

TOWN OF WASHINGTON PLANNING BOARD 6/6/17

The monthly meeting and public hearing of the Town of Washington Planning Board was held on June 6, 2017 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Chairman, Paul Schwartz, Donald Hanson, Ed Jorgensen, Bob Kulpa, James Shequine, also, Al DeBonis, councilman/planning board liaison and Mike Herzog, VOM.

Chairman Schwartz opened the meeting with the Pledge of Allegiance at 7:34 P.M., announced the first agenda item.

The application request of Dutchess Day School, 415 Route 343 is for the addition of three (3) tennis courts to the southeast corner of the existing athletic fields. The property is zoned RR 10,

A motion to open the Dutchess Day School Site Plan Public Hearing was made by board member Jorgensen, seconded by board member Shequine. 5 ayes, 2 absent. Chairman Schwartz questioned if anyone from the public was interested in public comment on this application? Noone was interested. Chairman Schwartz questioned Chris Colby, architect for the School, and Nancy Hathaway, School Head, if the presentation is to be the same as at the May 2nd meeting. Response was affirmative. **A motion to waive the presentation was made by board member Jorgensen, seconded by board member Shequine. 5 ayes, 2 absent.**

In the absence of consultant Wilson it is not known if he has prepared documents on this application, in the absence of documents, contingent upon documents being presented, **A motion to close the Dutchess Day School Site Plan Public Hearing was made by board member Shequine, seconded by board member Kulpa. 5 ayes, 2 absent.**

A motion to issue a Negative Declaration of Determination of No Significance was made by board member Hanson, seconded by board member Shequine. 5 ayes, 2 absent.

A motion to grant The Dutchess Day School Site Plan Preliminary Approval was made by board member Kulpa, seconded by board member Hanson. 5 ayes, 2 absent.

A motion to grant The Dutchess Day School Site Plan Final Approval was made by board member Hanson, seconded by board member Shequine. 5 ayes, 2 absent.

Fee Status: \$400.00 Site Plan Application Fee paid
400.00 Escrow Fee paid

The application of Lowell Morse LLC Wetlands Permit, 1045-1057 Chestnut Ridge Road is for a wetland permit to allow building a 380 s.f. bedroom and bathroom addition to an existing accessory structure. The proposed addition is 72.5 ft from an existing seasonal pond on the property. The property is zoned RR 10.

John Allee, Allee Architecture & Design, Lakeville, CT appeared before the board representing the applicant

Chairman Schwartz questioned board members if they received the e-mailed memorandum from Steve Marino, Wetlands Consultant? The memorandum that was provided by email tonight said he will review the information that was provided yesterday, his comments were that he feels that placing the addition on the opposite side of the building is a better position. If the applicant feels that he would like it to be where it is, he needs to provide a letter of need to indicate why it should be there,. Wherever it is located there needs to be a proposed planting. Board member Jorgensen interjected that he disagrees, this looks to him to be an overflow pond, a constructed overflow pond. Chairman Schwartz said he is just reiterating what Steve Marino stated, is not expressing an opinion. Board member Jorgensen said he is expressing an opinion.

Consultant Wilson responded to the memo because he is informed. that need be, the the applicant could provide paper work subsequently. If the board can discuss these issues now, get them resolved, then the board can continue on.

A motion to reopen the Lowell Morse LLC Continued Public Hearing was made by board member Shequine, seconded by board member Hanson. 5 ayes, 2 absent.

Chairman Schwartz questioned John Allee if there are any changes in the plan that would be pertinent to anyone making any comments? John Allee presented a revised site plan map and large scale color photos of the current accessory structure and immediate surroundings. Said, per Steve Marino's original letter, went out and

re measured from where the water goes into the culvert. That was their dimension from the addition that they are considering, instead of it being in that location its pulled back to the point where the culvert starts. A review of the revised map by the board followed. John Allee pointed out the existing house and the proposed addition to the accessory structure on the north side. Chairman Schwartz questioned why Steve Marino is talking about the east side, read from the memo, "I needed to be convinced that there is no feasible option that allows the building to be relocated on the west side of the guest house rather than on the east side where it is currently proposed." John Allee said the building is on the north end of the property, the addition is on the east side.

Board member Jorgensen stated that there is a pond, there is a culvert, the culvert doesn't go into the pond with an overflow valve. Instead, there is overflow which then enters the culvert. John Allee said it is a below the ground culvert so its pipe. Board member Jorgensen said instead of running the pipe into the pond with an overflow valve in which case there would be the wetlands that would be the pond, it would be contained in a boarder, there would be no issue. What has happened is "old timer style" they didn't bother with that, they have a ditch going into the pipe which creates a wetland look and is within the buffer. What has happened, the trench overflow part of the pond has fallen within one hundred feet of the proposed structure. Chairman Schwartz questioned John Allee if he has the one hundred barrier mapped out on the map? John said he doesn't have it mapped, pointed out the approximate location. Board member Jorgensen said the entire pond is within the one hundred feet, he house is within one hundred feet. John Allee

acknowledged affirmatively. In reviewing the map, board member Jorgensen said the entire property is within one hundred feet of the water of the pond. The overflow system doesn't change that.

Chairman Schwartz questioned John Allee if they are putting in a new septic? John said they are not, there is an existing septic, pointed out the location of the tank on the map, is accurate, doesn't know where the fields are. Chairman Schwartz questioned if the Board of Health gave an approval for the addition? John Allee said this has been brought up a number of times, the BOH will want to know the status of this field. Said, it's a very small addition, its not an expensive project, his client is having a hard time spending a lot of money on consultant fees. He would like to see if it's a contingent approval based on this being okay, would like to get the wetlands permit approved, or contingently without having to spend the money to dig that up and find out what is there, potentially replace it. Chairman Schwartz questioned if they get approval contingent upon the BOH, the BOH says no, this is invalid. John Allee remarked that one thing that is relevant to the capacity of this system, is, this was built on most of the footprint of an original guesthouse from 1910. On the Town property card a three bedroom guesthouse and the septic system was serving a three bedroom house, is a one thousand

gallon concrete tank. There is currently one bathroom in the accessory structure, has no bedroom facility, by adding on it becomes habitable. Approval was given when this was built in 2013 from the BOH, to get this approval they had to assume that it was a one bedroom. There is a one thousand gallon tank, the septic was built at a time when things were built well and done correctly.

Board member Jorgensen said what John Allee is saying is whatever was assumed a number of years ago, there are no papers for that tank and field, at this point he has to get papers. John Allee expressed that his client would rather not hire an engineer until they think its acceptable. Board member Jorgensen said in a rural area constructed ponds and overflow are routine. Understands that having a ditch going into the pipe was a shortcut,. Chairman Schwartz remarked that this is in the one hundred feet anyway, what's the difference if there is a ditch or not. Board member Jorgensen said what happened is because there is ten feet before the pipe picks up, you have wetland vegetation between the constructed pond and the pipe.

Chairman Schwartz questioned if they put on leaders and gutters and direct all the water from that structure in that direction pointed out on the map, have made an offer that they will not use anything in the toilet like a tidybowl man or chemicals, what is the issue? Board member Jorgensen said the issue is the septic, it should be alright, even particularly where this is a constructed pond designed to catch the Spring rain. A trench overflow is pretty common here.

Board member Hanson questioned how it would impact the existing septic, more importantly the BOH approval? If the BOH approves this what restrictions would be placed?

Howard Schuman, CAC representative said he has a few minor points, the reason that the contact culvert is probably there is because it is a wet area; the contour lines are missing on the map. When Steve Marino visited the site, looked at the landscape, indicated that there was wetland features in that whole section on the west side which indicates that there is water coning down on that side. The culvert was probably put in there years ago by somebody trying to manage it. Howard pointed out the section on the map, which is indicated as the wet area. Said, the person who put in the stream did so because this is a wet area, this is a way of containing that seasonally. The building is going to be closer to all this vegetation that Steve Marino observed. According to his memo, he believes that the plan would seem to indicate that the addition can be moved. Chairman Schwartz questioned Howard, why, he personally, or the CAC prefers having the addition located here rather than where it is? Howard said, having it somewhere else away from this wetland vegetation area. He still doesn't know if the pond is a natural pond or a constructed pond.

Chairman Schwartz remarked that either way, this whole thing exists. The only impact this is going to have is on infiltration of water. If the applicant agrees to catch all of the water and direct it away from the sensitive area, and as just offered, put in some type of infiltration system, questioned what impact does Howard see that this physical structure has regardless of what is here, this is what he doesn't understand.

Howard said if impervious surfaces are put in where the water can probably filter into the ground, it becomes part of this wetland area. Chairman Schwartz said he understands that, specifically said, if they put up leaders and gutters, direct it back into the ground, also offered an infiltration system so it does recharge in the same fashion. Howard questioned if this would be designed in as part of the approval process? Chairman Schwartz responded affirmatively.

Howard said they are still in the wetland area that was pointed out on the map, pointed out the area that is already paved over, (stone) is the reason why that other side would be preferable. Howard pointed out the buffer, wetland, since there is no hydric soil map does not know what is under there, there has been no soil delineation that Steve Marino asked for. In his memo Steve asked for delineations, topography, Howard is guessing what the direction of the slope is.

Board member Kulpa stated as this sits right now, rain water, stormwater, permeate this surface. If you construct a building on it and direct all water that comes onto the hard surface of the building, redirect it to a different section, you are not increasing the amount of water that is flowing, you are decreasing it.

Chairman Schwartz said if you catch all of the water off the roof and put it into a filtration system, in a heavy rain you are creating more recharge, otherwise you are going to prevent runoff. By putting it into a recharge system you are getting more into the ground. Board member Kulpa said he doesn't see the problem. Board member Jorgensen said we live in an area where streams, seasonal streams, are normal to every property. This property has all the structures including the septic system, is within one hundred feet of the wetlands, this is what the owner has. Said he loathes to tell the owner that he can't make this minor addition to his property because he is within one hundred feet of the wetlands. It is not a large addition, this whole property is within a regulated buffer, the owner is willing to redirect the drainage.

Chairman Schwartz questioned John Allee if it would be an undue burden to provide the topography that Steve Marino is asking for? John said, it would not, the only thing is when that was first requested Neil Wilson suggested he just do Dutchess County Parcel Access overview and provide that which he did do. Chairman Schwartz stated if John Allee provides the topography, just the area in question, as a result of the

topography the board may ask Steve Marino where the best place would be to put an infiltration recharge system. Steve may come back to say if you put it there you are not going to change the balance, if anything, are going to have a positive affect, that resolves that one question. The other question is why do you want to put it there? There is a patio there, this the reason, you don't want to lose the patio. This has answered Steve's two questions. Thirdly, assuming that the topography has been provided, Steve agrees that whatever alteration will be created can be resolved with a water feature. Steve might say, you should be required to complete a planting plan that improves the conditions between the existing and proposed structures and the regulated wetland area which might also include planting within the wetland itself. If it is a positive planting plan, if the species are of a caliber that is appropriate, then that will also help maintain or improve the wetland. If the area is wild and the wild is brought closer to the house you are actually enlarging the wetland recharge area, this potentially addresses all the issues.

Board member Jorgensen questioned John Allee if he has completed a Parcel Access ariel print as part of the application? John said, yes. Board member Jorgensen questioned if that showed a State or Federal Regulated Wetlands? John said, it doesn't show either. Board member Jorgensen reiterated that the current Parcel Access does not show a regulated wetland, John concurred. Howard said that is why there is the field delineation put into the wetlands for that purpose.

Board member Jorgensen related that the board had a wealthy applicant come before the board, did a fantastic job of putting a million dollars into his property with all sorts of drainage, walkways through wetlands. Presently there is a local applicant who wants to build a small addition to his house on the property that happens to be within the buffer. He is willing to direct the roof runoff away from the area that is not delineated. Board member Jorgensen is saying for the record that from his viewpoint the board be respectful, that not every property owner in this Town has the resources of the applicant that the board spent many months on. There are some landowners that can hire expensive consultants and come up with various strains of grass, etc.

Howard said the Wetlands Law allows for balancing the issue, interest of the owner, is pretty much on the same page, just wanted to add that the Wetlands Law is based to protect the Community as a whole and balance the interest of the individual at the same time. The Wetlands Law was passed because of the need seen for the Community to protect their entire resources. Spoke to having some plan for the runoff development.

Chairman Schwartz said the applicant is to provide some type of topographical map of the area pointed out on the map, bounded by the middle of the house, fifty feet to the east,

to the property line in the back, and halfway to the spillway. The applicant is to propose some type of recharge system someplace that puts the water where it would have been if its not impervious.

Mike Herzog spoke to his concern about the septic system being approved by the Board of Health.

Chairman Schwartz questioned if this is the BOH's responsibility? A positive response was given. Said, he understands Mike's concern, this Board just has to accept the BOH's overview and approval. Mike agreed, said if the BOH reviews the plan and sees no potential problems with the septic, even the area to a degree beyond or any leech field, then that is not a problem, it meets the regulations for the guidelines.

Chairman Schwartz summarized for the record 1) the board is considering providing a Wetlands Permit to build the addition that is delineated on the 6/6/17 Modification Proposed Site Plan, on the east side of the current structure with a water capture system that adequately captures the water that would otherwise infiltrate at the site of the structure and to put it back in through a recharge system based upon the location topography as would be approved by Steve Marino, Wetlands Consultant 2) that the Board of Health approves the current septic system or modification thereof that would be consistent with the size and scope of the project that the applicant wants to do, that the applicant would provide a planting schedule/plan that would be acceptable to Steve Marino to meet or exceed the current situation that is there, that the applicant would be mitigating by putting that impervious structure in that space. 3) Applicant is to provide a reason why the addition cannot go where Steve Marino suggests (doesn't want to lose the patio)

There being no further comments, discussion, a Motion to Close the Lowell Morse. LLC Public Hearing was made by board member Hanson, seconded by board member Jorgensen. 5 ayes, 2 absent.

Chairman Schwartz addressed John Allee said first and foremost is the topography, the plan (leader, gutter system) for water collection that he has in mind, call Steve Marino, ask how he wants the water disbursed so it equals or exceeds the normal infiltration from the structure that is being constructed. Talk to Steve Marino about the planting plan. Chairman Schwartz stated if this is done by the next meeting the board can take a vote.

Board member Jorgensen referred to consultant Wilson's absence, said in many towns a board should not vote until he has BOH approval, the Board can give the applicant an

indication of where the board stands. Chairman Schwartz said he believes the board

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has approved, “contingent upon.” Since a majority of the board is here tonight, the indication is that this application is going forward as long as the conditions that were discussed by the board tonight are met. Steve Marino is reasonable in getting this done.

Upon reviewing the map a brief discussion followed relative to which direction the water runs through the culvert, if the culvert is feeding this pond, if the water is coming across the pond, then goes downhill.

John Allee is to return to the next scheduled meeting on August 1st. The regularly scheduled July meeting is on the July 4th holiday.

Chairman Schwartz informed the board about a solicitation letter he received to lease and clear cut his property to put in a commercial solar facility. It appears that money is no limit, the State is paying a considerable portion. In questioning if he is the only one receiving the letter, no, a lot of these letters were sent out. It sounds that the topography is such that if they were able to sell it, the whole west side of Chestnut Ridge is what they are trying to capture. Chairman Schwartz questioned if the Board wants to solicit from the Town Board a temporary moratorium on some type of Solar Farm Regulation in lieu of having a discussion at the Town level. Board member Jorgensen stated that Chairman Schwartz has just alerted the Town that we have this issue. Chairman Schwartz said he is proposing to ask the Town Board for an immediate moratorium pending a discussion on the Town Board level for a Solar Farm Regulation. The Board was in agreement, it is felt that both solar and wind are inconsistent with the Town Comprehensive Plan which makes it an appropriate item for Town Regulations. Chairman Schwartz questioned councilman Al DeBonis if this is a sufficient request for the Town Board?

Councilman DeBonis acknowledged that this was discussed by the Town Board a few months ago, he brought up the issue of a moratorium, the general consensus was it was not a good idea. If he has something formal from the Planning Board that he can take back to the Town Board meeting on Thursday night it would be helpful.

Chairman Schwartz requested secretary Caul to draft a letter requesting the Town Board, at the request of the Planning Board, to consider an appropriate regulation consistent with the Town’s existing Comprehensive Plan. Councilman DeBonis suggested the letter say, The Planning Board is requesting an immediate moratorium so the Town Board can investigate the compatibility of such system with the Comprehensive Plan.

The Planning Board agreed to compose the following letter to the Town Board:
“The Planning Board advises the Town Board that we recommend an immediate moratorium on Wind Farm and Solar Farm commercial development in the Town of Washington pending Town review of whether these developments are compatible with the Town’s Comprehensive Plan.”

There being no further discussion, comments, business, a motion to adjourn the meeting was made by board member Hanson, seconded by board member Jorgensen. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Nikki Caul, secretary

