

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

The Philipstown Planning Board held its regular monthly meeting on Wednesday, August 20, 2008 at the VFW Hall on Kemble Avenue in Cold Spring, New York. 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 (arrived at 7:45 p.m.)
 Adam Robb, Attorney (for Stephen Gaba)
 Ron Gainer, Planner

**County Line Equities - Application for site plan 1467 Route 9, Town of Philipstown:
Revised Plans**

Mr. Pidala recused himself from this application and left the table.

Mr. Watson said that he did not have an awful lot to add other than they've said last month. He said that they've revised the plan, pulled the parking back away from the edges of the road and to the south of the property, they've put the parking where it has traditionally been. Mr. Watson said that they changed the parking on the north end of the property - they've pulled it back away from Route 9 so they would respect the setback from both the edge of Route 9 and the centerline of Route 9. He said that he believed they also pulled it back a little bit from Route 403 to respect that setback. That resulted in a significant change in the anticipated coverage. Mr. Watson said that they anticipated originally eighty-six percent coverage. They were down to about seventy-eight percent now of total ground coverage because by removing the concrete at the south end of the property, they were able to add some landscaping and reduce the coverage. Mr. Watson said that they've submitted other information with regard to the septic system. The EAF has been completed and a Negative Declaration was adopted.

Mr. Merante asked if the Board had any questions/comments.

Mr. Gibbons asked if the applicant figured out what he was going to do about the sign on the side of the building.

Mr. Giachinta said that they have a meeting on Friday morning with Mr. Gainer.

Mr. Gibbons asked what the difference was in the parking that they are now proposing versus what the ZBA had indicated.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Mr. Watson said that originally, they had proposed fourteen spaces. They had pushed parking too close to Route 9, too close to Route 403. They also had parking right against the property line in which there was some question with regard to whether or not they had pre-existing conditions, but they made the application for the zero lot lines on the parking. Mr. Watson said that the Board did some more research and checked on the law and he believed the Board had a letter from Mr. Gaba regarding that. So they took another look at the parking and how they could make it comply. Mr. Watson said that they were able to make it comply in the back in two ways - by reducing the number of spaces from fourteen to twelve - twelve being the minimum that they're required to have. That gave them some room to pull the parking in from both 403 and 9, so they made seven of the parking spaces comply. Mr. Watson said that they looked at their history of this property and the history of the law and realigned this parking (pointed out) to be a minimum of ten feet away from the property lines and all within the parking and service area that was there since prior to 1957. He said that they put forth to the Board last month that they have a pre-existing, non-conforming condition. In that regard, Mr. Gaba said they needed to provide some evidence of that condition and so they gathered and forwarded most of that to Mr. Merante. Mr. Watson said that there are a couple more affidavits in there attesting to the fact that there was parking in the front. He said that they sought affidavits and have eleven of them. Mr. Watson said that four of the eleven are from people who have given the Board a statement that they personally knew that there was parking prior to 1957. He said that 1957 was the target date that they originally set forth. They have four affidavits that say that that date was set forth because that was the year that zoning was enacted, so anything that legally existed prior to 1957 was non-conforming. Mr. Watson said that they took another look at the situation with regard to parking and found out that up until 1986 they had a different situation with regard to setbacks. In 1986, the hundred foot rule, there were three things that happened. The setback from a street went from 35 to 50 feet - Local Law #1, 1986. That squeezed them. Mr. Watson said that the setback from the centerline of Route 9 of a hundred feet was introduced. It had not been a part of the law until that point and probably most importantly, in 1986 they introduced the restriction on placing parking within the setback area. He said that he knows that in 1986 there was parking there. Mr. Watson said that he did not know about 1957. He said that with that in mind, if their parking in 1957 was conforming because it could go right up to the road, it became non-conforming by an operation of the Town Board to enact a new law in 1986 and so of the remaining seven affidavits, six stated knowledge of that for at least well over twenty years. So they have ten affidavits attesting to the fact that there is pre-existing parking in the front of the building. It had been disrupted, but it was disrupted by an operation of law - not by anything the applicants did. Mr. Watson said that the owner at the time was required to take out the tanks and they disrupted the parking.

Ms. Doherty asked if prior to 1986 parking had to maintain any setbacks.

Mr. Watson said no.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Ms. Doherty said none at all.

Mr. Watson said none at all.

Ms. Doherty said so then in 1986, it was the hundred foot from the centerline of Route 9.

Mr. Watson said that actually, none could go in the setback from the street. He said that the setback from the street went from 35 to 50 and nothing could be in the setback from the street in that fifty feet. It said that nothing could be within the setback from Route 9 for forty feet. Mr. Watson said that there was one little tiny catch that you might catch a few feet of parking in that setback area, but for the most part, you were out of luck with regard to parking. So all the parking along Route 9 is non-conforming and probably legally non-conforming if it's been there long enough.

Ms. Doherty said, but prior to 1986 it all conformed.

Mr. Watson said that this conformed prior to 1986 and there was actually more parking there. He said that they have a couple of photographs that they've seen and the Board has been given a couple of photographs that show that parking was being used, so their position is you have parking in the front. It has historically been there. Mr. Gaba has said to the Board that if it was legally there, it can remain and that, in their mind, fulfills the condition for twelve spaces - five in the front and seven in the back.

Mr. Gibbons said that the ZBA made a ruling because there's been work done out front about the cars on the side, but they did indicate they could do the parking out front - just not up against the road.

Mr. Watson said that they didn't address that issue directly. He said that he thought they may have been erroneously of the opinion that this was non-conforming parking. Mr. Watson said that the Board was of the opinion that it was all non-conforming parking.

Mr. Merante said the Zoning Board.

Mr. Watson said the Zoning Board. He said that they had to apply for a parking variance, but they applied for the parking variance as a blanket one to get the zero lot line. Mr. Watson said that they denied the variance. Their focus was the fact that they had the head-on parking right against the curbing on Route 9, and they felt that would impede sight distance for someone either stopped to turn into traffic or someone coming out seeing traffic coming out of Route 403. Mr. Watson said that he didn't think that was, in fact, the case, but that was what they told him was their concern.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Mr. Merante asked Mr. Watson if he would show the Board how far into the green area and if it was right up against what was curbing.

Mr. Watson said that the minimum distance from the actual parking space to the property line is ten feet. He said that the islands are in the street. Mr. Watson said that they have put forth the position that they have pre-existing parking. That is a new position which the Board did not hear until last month. He said that the Zoning Board never heard of that before.

Mr. Gibbons said, but this is going to be determined this coming Friday - the legality of it.

Mr. Watson said no. He said that he thought Mr. Gaba had given the Board a letter that says if the applicant can demonstrate that the parking was there, they have a right to it. Mr. Watson said that they just handed the Board eleven affidavits from citizens - Mr. Hosmer, Mr. Lyons, Mr. Kinkel, Milton Hustis and Helen Dye - all of whom are senior citizens who have been here for all of their lives and know the Town.

Mr. Gibbons said that when they first started this project, he indicated that he'd like to see the spaces as eight by ten at 484 square feet and asked if that is what they are.

Mr. Watson said that he would have to measure that. He said that he didn't remember. Mr. Watson said that they are 180 square feet.

Mr. Giachinta said ten by eighteen.

Mr. Gibbons asked if they would go over coming in and going out on the south side again.

Mr. Watson did so. He said that the only entry is the 403 side and it's been moved slightly away from the intersection. Mr. Watson said that there's room to back out and leave.

Mr. Gibbons asked if they could go in either direction.

Mr. Watson said yes.

Mr. Merante said in pulling off of 403 on the one side, they'd have to back up and pull out again on the same curb cut.

Mr. Watson said no, they're not backing through the curb cut.

Mr. Merante said no, he said backing in the parking area and then exiting from the same way

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

they came in.

Mr. Watson said yes, and it's wide enough for two.

Mr. Merante said yes, he saw that. He said that the Board asked for the applicant to show an alternative septic.

Mr. Watson said that they submitted a letter in that regard. He said that they have a couple of alternatives. The most practical alternative in a failure would be for the parking area to be removed, the soil tested and a system put in. Mr. Watson said that they know because the tanks were there and they know there's soil there, so they are not dealing with rock. They're dealing with fill. He said that if the soil isn't suitable, the soil can be removed and replaced with suitable soil and that's something that the Putnam County Health Department will allow when a repair is necessary and they've already submitted for permission to use the existing system from the Health Department based on the floor plans and locking of the bathroom.

Ms. Doherty said so in the event of a failure, they'd be able to dig up that parking area, install a system and then redo the parking area.

Mr. Watson said under a repair permit, yes.

Mr. Merante asked if it was not correct that if that were necessary, then the parking area would no longer be usable as a parking area.

Mr. Watson said no, that was not correct. He said that you wouldn't use leeching fields like you normally use in households. You'd use diffusers that are constructed to take the load of traffic.

Mr. Merante asked Mr. Robb if the Board needed to address the issue of the affidavits.

Mr. Robb said that basically the Board simply needs to find substantial evidence in the record based on the submissions establishing that the five spaces that are proposed in front represents an area where there was parking from before the enactment of these other (inaudible). He said that the affidavits look to be in appropriate form, the content of the affidavits, again, it is up to the Board to determine whether there's substantial evidence establishing the applicant's contentions.

Mr. Merante asked if the Board any other questions/comments.

There were none.

Mr. Merante asked if the Board needed a vote.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Mr. Robb said that he did not think there was any formal vote needed on the affidavits themselves. He said that they were presented, they are part of the record, and the Board has reviewed them.

Mr. Merante asked if the Board needed any further discussion on the change to the plans for the septic.

Mr. Robb said no.

Mr. Gibbons asked Mr. Gainer if that was fine with the Planning Board.

Mr. Gainer said that the applicant has previously identified County Health approval of the system in place - the primary system that's currently to be used. The direction of the Board was merely to say that's fine, he's got a valid permit. But what happens in the instance that it might fail in the future, his only obligation in response to the Board was to illustrate that he has other areas on the site that could be shown as suitable and the plans represent that and his proposal for the reserve area is reasonable. Mr. Gainer said that it's still subject to future permitting, but he's identified his intent as to where that replacement system would be installed should it ever be found necessary.

Mr. Merante stated that he'd like to hold this for five minutes as Ms. Sexton just called to say she would be arriving at the meeting. The Board took a five minute break. Ms. Sexton arrived.

Mr. Watson explained the applicant's position to Ms. Sexton. He also explained their position with regard to the septic.

Mr. Merante said that they had a Resolution prepared and read it aloud.

Mr. Gibbons asked if they could add "the parking on the south side of the site plan is approved by an affidavit."

Mr. Gainer asked Mr. Gibbons if he wanted that in the clause.

Mr. Gibbons said yes because it was really denied by the ZBA and the Planning Board needs to make sure that it's being approved by them.

Mr. Merante asked if the Board had any comments.

There were no comments.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Ms. Doherty made a motion to approve the Resolution as amended (attached). Ms. Sexton seconded the motion. The vote was as follows:

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

Mr. Pidala joined the table again.

Randi's View (Padilla) - Two-lot subdivision - 1478 Route 9D, Garrison: Revised plans, full EAF

Mr. Watson said that Stantec's memo provided the technical details they were looking for. He said that those have all been submitted. They've revised the EAF and attached the full drainage report to it. Mr. Watson said that they've made those revisions and more specifically answered questions regarding the erosion control problem that was demonstrated to the Board. He said that other than that, he thought they've done everything. Mr. Watson said that they have an attorney working on the easement from the adjoining owner and the maintenance agreement. He said that he had hoped to have them there tonight, but they are not ready.

Mr. Merante asked if that would affect the Board's (did not finish sentence).

Mr. Watson said no, it's normally a condition of the Board's approval.

Mr. Pidala said that with regard to the driveway, he asked a couple of meetings ago about blacktopping at the top.

Mr. Watson said that he did not know if it was on, but if it is not, they'd certainly put it on.

Mr. Gainer said that they've been through the drainage reports and the erosion control issues relative to the comments raised at the public hearing and they are satisfied with the improvements shown on the latest plans and the latest EAF documents for review.

Mr. Merante distributed and read aloud the Negative Declaration. He asked if the Board had any comments.

There were no comments.

Ms. Doherty asked if the note about blacktopping the driveway would have to be on that.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Mr. Gainer said that it would be a condition of the approval.

Ms. Doherty made a motion to adopt the Negative Declaration (attached). Mr. Pidala seconded the motion. The vote was as follows

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

Mr. Merante distributed and read aloud the Resolution. He asked if the Board had any comments.

Ms. Doherty said that they needed to add the blacktop condition.

Mr. Gainer said that that requirement was previously noted at a Board meeting, but then was included in the prior technical memorandum of his office. He said that the Board could make a separate issue and include it again, but he just wanted it clear that it has been put on the record in their technical memorandum.

Mr. Watson said that Condition D actually requires the applicant to provide the Town with copies of the filed map, so it has to follow the signature of the Planning Board Chairman. Mr. Gainer said that D is just saying that you can present the original or the endorsement.

Mr. Watson said that he believed it says you have to give it. He said that you have to buy copies of the filed map in Carmel and bring them over.

Mr. Gainer said that you can't get filed until Item Three is done and the Chairman signs.

Mr. Watson said right, so normally, you would say he was authorized to sign when Items A through C, E and F are completed. He said that typically in the past, that was left off the list of "to do" items. Mr. Watson said that you just can't fulfill it before the Chairman signs it.

Mr. Merante said that Mr. Meehan was asking if the easement for the septic (did not finish sentence).

Mr. Watson said that is in the works.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Ms. Doherty asked if it was covered in the easement over the common driveway.

Mr. Merante said that it should be clearly stated. He asked if Mr. Gainer added the septic easement.

Mr. Gainer said that they'd modify B.

Mr. Merante said that they actually have three under B - they have the easement, maintenance agreement and the easement for the septic.

Ms. Doherty made a motion to adopt the Resolution (copy attached) as amended. Mr. Meehan seconded the motion. The vote was as follows:

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

Noe - Approval of subdivision plat - East Mountain Road North, Cold Spring: Discussion regarding site visit, improvement plan, etc.

Mr. Watson said that he thought the only thing they could ask the Board to do is schedule the public hearing. He said that the Board wanted to reserve it until they had the site visit.

Mr. Merante said, which they have. He said that the Board's engineering consultant had also visited the site.

Mr. Gainer said that they find the access as most reasonable.

Mr. Gibbons addressed Mr. Watson and said that he and Mr. Pidala would like to go there on Monday as they were not able to make the site visit.

The Board agreed to schedule a public hearing on this application for the September meeting.

MHCP Realty (self-storage) - 2761 Route 9, Cold Spring: Letter to Planning Board Chair, grading and utility plan

Mr. Pidala recused himself from this application and left the table.

Mr. Watson said that they wanted to simply discuss this application with the Board briefly, get its initial reaction to it and then decide whether or not they want to go through the process of

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

changing the drainage plans. Mr. Watson said that he was going to ask Mr. Giachinta to tell the Board a little more about the porous concrete, but this whole thing arises out of the ability to use porous concrete to pave the surface and thus change the drainage calculations.

Mr. Giachinta said that it is actually a porous concrete. He said that it is concrete mixed without sand and you can get the same strength as regular concrete. Mr. Giachinta said that underneath that, they'll put stone down. He said that they can cut back on their holding tanks and discharge of water because they're putting it right back into the ground. Mr. Giachinta said that there are some disadvantages in the northeast. He said that they won't be able to sand.

Mr. Merante asked if the sand would plug it up.

Mr. Giachinta said yes.

Mr. Merante asked if he would use a liquid deicer.

Mr. Giachinta said or a regular ice melt. He said that it is just a maintenance issue on their part. Mr. Giachinta said that they have a vacuum truck come in once a year or as needed.

Mr. Watson said that they compared the two systems with basically the same site plan - the same stuff in the front, the same building footprint. He said that in the existing plan, you have a sand filter. You still have a sand filter on the new plan, but that visually it's less. It goes from twenty by sixty-seven to eight by thirty-four, so it's substantially less. Mr. Watson said that there were a series of thirty concrete holding tanks, which would be reduced to seven. Part of the system would require the catch basins to be connected to the seepage pits buried under the pavement so that water would be carried there. He said that would leech some of it into the ground and what excess didn't get there would get to the drainage systems, so they have less site disturbance, less rock removal, less cost, and less of a need for storage because there's going to be more on-site infiltration. Mr. Watson said that it is a modification to the plan that they think is good for everybody.

Mr. Meehan asked if the whole concrete slab was going to be ...even underneath...(did not finish sentence).

Mr. Giachinta said no, the buildings would have a traditional foundation.

Mr. Meehan said everything else would be this porous...(did not finish sentence).

Mr. Giachinta said yes, except there's a perimeter around the well where they can't use porous concrete.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Mr. Merante asked where the well was.

Mr. Giachinta pointed it out. He said that he did not remember the exact distance they had to stay away, so that would be regular concrete.

Mr. Meehan said that he would assume underneath it is some sort of a leech field.

Mr. Giachinta said that underneath they will have a foot of gravel.

Mr. Gibbons asked how quickly it permeated.

Mr. Watson said that this stuff will be sized to catch the overflow.

Mr. Meehan said, so they'll have a curtain drain around it.

Mr. Giachinta said that the whole thing is basically a curtain drain.

Mr. Gainer said that they'll have standard drainage pipes within the drive areas that service the storage units so that if the leeching pits they're describing, which are nothing more than glorified catch basin structures, will have a significant concrete structure below them to allow infiltration. He said that the infiltrators themselves are going to be interconnected by hard piping should they exceed their capacity.

Mr. Giachinta said that with the parking lot, a trench drain is still in the middle. That hasn't been removed and there's a catch basin on each side, so any excess or overflow that does come down will still go through that system.

Mr. Gainer asked if there was any other physical change to any improvement proposed. He asked if the buildings were in any different locations.

Mr. Watson said no.

Mr. Gainer asked if the amount of impervious surface was the same.

Mr. Watson said that's the same.

Mr. Gainer asked if anything changed other than the drainage.

Mr. Watson said no.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Mr. Gibbons said that he knew Mr. Giachinta was in the cement business and asked if that was why he was going with cement versus blacktop.

Mr. Giachinta said no it is not. He said that honestly, he could not supply concrete for this job and will be getting it from somewhere else. Mr. Giachinta said that the cost is one thing, but the whole thing is to try to get the water back into the ground and this is actually a better way to do it.

Mr. Gainer said that he thought the Board should probably put this on the agenda for the September meeting and in the interim, the applicant's consultant has to submit all the drainage calculations being proposed. Mr. Gainer said that he would chat with the Town Attorney's office to know if that requires a new public hearing or whether they could just hear and then re-affirm the prior Neg Dec and prior approving Resolution.

Mr. Watson asked if the Board could schedule a public hearing if Mr. Gainer is advised that it is required.

The Board agreed to schedule it for next month and if it is not needed, then they'll call it an agenda item.

Mr. Meehan asked if the applicant was going to try to match his building exterior to the retaining wall he's putting up and if that was why he was going from brick to stone.

Mr. Giachinta said that there's going to be a lot of stone on the house too. He said that it is easier to install the stone in there than it was the brick. Mr. Giachinta said that everything will look the same.

Mr. Gainer asked if the Board was saying it wanted visuals for the September meeting and said that it might help the Board.

The Board agreed.

Ms. Sexton made a motion to schedule a public hearing for September. 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-		Recused

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Pat Sexton - In favor

Mr. Pidala joined the table again.

Mary Ellen Finger - Application of 5-lot subdivision - Horseman's Trail Road, Cold Spring: Submission of full EAF

Mr. Merante said that this application had been taken off the agenda.

Mr. Watson said that they received a comment letter from Mr. Gainer regarding a conversation with Roger Chirico on the drainage and he wants them to look at some other options. He said that they agreed they would put off discussion at this meeting. Mr. Watson said that Dr. Finger is fine with that and he talked to Mr. Gainer about meeting with him the next time he's over so he can iron that and another matter out.

Correspondence

1. Letter to Tim Allen of Bibbo Associates regarding modifying the cross-sectional structure of access road. Mr. Merante said that they got a response back.
2. Letter from the Planning Board to the Building Inspector regarding Perks Plaza and the closing in of the alleyway between the buildings that were once separate and the addition of a second story on the southern end. Mr. Merante read the letter aloud. Mr. Gibbons asked if the Board received a response. Mr. Merante said not yet.
3. Mr. Merante said that the Town Board just passed a local law on the outdoor furnace law and that may be an issue the Planning Board will be dealing with in the future. Ms. Montgomery said that it was passed along to (inaudible).

Miscellaneous

-Mr. Gainer said that he has a meeting with County Line representatives to review signage being proposed on their project.

-Mr. Gainer said that there's another meeting on Friday with Viletto who wants to discuss a property he seeks to purchase and wants to confirm his ability to develop under zoning. Mr. Merante said that this is a proposed purchase of what was formally called Post Road Hardware.

-Mr. Gibbons asked Ms. Montgomery what was going on with the lack of a Planning Board member.

Ms. Montgomery said that they held interviews yesterday.

Mr. Gibbons asked if Ms. Montgomery thought by September they'd have someone.

Ms. Montgomery said that they should be able to appoint someone.

**Philipstown Planning Board
Meeting Minutes
August 20, 2008**

Adjourn

Mr. Meehan made a motion to adjourn the meeting. The motion was seconded. The meeting ended at 9:00 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 yours,

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: _____