they are still at the very beginning.

Mr. Meehan said that just reading the state law, it's hard - they are going to have two boards looking at the same zoning laws and then there's going to be conflicts. He asked who would decide the conflicts.

Mr. Shea said that they are not looking for redundancy of authority here or to make multiple layers of hoops for people to jump through. He said that they are looking to have the CAC feel like they have a weighted position and have the members be able to vote on things and be considered because right now the wetlands inspector carries that whole burden. When he makes the decision, it's like David Klotzle made the decision - it's not the entire (did not finish sentence).

Mr. Meehan said, and nobody can argue with him?

Mr. Shea said they can argue with him and generally they're all in accord, but he feels like if they are going to ask someone to come in, take on a level of responsibility, show up for meetings, do site visits, that level of responsibility needs to come with some authority also.

Mr. Meehan said that hopefully these guys will have wisdom enough to kind of put them together so that it would work in coordination.

Philipstown Planning Board
Meeting Minutes
June 19, 2008

Mr. Merante asked the Board for suggestions/directions regarding how to modify or change this.

Mr. Meehan said that he thought they had to be as critical as they can from what they've seen.

Ms. Sexton agreed. She said that she put just a list of some things - they are in the minutes. Ms. Sexton said that there should be more notification to the public about this. She said that people may say it's their responsibility and yes, it is, but a notice in the paper to say that this is a very important piece of legislation is important because people's properties are listed in there and they really don't know how that affects them. Ms. Sexton said that ninety percent of the people have never seen this document.

Ms. Montgomery said that it hasn't been presented publicly yet.

Mr. Meehan suggested they go out like the Comprehensive Planning Committees did - they went out and actually dragged the people in. He said that they sent out postcards and did everything they could to get the people to come in to listen to what they had to say.

Mr. Merante said that the Comprehensive Plan was a five year program too. He said that it took a lot of effort, a lot of money and many people were involved. Mr. Merante said that they are not going to get into that.

Mr. Gibbons said that he understands the Planning Board wants to make the letter stronger and he has no objections to that. He said that he really thought they needed to get it back to the Town Board so that they can have their public hearings and get the process moving. Mr. Gibbons said that he attended a number of the meetings and participated in them, so he feels that this has been out there for the public to be aware of for quite a while and there are going to be more public hearings.

Mr. Gaba said that he would re-draft the letter to address in greater detail the specific provisions of the plan they've discussed. He said that he will make the language a little bit more strident and he'll circulate it to the Board by email and unless he gets some objection from the Board, he'll submit it to Mr. Merante for signature.

Mr. Merante said that he too wanted to get it back to the Town Board as it has been lingering far too long.

Mr. Shea said that as he's said, at several Town Board meetings, they are serious recommendations. Everything in there...it's broad and people should be made aware of it - there's no doubt about that. Mr. Shea said that he agreed they should have multiple public hearings and people should come in, because if you don't comment on this, you're missing a big

Philipstown Planning Board
Meeting Minutes
June 19, 2008

change in (inaudible).

Ms. Doherty said that there should be a way also of notifying every property owner who's on the Open Space Index that they're on it - the Natural Resource Index also. She said that these people have to know that if this is going to go through and they want to put a shed on their property, it is going to be a little different than in the past.

Minutes

-May 17, 2008

Mr. Gibbons made a motion that the minutes be accepted as written. Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Adjourn

Ms. Doherty made a motion to adjourn the meeting. Mr. Gibbons seconded the motion. The meeting ended at 9:30 p.m. The vote was as follows:

Anthony Merante	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Respectfully submitted,

Ann M. Gallagher

Note: These minutes were prepared for the Philipstown Planning Board and are subject to review, comment, emendation and approval thereupon.

Date approved: _____