

Philipstown Planning Board
Meeting Minutes
September 18, 2008

The Philipstown Planning Board held its regular monthly meeting on Thursday, September 18, 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
Pat Sexton
Stephen Gaba, Counsel
Ron Gainer, Planner

Absent: Andrew Pidala

Mr. Merante introduced Kim Conner and welcomed her as the new member of the Planning Board.

Public Hearing

Noe - Approval of subdivision plat - East Mountain Road North, Cold Spring: Discussion

Mr. Watson said that the applicants own two pieces of property, which are well over ten acres each on East Mountain Road North. The application before the Board, even though it's a subdivision, technically, is an approval of a common driveway into Lot B over Lot A. He said that the application was made at the suggestion of the CAC. Originally, there was an application for a driveway into Lot B. When the CAC saw the application, they suggested trying to get an approval of a common driveway into Lot B and thereby avoid significant state wetlands across the northwest part of the property. Mr. Watson said that, in fact, they've been able to minimize the actual intrusion. He said that there are actually two small wetlands crossings and some additional disturbance of buffer, but it is significantly less than would have been required if there were a parallel set of driveways going into the property, so they've made that application for that purpose. Mr. Watson said that when this is finished and hopefully approved, there will be no additional lots, but they will have the ability to build on each of the lots without having to construct a driveway across Lot B because they'll be able to share the driveway across Lot A.

Mr. Merante said that the Board had a memo from its Planner and asked if Mr. Gainer would summarize for the Board.

Mr. Gainer said that the project has been before the Planning Board for some time. Various Board members and representatives from his office have been to the site. He said that it is really just approving utilization, for the most part, of an existing access to service two lots. Mr. Gainer said that he thought the Board was well aware the intent of the project does not have very

significant issues. He said that they summarized in the memorandum where the physical process

Philipstown Planning Board
Meeting Minutes
September 18, 2008

sits. The Board is obligated to take a SEQRA action on the matter. There are some statutory referrals that are made mostly by the applicant. Mr. Gainer said that the Town pursuant to 112-12B has to make a referral to the CAC, so if it hasn't been done, it should be accomplished. He said that they've also identified in their memorandum typical final plat conditions if the Board is so disposed.

Mr. Merante asked Mr. Watson if the application had been referred to the CAC.

Mr. Watson said that he believed the Board had not referred it officially to the CAC, but there was a letter recommending it to the Board from the CAC because as he stated before, they originally went to them for an individual permit.

Mr. Merante said that he thought the Board needed to get that and asked what the status was with the DEC regarding wetlands.

Mr. Watson said that there is an application pending. They made their initial application and recently got a Notice of Incomplete Application, which is their way of asking for more stuff. Mr. Watson said that they will be responding to that. He said that it is typical of the process.

Mr. Gainer asked if they raised any significant issues that make the permit issuance questionable.

Mr. Watson said that he didn't think so.

Mr. Merante asked if the public had any comment.

There was no comment.

Mr. Gibbons asked Mr. Gainer if he saw a better alternative to gaining access to this.

Mr. Gainer said no. He said that he walked the site very hard right after the Board did. Mr. Gainer said that what they are proposing is most reasonable and would provide the most minimum intrusion in the wetlands.

Mr. Gibbons said that the reason the Board is possibly granting access to this is that it is a pre-existing lot. It's not the creation of a new lot. He said that the applicant does have a right to gain access to his lot. Mr. Gibbons said that a road maintenance agreement is going to part of this as well.

Mr. Gainer said right and suggested the Board close the public hearing if there was no comment

Philipstown Planning Board
Meeting Minutes
September 18, 2008

from the floor.

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

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

Mr. Watson said that they will respond to Mr. Gainer's comments and asked that the referral to the CAC be made.

MHCP Realty (self-storage) - 2761 Route 9, Cold Spring: Revised application

Mr. Watson said that this is an application for a site plan that was approved a year and a half ago and then a new approval was issued last February. He said that it is for the construction of self-storage units on the westerly side of Route 9 - 200 feet north of the intersection of Lane Gate Road. Mr. Watson said that construction is underway. He said that as they explained to the Board last month, the applicant would like to change the plan and replace the proposed asphalt paving for the project with porous concrete. Mr. Watson said that the porous concrete is a relatively new product here, but it's been used elsewhere in the country. He said that as Mr. Giachinta explained to the Board last month, the mixture is made in such a way that there are voids in the concrete as opposed to asphalt, which is solid, and stormwater runs onto the asphalt and runs off the property, accumulates, and virtually a hundred percent of the water rain that hits the asphalt is shed and increases the runoff from the property. That necessitated a fairly large stormwater detention treatment area at the west end of the property. Mr. Watson said that by using porous concrete and using a sub-base underneath it of suitable material, much of the water will flow through the concrete, be absorbed into the sub-base below it and subsequently into the ground. He said that it reduces the water that runs off and the size of the stormwater treatment area significantly and it will allow less disturbance on the site. Mr. Watson said that was the primary purpose of making the new application - to get approval of these two things. He said that there were two other changes in the plan. The original plan called for two retaining walls, and in fact, one retaining wall they'll do under construction that was made in the field, so they brought that before the Board. Mr. Watson said that is not reflected on the plan. He said that instead of having a retaining wall and then a break and then another retaining wall, they just

carried the retaining wall around. It is slightly further back from the road than originally planned

Philipstown Planning Board
Meeting Minutes
September 18, 2008

because there was some rock encountered at the septic area and they wanted to avoid that. Mr. Watson said that they re-calculated the required parking and they have eight spaces and nine spaces were required, so they made a slight adjustment over toward the northeast corner and put the ninth space in so it would be conforming. Mr. Watson said that the basic plan doesn't change - what you see on the ground, the way it works doesn't change, the traffic flows don't change. He said that none of those impacts they've discussed so thoroughly when they first looked at that really changes, except in the positive sense that the drainage requirements are significantly less.

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

Mr. Meehan said that he'd like to hear from the Planner.

Mr. Gibbons said that again he'd like to congratulate the applicant on the concept of how he's trying to do this. He asked if the wall alterations in the field have been reviewed.

Mr. Gainer said that they've got some technical questions to resolve with the applicant, but they're resolvable - it's just a matter of making sure the plans are clear.

Mr. Merante asked Mr. Gainer to summarize.

Mr. Gainer said that the Board has a technical memorandum from his office. He said that obviously the project's been approved twice before - once in 2006 and an approval was re-affirmed earlier this year in February. Mr. Gainer said that the intent of the applicant coming before the Board this time, as the applicant's consultant indicated, is merely to modify the drainage concept. He said that they've attempted to summarize that since it's another action to be taken by the Board, and they still have to resolve and address SEQRA. Mr. Gainer said that he would have to confer with the Town Attorney whether any new referrals had to be made to County Planning. He asked if a referral to the County was made.

Ms. Gallagher stated that the referral was made.

Mr. Gainer asked if they received a response from the County.

Ms. Gallagher said no.

Mr. Gainer said that on the second page of the memorandum, they tried to summarize the very basic conditions that they perceive are to be resolved. He said that they've looked at the original approving Resolutions and the only one that has not yet been addressed or evidenced on the

latest plans, is the physical posting on the performance bond connected to the landscaping, so

Philipstown Planning Board
Meeting Minutes
September 18, 2008

they've identified that. He said that in their mind, it is an open issue - they don't know if it's been posted with the Town previously. Mr. Gainer said that it could well have been, but it's fine to have as a condition - if it's posted, it's been satisfied. He said that they've got technical client clean-up issues that they'll resolve with the applicant's consultant. Mr. Gainer said that they haven't exactly endorsed the exact design, but those details would be worked out between consultants.

Mr. Merante asked if the stormwater pollution prevention plan had been changed.

Mr. Watson said that they're still working on some of those details and part of Mr. Gainer's comment letter was that some modification needs to be done to that.

Mr. Merante asked if there was any reason that would hold it up.

Mr. Gainer said to him, no - not at all. He said that the only question he had was whether they physically need to wait for the County's response.

Mr. Gaba said that it is thirty days from the time they receive a full submission for a referral and then they have to get back to the Board and if it hasn't been thirty days, then the Board can't act

Mr. Merante said that one of the things this is doing is it is making the impact on the site less intense. He asked if that was right.

Mr. Gainer said right.

Mr. Merante said by removing several of the catch basins and the underwater ground (did not finish sentence).

Mr. Gainer said that the applicant is moving on a valid site plan approval to begin with and he can't address his changes until the new approval is received. He said that it's not delaying him from his actions that he's accomplishing today. Mr. Gainer said that he did not know that the applicant was concerned if it requires another meeting. He said that the Board physically has all the paperwork so it can take a formal action and the applicant wouldn't even have to attend.

Mr. Merante said so they should leave the public hearing open.

Mr. Gainer said that he's still permitted to proceed after the site plan approval the Board previously gave.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Gaba said that he did not think the Board needed to leave the public hearing open. It can close the public hearing and take action at the next meeting as far as adopting Resolutions.

Mr. Giachinta said for the Board's information, this does not affect his time whatsoever. He said that this is actually the end of the project.

Mr. Merante asked if the public had any comment.

There was no comment.

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

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

Mr. Gaba asked Mr. Merante if on the Noe application, the Board wanted a SEQRA draft Resolution and a Resolution for approval for next month.

Mr. Merante said yes.

Mr. Gaba said, and the same thing on MHCP.

Mr. Merante said yes.

Jonel Alamazon - Approval of access - Ridge Road/Sky Lane: New submission

Mr. Alamazon said that basically, he is requesting access to the property on Ridge Road - the corner lot between Ridge Road and Sky Lane. He said that he wanted to change the orientation of the property to Sky Lane instead of Ridge Road, which makes access a lot easier. Mr. Alamazon said that the second thing he wanted was to get a container on Ridge Road to clean up the debris that's been dumped along Ridge Road for years. Mr. Alamazon said that the third item is that since he wrote his letter, he spoke to the Power Company who has been paving the road there. He said that they paved the top third and bottom third. They did not pave the middle third

of the road. Mr. Alamazon said that had caused an accident with one of their trucks with the

Philipstown Planning Board
Meeting Minutes
September 18, 2008

power lines and the phone lines and right now, he's in negotiations with the Power Company and Jerry Nappe to get the entire road paved and get the drainage completed. Mr. Alamazon said that is what he's trying to do right now to get access to the property so he can build a house.

Mr. Merante asked if the applicant realized it was a private road.
Mr. Alamazon said yes.

Mr. Merante asked if he was intimating that he was going to attempt to bring it up to Town standards.

Mr. Alamazon said no, the Power Company is paving the road to work with the Owner's Association on the road to bring it up to standards.

Mr. Merante asked if there was one and stated that he wasn't aware of one.

Mr. Alamazon said that is what he was told by the Power Company.

Mr. Meehan said that if the Power Company is doing something, they should be notifying the Town.

Mr. Merante said that he knew with the two houses that were built at the bottom of the road which the Board approved, they paved up to the end of his property. He asked if the applicant said it was the electric company.

Mr. Alamazon said right.

Mr. Merante asked if it was the people that were on the radio tower.

Mr. Alamazon said that he thought it was a conjunction between both.

Mr. Merante said that they paved several hundred feet.

Mr. Alamazon said right and they also paved the top one third including...(did not finish sentence).

Mr. Merante said up to the antenna.

Mr. Alamazon said right.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Gaba said that this is an oda road access approval. It's a private road. Mr. Gaba said that the best he could make out, because there was no letter from the Building Inspector as to why he wouldn't issue an approval on this, is that there's more than four homes on the road or, he guessed it was eight if it's old enough. He said that in any event, there's more than that, and that's why he needs approval from the Planning Board. Mr. Gaba asked the applicant if the Building Inspector gave him any other idea as to why he would come to the Planning Board on this.

Mr. Alamazon said that Mr. Monroe told him that this was the process he had to go through - talk to the Planning Board to get the approval and then he can give the building permit.

Mr. Gaba said that if it's just a matter of there being too many homes on a private road and he wants to look into the private road - have access on it in addition to those, it's not terribly difficult. The Board will evaluate the road and see if it's safe and suitable access for him and everybody else on the road won't be impaired. But if the road doesn't meet Town road standards for oda roads, then he may be required to make improvements to that road, or in the alternative, the Board could refuse to grant the permit altogether. Mr. Gaba said that usually, the Board gets a road detail showing what the slope of the road is, how wide it is, etc. He said that from the sketch the applicant submitted, they can't really make much of it. Mr. Gaba said that he thought the Board needed more information from the applicant regarding what it is he is proposing and then the Board could even decipher for themselves whether he complies with the Code's requirements or not, or maybe Mr. Monroe could tell the Board what he felt the problem was.

Mr. Merante said that part of the problem is...the things the applicant said he wanted to do once he gets permission is all well and good, but it's really beside the point. The point is access. He said that some of the Board - maybe all of them, know that road very well. Mr. Merante said that he hadn't been up to the end of the new blacktop, but he remembered what it was like. He said that there's a real problem with access for emergency and service vehicles. Mr. Merante said that also, the fact of the items Mr. Gaba mentioned and the fact that it is a very hazardous road.

Mr. Gibbons said that he thought it was incumbent upon the Board to understand why Mr. Monroe was sending the applicant to the Board. He said that he would like to see a letter from Mr. Monroe explaining why he is sending the applicant to the Board and the reason why he denied the applicant the permit. Mr. Gibbons said that secondly, with regard to the applicant showing the road improvements, he asked if the applicant was indicating that he would be willing to do them.

Mr. Alamazon said right, exactly.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Gibbons said so the four foot wide swale is basically at the intersection and right up to the end of Mr. Alamazon's property.

Mr. Alamazon said right. He said that actually, he was going to extend it 130 feet past the four mile lot on his road.

Mr. Gibbons said that the Planning Board is going to need to know what the Power Company is doing because none of them have heard anything.

Mr. Gainer said that he thought one point that's being made by the Planning Board is that the Town recognizes there's a need for that road to be upgraded before access is allowed in any way. He said that Mr. Alamazon's application seeks to attain an access permit and he's proposing some limited improvements, but from his recent visit to the project site, he thought the applicant's driveway was about a thousand feet from where the new pavement stops. Mr. Gainer said that is the point. He said that the Board is saying that access has to be improved to what requirements are contained in Town Code to the point where he needs access in order for the Board to recognize that it's suitable for routine and emergency access, so that it's provided with some safe means to allow him to have the access he seeks. Mr. Gainer said that just an understanding that the utility company might be paving is not sufficient assurance to know that standards will be met, widths will be met, grades will be met or as to when it will even occur to allow them to move forward on the application until all that information is provided.

Mr. Alamazon said that he just found out himself and has been working with Jerry Knappi from the Power Company and he hasn't received an official letter from him as to when it's going to be completed.

Mr. Merante asked if the applicant actually got a denial from Mr. Monroe, or he just sent him to the Planning Board.

Mr. Alamazon said no, he just sent him to the Board.

Mr. Gibbons said that he just wanted to know if there was anything outstanding.

Mr. Gaba said that the Board will write a letter to Tom Monroe referencing this and asking him what the basis for the referral was and if it was anything more than just the homes along there. He said that in the meantime, the applicant should go back to Zarecki & Associates to see if he could get some sort of a road profile done as to what it is he proposes with the connection to the

new driveway and submit that. Mr. Gaba said that they'll see if they can get a letter from Mr.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Monroe, and assuming that the applicant gets things back and they hear from Mr. Monroe, he could come back next month and the Board will see if he's in a position to go forward.

Mr. Gainer said that he would add that the applicant's consultant should review the Town Code so that the proposal that does eventually involve any submission to the Planning Board complies with all requirements - road construction with drainage, grades, etc.

Mr. Alamazon said that he'll see if he can get a letter from the Power Company because they've also been putting in the drainage on the road. He said that his sketch was including the drainage.

Mr. Merante said that with regard to the sketch, he thought the applicant needed to get far more detail - something the Board can actually read, as the present one was pretty tough.

Mr. Gainer said that it has to go back to the point where the road meets spec.

Ms. Doherty said that just because the Board is asking the applicant for more information, she didn't want the applicant leaving there thinking the Board was going to approve it. She said that she wanted to make sure the applicant understood that before he spent more money on this and that it is not a done deal.

Mr. Merante said that this is a road that they've actually been up to when campaigning and talked with people. He said that they've been there twenty-five years and so and they don't want it improved because they don't want people up there. Mr. Merante said to the applicant that he's up against that also.

Rodney Weber - Two-lot subdivision - East Mountain Road South/Horton Road: New submission

Mr. Watson said that this is a new application for Mr. Weber. He said that it is maybe a mile and a half or so up East Mountain Road. There's significant frontage on East Mountain Road and also a minor amount of frontage at the end of Horton Road. Mr. Watson said that as can be seen from the slope analysis, the property has significant slopes. He said that there's an existing driveway from East Mountain Road down into a house that's under construction. The total area of the land is about forty-six acres. Mr. Watson said that they are seeking approval of access over a right-of-way that Mr. Weber has over the Lyons' property, which is also a part of the former Omar property. He said that they'd like to break the property into two parcels - a twenty acre parcel to the south and a twenty-six acre parcel to the east that would take access over a new open area development road ending in a cul-de-sac. Mr. Watson said that they've shown the house and septic and have provided a profile. It is a very gentle road - maybe four or five

percent of that road. He said that there are significant wetlands there, which have been shown

Philipstown Planning Board
Meeting Minutes
September 18, 2008

and other than the improvements to the existing driveway, which would bring the driveway up to the standards the Board was talking about a moment ago, there's no other anticipated disturbance on the wetlands.

Ms. Doherty asked Mr. Watson to point out the six thousand buildable on the eastern lot. Mr. Watson said that he could tell the Board where it was, but did not see it on the plan. Mr. Watson said that would fit right around the house.

Mr. Gibbons asked if Lot One where the house was being built had already been approved and has a permit.

Mr. Watson said yes.

Mr. Gainer asked when the permit was issued.

Mr. Watson said earlier this year or the end of last year - he was not sure of which.

Mr. Gibbons said that the Board is technically only dealing with Lot One.

Mr. Watson said other than it's a subdivision, sure.

Mr. Gibbons said that they're not reviewing the access to the house.

Mr. Watson said that it is an existing driveway.

Mr. Gibbons said yes, but it looked like it was going over some pretty steep slopes.

Mr. Watson said that it is.

Mr. Gainer said that there is going to be a referral back to the CAC and they'll comment on the sum total of the subdivision, which would clearly encompass activities on Lot One.

Mr. Gibbons asked what the grade on the driveway was.

Mr. Gainer said that they have very preliminary information. He said that this is the initial appearance before the Planning Board for this proposal. Mr. Gainer said that they had a very brief memorandum from his office, they're basically suggesting that it is the very early stages of review, and suggest the Board might initially want to schedule a site walk to understand site

Philipstown Planning Board
Meeting Minutes
September 18, 2008

accomplish the CAC referral to at least move the process to get the Board to better understand the intent of the development proposed as well as the access considerations.

Mr. Gibbons asked if on the Horton Road property down to the end, there was now a cul-de-sac or if it was being created.

Mr. Watson said that the public road comes up to this point (pointed out) at the beginning of the property and there is a tear drop-type cul-de-sac at the end of the property that was constructed and dedicated to the Town seven to ten years ago. He said that the public road ends at this point (pointed out). Mr. Watson said that from that public road, there is a traveled way into Lyons Realty property. He said that's an eight or ten foot wide dirt traveled way.

Mr. Gibbons said so there is no cul-de-sac.

Mr. Watson said that there is no cul-de-sac at this end (pointed out). He said that's why he said that would be added to it.

Mr. Gibbons said so all of that would have to be constructed and the cul-de-sac installed.

Mr. Watson said yes, the grade is there and half the road is there, so it would have to be brought up to standards so to speak.

Mr. Gibbons said that the plan makes it look like it's already there and he wanted to clarify that it's not.

Mr. Merante said that it is essentially there, but it's unimproved.

Mr. Watson said that Lyons bulldozed it out and made it passible for their work vehicles.

Mr. Meehan asked if Mr. Watson would identify who owns what property where. He said that if you look at the brochure, it says "abutting neighbors" and it gives tax maps. Mr. Meehan said that when you go to the (inaudible), it gives numbers, so you really don't know who owns what.

Mr. Watson said that he can do that for the Board.

Mr. Meehan asked if there were any soil mining operations up there right now.

Mr. Watson said no. He said that Mr. Lyons has just filed an application for a soil mining permit on this piece of property, which is 136 acres, but the application is over at Route 9 where the

barbershop and Jaymark Jewelry is.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Merante asked if the Town road had restrictions on Mill Road.

Mr. Watson said that Mill Road is closed. He said that he did not know if it was officially closed, but it is officially blocked.

The Board agreed to schedule a site visit for Sunday, October 5, 2008.

Ms. Sexton asked if there was any further subdivision expected on this property or it was going to be (inaudible) and that's the limit.

Mr. Watson said that there is no plan to subdivide it. He said that the access that Mr. Lyons granted to Mr. Weber is for one house. With that restriction, it would be technically possible to subdivide the property because he has a small amount of frontage on Horton Road...actually, he didn't think it was, because you can't get from Horton Road onto that property without crossing wetlands, so he thought the practical answer was that it is difficult. Mr. Watson said that there is no prohibition against it, there's no plan. He said that there's a restriction presently in the easement deed against any further accesses.

Ms. Sexton said that it just limits the access.

Mr. Watson said to one house.

Mr. Gainer asked if the applicant was willing to identify that restriction - that they'll be no further subdivision.

Mr. Watson said that he'll have to ask the applicant. He said that he did not know what the eventuality of Mr. Lyons' plan is. Mr. Watson said that it is not inconceivable that Horton Road would some day be connected to Route 9 and were that to be the case, there might be very justifiable positions to subdivide the property if that were connected and made a public road. Mr. Watson said again that he would have to ask his client and said that there are foreseeable circumstances that make him think that it would not be an acceptable thing, but he did not know.

Ms. Conner asked if she could ask Mr. Watson about the piece next to Glen Lowery's property. She said that there's a line and asked if there was some kind of an easement there.

Mr. Watson said that part of the property is restricted from any kind of development.

Ms. Conner said that at the edge of that, there's a (did not finish sentence).

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Watson said that it was a grading easement.

Ms. Conner said, and that could not become a private road.

Mr. Watson said that you could theoretically design a road to go in over the frontage (pointed out) of Horton Road and go in. He said that in theory, you could take a private road and bring it in, but there would be a significant wetlands disturbance. Mr. Watson said, so the answer is yes.

Ms. Sexton said that if he goes a different way...something about it makes the rest of his land unusable.

Mr. Watson said that his alternative would be either to not do anything or it would be to come over here (pointed out) and go through the wetlands, which would make significant more disturbance.

Ms. Sexton said right. She asked Mr. Watson what he meant when he said that it also further limits the use of his property.

Mr. Watson said that he didn't remember...he said that he would have to read what he said.

Ms. Sexton said that she would ask next time.

Mr. Merante asked what the percentage of steep slopes and wetlands on this property was.

Mr. Watson said that he did not know. He said that it is in the EAF.

Ms. Reap said 3.5 acres.

Mr. Watson said that it is not wetland and wetland buffer - that's wetlands. He said that you have basically streams coming down that have virtually no width - a lot of length, so by the time you have the buffer, you've taken something that's five feet wide and made it 205 feet wide, and it makes a significant area difference.

Ms. Sexton said that she found the paragraph she had referred to earlier. She read the section aloud. Ms. Sexton asked if it meant that if he put the road in somewhere else, he wouldn't be able to further develop.

Mr. Watson said no. He said that it says if he takes the option of doing nothing, he can't use this

14
part (pointed out) of the property that's very developable. Mr. Watson said that there were two

Philipstown Planning Board
Meeting Minutes
September 18, 2008

statements there - one, if he does nothing, he can't use this piece of property (pointed out), which is very developable because he's not going to come from East Mountain Road, as he already has a driveway on there. The other alternative was to come in through the wetlands. That was a different answer.

Mr. Watson said that holding the site visit on October 5th would be difficult for him as he would not be here.

Ms. Reap said that she would attend the site visit.

Ms. Montgomery said that she would inform the Town Board and property owner that the Planning Board will be visiting the site.

Mr. Merante asked if the Board should schedule a public hearing.

Mr. Gainer said that he would wait and he suggested that they talk with the applicant after the 5th to discuss the site walk comments and then they will determine what the Board's view will be.

Mr. Merante asked if the Board had any further comment.

There was no comment.

Doneraile Ballyhooly (The Stadium) - Request from Town Board for recommendation whether return security deposit (PB#15-02)

Mr. Gainer said that the Board received a memo from his office. They were able to make a site visit and confirm that from their view of the plans and Planning Board files that the landscaping in place is substantially in compliance with the plan approved through the Planning Board process, so they recommended if the Board concurred with their finding, they could issue a recommendation back to the Town Board to release the bond.

Mr. Gibbons made a motion that the Planning Board recommend to the Town Board to release the bond. Ms. Doherty seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		Absent

15

Pat Sexton	-	In favor
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Philipstown Planning Board
Meeting Minutes
September 18, 2008

Garrison Properties, LLC (Garrison Gold Club) - Request from Town Board for recommendation whether return security deposit (PB#15-05)

Mr. Gainer said that again, the Planning Board has a memo from his office and it offers the same recommendation. He said that they visited the property as did the applicant's consultant. Mr. Gainer said that they found the landscaping substantially in compliance and so stated in their memorandum distributed to the Board. He said that if the Board concurs with their findings, it may issue the same kind of recommendation to the Town Board.

Mr. Gibbons said that this one is for ten thousand dollars. He asked if Mr. Gainer was a hundred percent in agreement that it should be the recommendation going back to the Board.

Mr. Gainer said that all the plan materials are in. He said that he thought the only issue was longevity. Mr. Gainer said that there are other aspects to the project that were subject to the Planning Board's approval that it can always clean up any (inaudible) it might find is diseased or dying later on. He said that for now, the landscaping is in place and that was their obligation.

Mr. Watson said that it doesn't cover all the...there is another thirty thousand dollar bond covering the landscaping and performance with regard to the drainage basin.

Mr. Gainer said that this is just for that landscaping in the one spot with the remote parking lot.

Ms. Doherty made a motion that the Planning Board send a letter to the Town Board. Ms. Sexton seconded the motion. The vote was as follows:

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

Johan & Maria Jung - Petition for change of zoning: Referral from Town Board

Mr. Watson said that the Jungs made a petition to change the zoning of their property from R-80 to B-2. He pointed out their property on the plan and said that it is immediately next to The Stadium. Mr. Watson said that basically, they had been thinking about selling their property and what they can do with it and found that without the benefit of the commercial zoning that their neighbors enjoy, they're at a distinct disadvantage, so they are seeking to moving the zoning line

from where it is. He said that immediately to their north is the Franciscan Sisters of the

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Atonement. The chances of this creeping to the north are pretty slim both from a practical point of view concerning the present use and from a topographical point of view. Mr. Watson said that they also pointed out that the proposed new zoning law, which is going to be discussed for the first time, also calls for a similar business zone. It's called a Hamlet Mixed Use zone, where mixed uses - residential/commercial uses, could occur, so they are proposing that along there. Mr. Watson said that they've asked them if they do consider the new zoning, to consider expanding that piece of zoning to cover their property. That will give them the benefit of some limited commercial use of property. He said that the property is somewhat restricted. Mr. Watson said that they could certainly use it for small office space, a real estate office, or bed and breakfast. Small commercial-type things are not available to them now. Mr. Watson said that while they certainly supported the things that were done at the Stadium, they do feel that the other commercial buildings have been a detriment to the marketability of the property. He said that they've asked the Town Board to change it and they've referred it to the Planning Board for comment.

Mr. Meehan asked Mr. Watson if he had enough parking area to do an office.

Mr. Watson said that he thought that would be a site plan issue. He said that they could probably do a small real estate office and there would have to be certainly some work done. Mr. Watson said that the property is steep in the front, but it actually flattens out in the back and there's some room that you could build some parking if you had to. He said that he did not think it would support anything major because you would have grade and parking issues.

Ms. Doherty said that the driveway is very steep. She asked how they would limit that within this hamlet mixed use and how they would limit the use to just a couple of parking spaces.

Mr. Watson said that you have to provide what's required by the use. He said that it would be subject to site plan approval and if you needed forty-six parking spaces and couldn't get it, the Board couldn't approve it.

Ms. Doherty asked how broad that new use was going to be as far as parking.

Mr. Watson said that he did not think there was anything unusual about that. He said that he really didn't remember the answer to that question, but could find it out. Mr. Watson said that he didn't remember that there was anything that said, "o.k., now in a hamlet, you have to have minimal parking and could do anything". He said that certainly isn't the case.

Ms. Doherty asked if it provided for uses that require two spots or twenty spots and how broad

the range was.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Watson said that he thought it could be either. He said that he thought at this level of it, if this were zoned business, then you could accommodate nine spaces, but you couldn't accommodate twenty-seven spaces. Mr. Watson said that you simply couldn't get a site plan approved that required twenty-seven spaces.

Mr. Merante said so the issue here is that they are just asking for zoning changes - anything beyond that, if they wanted to change later on from a home to a small business professional office, they'd come back for site plan approval.

Mr. Watson said that would absolutely happen.

Mr. Merante said that all that's happening now is that they're requesting a zoning change.

Mr. Watson said that's exactly right.

Mr. Gibbons said that the Board looked at this a year or so ago. He said that what concerned the Planning Board at that point in time was the steepness of the width of the driveway.

Mr. Merante said that it comes right onto 9 without any transition.

Ms. Doherty and Mr. Gibbons agreed.

Ms. Doherty said that there is also a (inaudible) on 9.

Mr. Meehan asked where the septic area was and if it was right underneath the driveway, because there was some sort of a metal cover in the driveway.

Mr. Watson said that he did not know the answer to that.

Mr. Meehan said, which brings him to believe that a septic tank might be under the (inaudible).

Ms. Doherty said that there's probably a good reason why it was done (inaudible).

Mr. Watson said that they are dealing with the 1968 zoning. When they drew a map, they drew it around what the business districts were. He said that he did not think they said, "let's stop here because there's a topographic consideration". It was the property line at the north end of the Bavarian Inn. That's since been changed a couple of years ago. Mr. Watson said that he thought that was the real reason they had this little vest pocket kind of zoning.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Merante said that also, once the construction on The Stadium was completed, several errors were found. He said that there's a couple of zoning changes on that property as well.

Mr. Watson said that there was a change here (pointed out) and a change in here (pointed out). He said that there were some swaps done twenty or thirty years ago that made them technically non-conforming. They swapped some land, but they didn't consider that they were taking some of the property that was zoned commercial and taking it off the land, therefore making it non-conforming and putting some residential in. Mr. Watson said that it was corrected by the Stadium and then there was an issue with regard to parking up in the back - and that was added.

Mr. Meehan asked if Mr. Miller about three or four years ago recommend business/residential.

Mr. Watson said that he didn't remember that.

Mr. Meehan said that he thought he made a pitch to the Town Board.

Mr. Watson said that Tim Miller wrote a memo last year when the Planning Board looked at this that said it should look at some of the possibilities and they did offer some possibilities. He said that it really boils around scale. Mr. Watson said that if you can't accommodate forty-seven cars on the site plan, you're not going to get site plan approval. If you can't accommodate three cars, you're not going to get the site plan approved. But if you can accommodate the three cars or five cars, you could have a small real estate office. Mr. Watson said that you can't have a real estate office even in your home today. He said that you would be able to do that in the future zoning.

Mr. Gibbons said that he wouldn't be opposed to expanding the business industry. He said that is not the issue. The issue is that entry way and he would feel better if DOT gave a blessing for a curb cut or something there.

Mr. Watson said that also is a site planning issue. He said that you can't have a business up there without coming to the Planning Board for site plan approval - and they're not even eligible to talk to the Board about site plan approval for that today for business.

Mr. Meehan asked if Mr. Watson would explain a little bit if the Town should adopt the new zoning, what the mixed use means.

Mr. Watson said that it is basically a zone that encourages a village-type setting where you have commercial on the ground floor with apartments over it - something like you see in downtown Cold Spring or Nelsonville. He said that it allows very small lots where there's sewer and water

available. It has relatively smaller lots because of the five acre plus zoning that they're talking

Philipstown Planning Board
Meeting Minutes
September 18, 2008

about. Mr. Watson said that it allows a hamlet to develop.

Mr. Gibbons asked if the Town Board was looking for the Planning Board to decide tonight.

Mr. Merante said that it is a recommendation.

Mr. Watson said that the Town Board made this referral because they made the application. He said that he did not know that the Town Board cares if the Planning Board gets back to them tonight.

Mr. Merante said that the Planning Board does have sixty days.

Mr. Watson said that this will come back to the Planning Board again if they haven't proposed a law. If the Planning Board gives them a positive recommendation, a law gets proposed and that's when they make that sixty-day referral.

Mr. Gainer said that the Board's apparently been to the site, and certainly the suitability of the site for a business use is totally within the Planning Board's purview to decide and evaluate the zone change. He said that there's no question that should the zone change eventually occur, any individual site plan proposal would have to again come before the Board, but the decision in this request is to determine suitability to parcel for commercial and all of what the Board is talking about is reasonable to understand before it takes that action.

Mr. Meehan said that it surely lends itself to being a commercial piece of property since it's surrounded by commercial property.

Mr. Gainer said that in that regard, there's clear rationale. He said that the issue of site access and ability for that property to be further developed in conformance with any allowable use within that zone that you're then granting to the site is a matter that the Board really wants to understand.

Mr. Merante said that granted, as Mr. Meehan just said - the fact that it, in a sense, is surrounded by businesses just south of it and across the street from it and Graymoor in the north. He said that he knows from having gone to The Stadium a few times, getting in and out of The Stadium where you have far more sight line...this is much worse because right on that turn coming south, you've got that steep approach with no approach angle to it. Mr. Merante said that (inaudible) to sell the property as commercial but someone is going to come in saying, "o.k., it's zoned commercial and we're going to submit a site plan" with the obvious intention that...(did not finish sentence).

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Watson said that they could work something out

Mr. Meehan said that's neither here nor there.

Mr. Merante agreed.

Mr. Watson said that shared access is a desirable thing according to (did not finish sentence).

Mr. Merante said yeah, it is. He said that the Planning Board has talked over and over again about sight lines and Route 9. Mr. Merante said that he drove that road back and forth for thirty-four years and knows what the road is like. It is a speedway.

Mr. Gaba asked Mr. Merante for clarification and said that the two lots that are kind of to the east of the property (did not finish sentence).

Mr. Watson said that there's a house on at least one of them. He said that he didn't know about the second one.

Mr. Merante said, but neither have access to them.

Mr. Watson said that there's a driveway on the south side of The Stadium.

Mr. Merante asked if it serves both of the pieces.

Mr. Watson said that he thought it served both pieces, but he was not sure if both pieces were approved.

Mr. Gaba asked how close the existing house was to the property Mr. Watson wanted re-zoned.

Mr. Watson looked at the plan and pointed out two lots and stated that they have a driveway that comes in the south side of the The Stadium restaurant.

Mr. Gaba said o.k., that's never going to be an issue.

Mr. Watson agreed.

Mr. Gaba asked if in the B-2, residences were not allowed uses.

Mr. Watson said yes, they are.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Gaba said so they won't be making this a legal non-conforming use. It will still be a conforming use and you'll just have other uses that you could put it to as well.

Mr. Watson said correct. He suggested the Board take a look at the property and said that he will talk to his client about it. Mr. Watson said that he thought what Mr. Meehan said about looking at access to The Stadium might be a possibility and the Board might change its mind.

Mr. Merante said that he thought that was a strong thing to urge because he's hearing from several members of the Board that they're really not happy with the hill coming off that driveway/property.

Ms. Doherty said that the Board did look at this. She said that as a matter of fact, it was last summer - the summer of 2007.

Mr. Watson said that he knew that.

Mr. Gibbons asked if the Board wanted to put this on a site visit and do it.

Several Board members said no.

Mr. Merante asked if the Board thought it was necessary.

Mr. Gibbons said that the applicant was requesting the Board take a look at it.

Mr. Merante said that the Board could take a look at it, but asked if they had to schedule a special site visit.

Ms. Doherty said no.

Mr. Watson said that he did not care if the Board went there individually.

Old Business/New Business

-April 30, 2008 Minutes

Mr. Gibbons made a motion to approve the minutes as read. Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor

22

Josephine Doherty	-	In favor
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Philipstown Planning Board
Meeting Minutes
September 18, 2008

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

-DiVido

Mr. Merante said that he would like to make a note, as Mr. Gaba had, on the Foundry Brook Road driveway - DiVido property. He said that he knew this was not really a Planning Board issue and he asked Mr. Gaba to speak on it.

Mr. Gaba said that the situation with DiVido is that they want road access permits or driveway permits and apparently, the driveways are going to be at least at some points, at greater than fourteen percent slope. Mr. Gaba said that if those driveways were proposed for new development, you could not have driveways greater than fourteen percent slope. He said that's in the Land Development Regulations. But they're not being proposed as part of new development, so the fourteen percent benchmark would not apply to them per se. Mr. Gaba said that the Code says the Building Inspector is to get an application in for road access driveway permit and road access is also looked at by the Highway Department as far as getting curb cuts. Mr. Gaba said that the standard to be applied in deciding whether or not to grant the driveway permit/road access permit is not specifically identified in our Code. He said that you cannot have as a matter of law, an ability to grant or deny a permit without any design standards and the general rule is, if you have a building standard that is not specifically articulated in your Code, the fall back is the New York State Fire Safety and Building Code. If there is something in there that says that's the particular standard that you adhere to, that's that and if they meet it, they have to issue the approval. If they don't, they have grounds to deny it. Mr. Gaba said that if the New York State Code doesn't specifically set forth standard, then the next fall back would be accepted industry standards or standards that are in common practice and that is something that the Building Inspector has to determine on a case by case basis, certainly past practice in the Town is the type of thing that he might adhere to. Mr. Gaba said that he did not know how Tom Monroe is going to resolve this in the end, but that's for Tom Monroe. The driveway permit section of the Code is under zoning - interpretation of sections in the zoning code is the province of the Zoning Board. If there's a disagreement as to whatever Tom Monroe comes up with, the applicant's remedy is to appeal to the Zoning Board of Appeals. So really, it's not something that the Planning Board should be getting into because they never granted site plan subdivision for these particular lots to begin with.

Mr. Gibbons asked where these road/driveways are going to if the Board never approved any

Philipstown Planning Board
Meeting Minutes
September 18, 2008

subdivision.

Mr. Gaba said these are going to homes.

Mr. Gainer agreed and said that they are going to individual housing.
Mr. Gibbons said that the property was never subdivided.

Mr. Gaba said no - they're existing lots. They get a lot line change.

Mr. Merante asked if this was part of the subdivision by deed before the last change.

Mr. Gainer said that he understood that they were created by deed prior to some enactment of a Code.

Ms. Sexton asked where stormwater management came in on the (inaudible).

Mr. Gainer said that is the charge the Highway Superintendent has given the Planning Board relative to his obligation to issue a driveway access permit for the point where the driveways enter the Town right-of-way. He said that it's under the control of the Highway Superintendent and in his review of the driveway permit application, he's asked the Board to evaluate that very thing. Mr. Gainer said that they've issued very significant comments relative to drainage and various other technical things for the applicant's consultant to address and that's now on the discussion between the two consultants and the design engineer.

Ms. Sexton said so they can be denied if (inaudible).

Mr. Gainer said right, if the Board doesn't agree with his proposed drainage solutions, then he can't satisfy the concerns of the Town. The Highway Superintendent will not grant the access permit.

Ms. Sexton said that when he was trying to subdivide that land, it was storm water runoff.

Mr. Merante said that when the Highway Superintendent suggested that he might need to run a pipe from that site down to Barrett Pond, it started taking a little different twist.

Mr. Gibbons asked if the Board members would be opposed to a letter from the Planning Board indicating that although it has no jurisdiction over this, it does want it to be known that these lots were never approved by the Planning Board.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Merante said that he did not know if the Planning Board should step into it that way.

Mr. Gaba said that the Planning Board really didn't want to get into policing applications that are not before it.

Mr. Merante said that the applicant was before the Board, came in for five spots, and the Board immediately knocked him down to four and were on the way to knock him down to three and that's when the Board never heard from him again. He said that it was like three years ago from his recollection.

Mr. Gibbons said that's why he was a little adamant about where he's going with this. He said that the gentleman walked away and was able to circumvent what's going on. Mr. Gibbons said that the purpose of the Planning Board exists to protect that neighborhood and community.

Mr. Merante said that he's a builder and he's looking out for his interest too. He said that he wanted to end the discussion as he thought the point's been made.

- **August 20, 2008 Minutes**

Mr. Gibbons stated that the section where he congratulated an applicant with regard to the storage sheds was left out of the minutes.

Mr. Gibbons made a motion to adopt the minutes as amended. Mr. Meehan seconded the motion. The vote was as follows.

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

Miscellaneous

-Communication

Mr. Merante said that Councilman Shea made a point that he's made several times with regard to increasing cooperation and communication between the various boards and the individuals who represent those boards. He said that they've been meeting regularly with regard to this matter.

-Unapproved modification to site plan

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Mr. Merante said that with regard to one of their recently approved site plans in Garrison - immediately following approval and signing the plat, etc., the applicant started modifying the site plan. He said that because of quick cooperation between the Code Enforcement Officer, Town Planner and Planning Board Chairman, it was stopped. A stop work order was issued and the applicant and contractor worked right through it, so they were forced to do an injunction. Mr. Merante said that it will be in court soon.

Mr. Meehan asked who identified the situation.

Mr. Merante said neighbors.

-Perks Plaza

Mr. Merante said that at one of the meetings, Perks Plaza was discussed. He asked Mr. Gainer to speak on this matter.

Mr. Gainer said that there was discussion between the Building Department and various other boards as to the legality of the activities that are going on at the site. It was ultimately agreed, there was a consensus that the activities within the existing structures are clearly the purview of the Building Department alone. Any other portion of the site that were modified to be enclosed within walls makes it the jurisdiction of the Planning Board to review. Mr. Gainer said that he met with the Building Department to review their files and identify appropriateness of plans to be filed with the Planning Board to actually process an application for those site plan modifications that are within the Board's purview and identified lack of information that should be assembled as part of any package that comes to the Planning Board. He said that Tom Monroe indicated that communication would be had with the applicant and he would see that an application is filed with the Planning Board.

Mr. Merante read aloud the letter from the Code Enforcement Officer to the Planning Board Chairman in response to the Planning Board's letter to him (copy on file at Town Hall). He said that Mr. Gainer is going to be looking into this matter.

Mr. Gainer said to put this in chronological order, the Planning Board had discussions that evolved into a letter to the Building Department to basically say please explain why site plan approval wasn't sought. Mr. Monroe's response was just read aloud. Mr. Gainer said that what culminated from that was the joint Board discussion which he just summarized. He said that is the most recent activity. Mr. Gainer said that right now, they're awaiting a site plan application.

Philipstown Planning Board
Meeting Minutes
September 18, 2008

Adjourn

Mr. Gibbons made a motion to adjourn the meeting. Mr. Meehan seconded the motion. The meeting ended at 9:00 p.m. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		Absent
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: _____