

**Philipstown Planning Board
Meeting Minutes
October 18, 2007**

The Philipstown Planning Board held its regular monthly meeting on Thursday, October 18, 2007 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened by the Chairman at 7:30 p.m.

Present: Anthony Merante

George Cleantis
Josephine Doherty
Michael Gibbons
Kerry Meehan
Andrew Pidala
Pat Sexton
Fred Wells (Tim Miller Associates)
Brian Bury (Tim Miller Associates)
Steve Gaba, Counsel

Minutes

-September 20, 2007

Mr. Gibbons made a motion to adopt the September 20, 2007 minutes. Mr. Pidala seconded the motion. The vote was as follows:

Anthony Merante
George Cleantis
Josephine Doherty
Michael Gibbons
Kerry Meehan
Andrew Pidala
Pat Sexton

Public Hearing

**Edward L. Ochsenschlager - Approval of a two-lot subdivision - 398 Route 301, Cold Spring:
Submission of subdivision plat, sight distance analysis/discussion**

Mr. Watson said that it was a continuation, but they are not prepared to go forward until they have gotten a report regarding the bridge. He said that they are working on the re-design. Mr. Watson said that he thought they could put it off until they request to be put back onto the agenda.

Mr. Merante asked if anyone was present to discuss the application.

There was no response.

Mr. Merante said that they would continue at next month's meeting.

Mr. Watson said that he would not continue to next month, but continue to when they re-submit. He said that he did not think it would take more than a month.

Mr. Gaba said to Mr. Watson that he would not have to re-notice.

Mr. Watson said that if the Board wanted to open and close it every month, that was fine with him.

Mr. Gaba said that he did not have a problem with that. He said that is what he would do, unless Mr. Watson thought it was going to be six to eight months.

Mr. Watson said that he thought it would probably be January.

Mr. Gaba said that he would just continually open and close it or hold it over and that way it wouldn't have to be re-noticed.

Mr. Merante stated that he would open the Ochsenschlager public hearing. He asked for a motion to adjourn. Ms. Sexton made a motion to adjourn the public hearing. The motion was seconded by Mr. Gibbons. The vote was as follows:

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

Joseph Tuana - Application for a three-lot subdivision - 992 Old Albany Post Road: Resolution for ninety-day extension

Mr. Merante asked if the Board wanted to discuss the application.

There was no discussion.

Ms. Doherty made a motion to adopt the Resolution as presented. The motion was seconded by Mr. Gibbons. The vote was as follows:

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

County Line Equities, LLC - Application for Site Plan - 1467 Route 9, Town of Philipstown: New Submission

Mr. Pidala recused himself from the application, stated that he was related to the applicant and left the table.

Mr. Watson said that this was a site plan application for the reconstruction of the gas station at the intersection of Routes 403 and 9D. He said that it was a very substandard piece of property, so there were several variances being sought. Mr. Watson said that since they've submitted the application, they've made an appeal for variances that can run parallel with this application. He said that there has been construction going on at the property. The applicant intends to put a convenient store in the building, which had been a convenient store. The company went out of business and sold it to County Line Equities. Mr. Watson said that the basic site plan virtually reverses the gas station - the pumps are being

put behind for several reasons (traffic congestion on the northerly point of the property is too much to handle the expected volume). He said that Mr. Giachinta met with D.O.T. and they've made an application to D.O.T. for the new curbing that will eliminate the entry on the south side of the building - the Route 9 entry. It would relocate the entry to the point up from Route 403, the northern entry on Route 9 would be relocated, and a new entry would be put on the 403 side of the northerly portion to control traffic. The biggest vehicle they'll have will be a delivery truck with gasoline and they showed the diagram of how that would enter. Pump islands would be south of the building. The building is on the foot print of the original building. Mr. Watson said that his records indicate it was a gas station back in 1934 and it became a separate parcel in 1951. He said that it operated since at least 1934. Mr. Watson said that over the years, the building grew. It was built up and built back. There were apartments. All of that is gone. He said that there is a footprint shown - the present building has the corners of the original building. They need additional parking in the back and their circulation pattern is an attempt to keep people out of interfering with the intersection and they think their major traffic will be Route 9 in the morning during rush hour where people will be able to come south on the road, turn in, go out onto 403 and be able to take advantage of the light. It will be a more logical pattern. Mr. Watson said that Mr. Miller's office suggested that they have a traffic consultant take a look at it and they are going to hire a traffic consultant. He said that they are pretty confident it is an acceptable solution based on their conversations with D.O.T. Mr. Watson said that with regard to the variances, they need, depending on how you look at it, four or five. The first variance they need for setbacks of the canopy - the canopy is too close to Route 9, the center of Route 9 and Route 403. It's an essential part of the delivery system, particularly for light in the evening so it can be recessed into the canopy so it won't glare. The glare will be minimized and secondly, the fire suppression system is in that canopy. The second variance they need is to place...is the fact that they have some new parking and from a conservative point of view, new parking within the forty foot setback required from Route 9 and within the hundred feet required from the centerline of Route 9, so they've applied for that. The third variance is over a lot coverage. It is a B-2 zone and allows a sixty five percent lot coverage. Mr. Watson said that they find it's necessary to cover about eighty-five and a half percent. The last variance they've applied for is for the sign - the two-prong variance. He said that they're only supposed to have ten foot setbacks and the height of the sign is limited to four feet. They've asked for a variance of six feet. The traffic is expected to be largely commuter traffic - probably more in the morning than in the afternoon. Mr. Watson said that it is a general upgrading and refurbishment. The old red wood barn that has pretty much fallen down has been removed. Mr. Watson said that there was a wetland permit issued for the work that has been done and they've submitted that with the package.

Mr. Merante said that with regard to the variances, he wondered how much work they could do before the variances are secured. He said that the Board sets this up for a public hearing and any one of the variances could get turned down.

Mr. Watson said that it's done both ways. It used to be that you had to come to the Board, get turned away, go get the variance and come back to the Board. He said that they changed the law a few years ago allowing them to be run in parallel and occasionally, you find that you do get a site plan approval conditioned on a variance being obtained. Mr. Watson said that they'd like to air this so they can finish up and get going.

Ms. Doherty said that the Statement of Use in her packet was unsigned and asked if there was a signed one.

Mr. Watson said that they would submit a signed Statement of Use. He said that they frequently do that

because there are times when the Board asks for a certain thing and they have to amend it.

Mr. Cleantis asked why the applicant needed a six foot sign instead of a four foot sign. He said that also, with regard to the sign against the road line, he asked if they could move the sign back and entertain it as a (inaudible).

Mr. Watson said that they have some equipment in there. He said that Mr. Giachinta might be able to address that.

Mr. Giachinta said that the signs are manufactured by the company and they are a standard size. He said that when they sign the contract, they pretty much tell them that's the size. Mr. Giachinta said that it is actually the smaller sign that they have.

Mr. Merante asked if with regard to the dimensions of the sign, he was talking six foot off the ground or at the top of the sign.

Mr. Giachinta said that it was the top of the sign.

Mr. Merante asked for a ball park figure with regard to the dimensions of the sign.

Mr. Giachinta said that it is within the twenty four square foot.

Mr. Meehan asked if they submitted a wetlands permit to the CAC.

Mr. Watson said that that is usually presented to the Planning Board.

Mr. Meehan said that he knew they had one.

Mr. Giachinta said that was for the whole site in general. He said they'd send a site plan.

Mr. Meehan asked who.

Mr. Giachinta said the Wetlands Committee. He said that it was back when he originally started. They were concerned that he had wetlands on the site.

Mr. Merante asked if this was January 18th.

Mr. Giachinta said yes. He said that there are no wetlands on the site. It's on the adjoining property.

Mr. Meehan asked where his runoff went.

Mr. Giachinta said that it goes out into the infrastructure that's out on the (inaudible).

Mr. Meehan asked it was going to go under the Route 9 drainage.

Mr. Giachinta said that they were actually installed by the State.

Mr. Meehan asked if it was going to go over into the field.

Mr. Giachinta said eventually, yes, that's where it ends up.

Mr. Meehan said that he was not going to go to the wetlands and back.

Mr. Giachinta said right.

Mr. Watson said that they specified those filters on the plan and it was part of the requirement of the Wetlands. He said that to be clear about the details of the sign, which the Board could find on page three, the sign itself is six feet wide by four feet high, but it's placed so that the bottom is two feet above the ground, making the height of the sign six feet.

Mr. Merante said, so there's no problem with it blocking the view of traffic coming in or out of the site.

Mr. Giachinta said no.

Mr. Cleantis asked if the variances were before the ZBA now.

Mr. Watson said that the application was submitted this week.

Mr. Meehan asked how far from the intersection the sign was.

Mr. Watson said that he did not think the sign was a problem. He said that there is nobody that has to look north. Mr. Watson said that they'll point that out to the traffic engineer and ask him to take a look at it.

Mr. Gibbons said that the applicant has done a lot of work up there already and he doesn't have site plan approval or the variances. He asked when the applicant got his building permit and if it's still valid.

Mr. Giachinta said that his building permit is still valid.

Mr. Gibbons asked if he was still working on the project.

Mr. Giachinta said yes.

Mr. Gibbons asked, without plan approval?

Mr. Giachinta said that he felt he had a gas station and was just re-building a gas station. He said that his feeling was that he didn't need to be there. Mr. Giachinta said that there was a difference of opinion, so he decided to come. He said that honestly, he's been working down there for a year. Mr. Giachinta said that he got his building permit, so he just moved along because he felt that he was re-building a gas station that was there. It is really not a new site plan. It is not a change. It is a gas station. Mr. Giachinta said that he spoke with Mr. Watson and he convinced him to come to the Planning Board and that was why he was there.

Mr. Gibbons said that he had a non-conforming lot. He asked if the applicant was increasing any of the non-conformities.

Mr. Watson said yes. He said that if they weren't increasing the non-conformities, they wouldn't be required to get a variance. It's only the increase that requires the variance. Mr. Watson said that this is a

new sign being placed too close to the street, so it requires a variance. He said that he guessed it was better to say that's a new non-conformity, rather than an increase in an old one. Mr. Watson said that there was a sign there that was gone, so they could probably say that there's got to be a net decrease. He said that it was not paved, there was a building there and a weeded sort of second growth. It was a place where people parked and stuff was stored and was basically a mess, but it wasn't vegetated. Mr. Watson said that they are actually paving it and are going to have a hard surface there, so they're increasing the amount of coverage and are going beyond the sixty-five percent. He said that it would be a tough call to say whether it was sixty-five percent before or not because the sort of the semi-driveway area that was overgrown, and it's tough to say whether you'd count it or not. But taking the conservative route, they've applied for that. Mr. Watson said that there was always parking in circulation in front of this building and people parked right in the general area against the back of the curbs that were put in by the State a number of years ago. That was part of the parking for the site. Mr. Watson said that they have now defined it and put stripes there. He said that he supposed you could argue that they're just organizing the parking that was already there. Rather than do that, since they have to go the ZBA, they want to address that up front.

Mr. Gibbons asked if they were ten by eighteens.

Mr. Watson said that he didn't draw them, but he would expect so.

Mr. Gibbons said that there were a few projects earlier on that even though it's 180 square feet and typically ten by eighteens, they became nine by something.

Mr. Watson said that he would take a look at that, but the Code does allow nine by twenties. He said that the final variance is really the setback of the canopy. The canopy is simply too close to the road on both sides, but it is an absolutely essential thing to have in a filling station today.

Mr. Merante said that includes the fire suppression system.

Mr. Watson said that the fire suppression system is in there.

Mr. Gibbons said that he heard through the grapevine they were going to be using solar on some of those and asked if the applicant could confirm that. He asked if there was green technology being used in the application.

Mr. Giachinta said that the whole station is green technology. He said that they are looking at solar panels to light the canopy. Mr. Giachinta said that it won't be something that would be done right away, but they are looking at it right now. He said that everything is biodegradable. They're using Green Mountain. It's a green company now and they are going that route. Mr. Giachinta said that he heard there was a concern because the tanks were in the water. The tanks are fiberglass. They're double walled petroleum tanks. They were certified when they came, certified when they went in, and re-certified after they were installed. Mr. Giachinta said that they'll be re-certified again once the piping is hooked up. All the piping that goes from the tank to the dispenser is in triple wall. Everything is monitored. If there's any leak anywhere in the system or if there's a drop in pressure, the whole system shuts itself off automatically.

Mr. Gibbons said that's provided it has electricity. He asked if they were going to have a backup generator to somehow protect it.

Mr. Giachinta said that they didn't look at that, but they could.

Mr. Merante asked if there was a battery backup.

Mr. Giachinta said that there will be an alarm system in there.

Mr. Meehan asked if Mr. Giachinta had a bladder underneath the tanks.

Mr. Giachinta said that they are double walled tanks. He said that there is filter fabric.

Mr. Gibbons asked if it was permeable.

Mr. Giachinta said yes it is.

Mr. Gibbons said that when this project first began, his understanding was there were gasoline leaks that ruined the property across the street. He asked if they had documentation that it is all clean.

Mr. Giachinta said yes, they do.

Mr. Gibbons asked if that documentation had been provided to the Board.

Mr. Giachinta said no.

Mr. Gibbons asked if it could be.

Mr. Giachinta said no problem.

Mr. Meehan said that for about a year, there was soil sitting along side the garage.

Mr. Giachinta said that it has all been taken care of by the previous owner. He said that all the (inaudible) that were gated in the front are tested monthly and the results are sent in.

Mr. Gibbons asked if that would continue on.

Mr. Giachinta said yes.

Mr. Gibbons asked if on the eastern side on Route 9 there were residential residences.

Mr. Giachinta referred to a location on the plan and stated that it is all vacant and the trucking garage is in back

Mr. Gibbons said so it is either all vacant or (did not finish sentence).

Mr. Giachinta said that there is a residence back there.

Mr. Gibbons asked what Mr. Giachinta was doing to separate his property from the residential area.

Mr. Giachinta said that he met with the neighbors this morning. He said that right now, about ten feet off the property line there is a stockade fence. Mr. Giachinta said that from the property over to the fence

will be white pines - almost like a hedge.

Mr. Gibbons said so the fence will be coming down.

Mr. Giachinta said no, the fence will stay, because it will take a while for the trees to grow. He referred to the plan, and said that in one corner they will landscape the best they can and in another corner, just a little bit - low shrubs. He said that they are going to extend the fence a little bit.

Mr. Gibbons asked if the Board had an engineer's report that states that this is 99.9 percent fail safe.

Mr. Giachinta asked what he was referring to.

Mr. Gibbons said that the building is nice and everything else, but it is the gas tanks that concern everyone. He asked again if they had a separate engineer's report. Mr. Gibbons asked if he had State records and if the State came in and inspected all the stuff.

Mr. Giachinta said that the State was not doing any inspections until the end of the process. He said that they only had to come here to put fuel in the tank, so the State will come in when the piping is all finished and they will run their tests then - the pressure tests.

Mr. Gibbons asked who had done the engineer work.

Mr. Giachinta said that they've had an engineering company. He said that's all they do - service stations. Mr. Giachinta said that he has the prints and will get them to the Board.

Mr. Merante asked if there was a report that goes with that.

Mr. Giachinta said just the plans. He said that there isn't anything that's one hundred percent fail safe.

Mr. Gibbons said that he realized that and he said ninety-nine.

Mr. Giachinta said that DEC does spot inspections and they are there constantly.

Ms. Sexton asked how high the lighting was and if they were going to light the sign that's very close to the road.

Mr. Giachinta said that the lighting in the canopy is fifteen feet. It's all recessed lights. The side has LED lights in it, so they don't transmit a glare.

Ms. Sexton said that some of the lights going up Route 9 are muted and some get you right in the face.

Mr. Giachinta said that they realize that and they've had Central Hudson install their street lights already. He pointed out the lights on the plan and said that they're both shielded. They are not the spot lights - they shine down. Mr. Giachinta said that those are the only two street lights they are going to have. He said that was another concern of the neighbors.

Mr. Merante asked Mr. Gaba if the Board could go to a public hearing while they are waiting for variances.

Mr. Gaba said yes, there are a couple of things. He said that since it is on a County highway, it's got to go to County Planning. If the Board hasn't referred the application to the CAC, it would probably want to do that. Mr. Gaba said that he did not see why the Board couldn't open a public hearing, as the plan is in shape and certainly public comment would be helpful. He said that once it's opened, he did not think he'd close it until hearing from the ZBA. Mr. Gaba said that after the Board closes it, they would be in a position to take action under SEQRA .

Mr. Merante asked the Board how it felt with regard to setting up a public hearing.

The Board agreed to hold a public hearing.

Mr. Merante said that an idea was to hold the next Planning Board meeting on Thursday, November 29, 2007.

Mr. Cleantis made a motion to set a public hearing for November 29, 2007. Mr. Meehan seconded the motion. The vote was as follows:

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

Mr. Pidala joined the table again.

Louis Lanza - Approval of a three-lot subdivision - Nelson Lane, Town of Philipstown: Submission of preliminary plans

Mr. Watson said that this is a submission of revised materials. He said that what they felt were the more difficult questions to answer, they have addressed in this plan and thought they would bring to the Board tonight to talk about. Mr. Watson said that they've looked at some of the suggestions, but primarily they were concerned with Mr. Endler's property, which is to the north. He said that Mr. Endler approached Mr. Lanza with some difficulties that he perceived with regard to the development. Mr. Watson said that there were several meetings with Mr. Endler. He was at two of them. Essentially, they took the proposed dwellings and septic systems and pulled them away from his property. They staked the proposed house out, they staked the proposed septic system to show him where it would be, and they revised the maps to bring those positions forward and also to provide a no-cut zone, which would shield his property. Mr. Watson said that with the exception of the existing house that the Gates lived in for many years, they've got substantially greater setbacks from the property line on the north. The lot on the south had already been fairly well set back from the adjoining properties. He said that they know they have work to do with regard to Mr. Bibbo's comments and probably have work to do with regard to archeology and they'd like to get that underway, but they'd like to get the Board's comments and present this to the public to see what other issues might be involved.

Mr. Merante asked if the Board had the comments from Bibbo.

Mr. Watson said yes - they had it several months ago.

Mr. Gibbons asked if Mr. Watson would refresh the Board as it had been a while.

Mr. Watson said that it is a thirty-seven acre site at the end of Nelson Lane. Nelson Lane is a public road up to the property line, at which point it is a dead end. The property was owned by Peter and Marilyn Gates until two years ago when Mr. Lanza bought it. Mr. Watson pointed out the house on the plan and stated that Mr. Lanza is building the house for himself and his family and they are looking to move in there very shortly. He'd like to subdivide the property by creating open development road basically on top of an existing driveway.

Mr. Meehan asked how steep the driveway was.

Mr. Watson said that he'd be guessing at what it is today and it does need to be cut down a little to get to fourteen percent, but the plan is for fourteen percent.

Mr. Meehan asked if there were draining issues.

Mr. Watson said that they've got a wetland. He said that basically the road is really there. Mr. Watson said that it would be modest, but they'll give numbers on it. He said that the cul-de-sac does have to be built.

Mr. Gibbons asked if house number one was being built or was already existing.

Mr. Watson said that it existed as being re-built, there is an addition onto it and a garage being built.

Mr. Gibbons said that it is over the setback line on the drawing.

Mr. Watson said that was correct, but that portion of the house pre-existed the zoning law.

Mr. Gibbons referred to lot three - the driveway coming up where the ridge rises, and asked if it was a class two.

Mr. Watson said yes.

Mr. Gibbons asked if there was a reason why it couldn't come in front of the class two and come up the house the other way.

Mr. Watson said that they might be able to do that and they'd look at that.

Mr. Meehan said that Mr. Watson didn't show any wells on lots two or three.

Mr. Watson said that he was right.

Mr. Meehan asked if he was going to move the septic tank on lot one.

Mr. Watson said that they are not planning to. He said that Mr. Lanza told him that when he got his building plan, a (inaudible) was consulted. Mr. Watson said that he could verify that for the Board, but they were o.k. with them being where it is. He said that they do provide for an expansion system in case

of failure.

Mr. Pidala said that with regard to the driveway on lot one, he did not see the cut going into the driveway.

Mr. Watson said that he thought it got obliterated by the tree line symbol.

Mr. Pidala asked if the utilities would be underground for the two new houses.

Mr. Watson said yes.

Ms. Doherty asked if Mr. Watson said that the house was being re-constructed now or it was remodeled and how long the house had been there.

Mr. Watson said that he did not know how old the house was. He said that the house was there and it is an old house. It's been there for the thirty-five years he's been in town and probably longer than that. Mr. Watson said that it was enlarged and remodeled. It was gutted. He said that it is a very substantial stone building. The part nearest the property line is the existing part and it was built out to the back. He said that he believed the garage was new.

Mr. Pidala asked if Mr. Watson did the drainage.

Mr. Watson said yes, they'll take a look at that (inaudible) with Bibbo's comments.

Mr. Pidala said that he knew there is a lot of water in the field.

Mr. Watson said yes there is.

Mr. Pidala said, so they're going to get more runoff.

Mr. Watson said that the runoff's going to go over to the northwest, but he didn't expect there will be much change and they'd check that.

Mr. Merante said that he was a little surprised at the limited (inaudible) of the wetland. He thought it was quite a bit more extensive than that. He asked who flagged it and when.

Mr. Watson said Beth Evans from Connecticut and it was October, 2006.

Mr. Gaba said that the degree of detail that's required before the Board sets a public hearing, the Board had some discretion on. He said that it was up to the Board if it thought more should be shown and for the applicant to come back with revised plans, or schedule the public hearing now.

Mr. Gibbons said that there are quite a few outstanding Bibbo actions.

Mr. Watson said that he'd like to air the application before the public because he thought they could be incorporated. He said that they are all engineering details, which they usually work out with Bibbo's office. Mr. Watson said that they're not deal breakers as far as they're concerned.

Mr. Gibbons asked if Mr. Miller's office had any comment.

Mr. Bury said nothing other than the comments already raised.

Mr. Merante asked if they said that they would submit a proposed maintenance agreement for review.

Mr. Watson said that at this point, they pretty much developed a boiler plate maintenance agreement. He said that his office reviewed a couple of them and they would certainly expect that would be a condition under any Resolution.

Mr. Gibbons said that he wouldn't object to opening the public hearing as long as it's understood it would stay open until the Board gets all the answers.

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

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

Adjourn

Mr. Gibbons made a motion was made to adjourn the meeting. Mr. Cleantis seconded the motion. The meeting ended at 8:45 p.m. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis-	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: _____