

The monthly meeting and public hearing of the Town of Washington Planning Board was held on February 2, 2016, 7:30 P.M., at the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Chairman, Paul Schwartz, Jim Cornell, Donald Hanson, Bob Kulpa, Ed Jorgensen, James Shequine, also, planner/consultant Neil Wilson, Al DeBonis, councilman/planning board liaison, and David Greenwood, Conservation Advisory Commission chair.

Chairman Schwartz opened the meeting with the Pledge of Allegiance at 7:31P.M. Announced the first agenda item, Dutchess Day School Public Hearing.

The application of Dutchess Day School Site Plan & Special Permit, 415 Route 343, request is to create two (2) small additions to the existing “upper gym” creating space for the schools existing music program. A small garage is to be rebuilt at the lower campus. The property is zoned RR 10.

Christopher Colby, Clark, Patterson, Lee, New Windsor, NY appeared before the board. Mr. Colby presented an enlarged Site Plan poster of the project.

**A motion to open the Dutchess Day School Site Plan & Special Permit Public Hearing was made by board member Hanson, seconded by board member Shequine, 6 ayes, 1 absent.**

Mr. Colby said that the project is concentrated at what is currently known as the “upper gym” on the west side of the campus. The proposed project is to create two (2) small additions, one will house eight (8) music programs that are currently held in the main building. In front of the building closer to the road is a small garage which will be demolished and relocated to the lower part of the campus. Relocation of the existing dumpster will also be part of the project. There is no impact to parking or traffic, parking and traffic circulations will be unchanged. Mr. Colby pointed out the gravel area at the lower portion of the campus adjacent to the soccer field.

Howard Schuman, CAC asked Mr. Colby to verify that there is 100 ft. distance from the pond.

Mr. Colby said there are more than 100 ft. away from the pond, are not even close.

Board member Hanson questioned if the lighting problem has been resolved? Mr. Colby said they agreed to repainting the tops of the existing lights.

Consultant Wilson stated that he talked to Janet Tisiere, Dutchess County Planning last week, was expecting that the 239M Zoning Referral response would be received for this meeting. Said, he is not expecting any comment other than that it is a matter of local concern. There are still a couple of days since the original delivery to Dutchess Planning who has thirty days to respond. If the board wants to go ahead tonight grant approval, it can, but the applicant needs to understand that they would be at risk if the County comes back with a recommendation to deny the application, which is highly unlikely, or to require some changes, which he does not expect due to the nature of the project, the board would need to reopen the proceeding to consider that.

Chairman Schwartz questioned Mr. Colby if putting off granting approval until Dutchess County Planning response is received would change his time perspective? Mr. Colby said he is not starting construction until spring.

**A motion to close the Dutchess Day School Site Plan & Special Permit Public Hearing was made by board member Hanson, seconded by board member Shequine. 6 ayes, 1 absent.**

**The board adjourned deliberation and consideration of the approval resolution until the March 1, 2016 meeting.** The applicant is to return to the March 1<sup>st</sup> meeting.

Chairman Schwartz requested consultant Wilson to notify Mr. Colby if he receives a negative response before the March meeting.

The application of Route 82 Sand and Gravel Inc. Special Permit, 17 Canoe Hill Road application is for mine permit modifications. Proposed is Deep Excavation Mine Plan. The modification to the existing permit proposed provides for mining sand and gravel deeper than the previously permitted limits for a 33.9 acres portion of the existing mine, and a Wetlands Permit. The property is zoned RS 5, Low Density Residential.

The Route 82 Sand and Gravel Inc. Special Permit Public Hearing was closed at the January 5, 2016 meeting. Since a response from the Dutchess County Planning Department for 239M Zoning Referral was not received the board did not take any action to grant approval. The applicant was placed on the February 2<sup>nd</sup> agenda.

Mark Williams, Sterling Environmental Engineering, P.C., Latham, NY and Pat Whitely. Route 82 Sand and Gravel Superintendent appeared before the board.

Consultant Wilson related that the Dutchess County Planning Department 239M Zoning Referral response was not received.

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Howard Schuman addressed the board, spoke about the town approving scenic roads to which the CAC was involved, earlier made a comment relative to screening. Chairman Schwartz interjected that the board has entertained his comments, the public hearing was closed last month. Chairman Schwartz suggested to make the comment, it sounded that there was willingness on the part of the applicant, take it directly to them. Board member Jorgensen said he thought Howard had raised the screening issue with them, that everything was satisfactory. Howard said he raised this but not to the point of documentation. Chairman Schwartz said he cannot document anything after the fact. If there is willingness to cooperate, Howard should go directly to the applicant. Said, it doesn't sound like it is an issue. Unfortunately, the public hearing was closed. Board member Jorgensen said he thinks that Howard as a citizen can go and mention the point that he mentioned to them that they were very receptive on at the public hearing. Howard said that there is some mention in the Town Code about scenic roads which the planning board is partly involved with the Town Code. The board can look at it as a broad view, it technically is not in the board's purview. Chairman Schwartz said this is not the point, the point is that the public hearing was closed. Board member Hanson said the point was made at the public hearing, was duly noted, suggested the board move on with the next business.

The application of VanBeuren/Kass Wetlands & Watercourses Special Permit, Andrea Van Beuren, west side of Stanford Road, request is to permit the restoration of an existing wetland under the provisions of Section 396 of the Town of Washing Code "Wetlands and Watercourses." The property is zoned RL 5. The public hearing was closed December 1, '15.

Mark Graminski, L S., P.E. Red Hook, NY appeared before the board

Chairman Schwartz questioned if Mark received the Steve Marino, February 1, 2016

letter? No letter was received, a copy of the letter was presented by secretary Caul.

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Chairman Schwartz said he directed secretary Caul to forward the e-mailed letter to the board yesterday, assumed Steve Marino had sent the letter directly to him. Consultant Wilson remarked that the original letter that was sent had the header dated October 1<sup>st</sup>, requested to correct the date to February 1<sup>st</sup> which was corrected. Chairman Schwartz next questioned Mark about his thought on the letter? Mark commented that he had a discussion with the applicant about the number of trees, shrubs and the cost associated with that. Steve Marino's plan changes that to larger trees, larger shrubs.

Board member Jorgensen remarked that the board doesn't have standards for mitigation. It is only judgement. Howard Schuman said something really important at the last meeting, that our brand in Millbrook is our fabulous property. Said, he goes by the VanBeurens on the way to Town, they have put a lot of money and effort into their property, has been a real credit to the Town of Washington. He saw that there was some additional cost, wasn't sure of the benefit that was coming with that cost to the VanBeurens. It is only an acre, one could almost argue that a couple of larger specimen trees which are easy to put in and not that much more expensive would solve the issue, is not sure that the board's purpose really requires that incremental planting. The board has the right to ask for it, but. Board member Shequine remarked that we wrote the law, the law says we have to do this. Board member Cornell remarked that the difference in the cost between what was suggested, what is proposed here, is nothing. We are talking about a tree that is three to four feet. Board member Jorgensen said what bothered him was taking the stumps and spreading them around the acre. Board member

Kulpa said Steve Marino did explain his reasons for that on the day of the site visit. It is really for the fauna, it would encourage the return of certain species because the stumps and the floating logs are part of the habitat. He took the time to explain that, made sense.

Consultant Wilson remarked that unfortunately Mark Graminski is reviewing the letter now, questioned if he needs time to confer with his client? Mark, said he spoke to the VanBeuren architect before he came here tonight, he is the one who provided the cost for the landscape. Said, he honestly doesn't know what the incremental cost is, doesn't know whether it is significant. Consultant Wilson said he may not be able to resolve it in time for the board to be able to act tonight, suggested he step back, confer with his client. Steve Marino is available for consultation, clarification, questions. as well as himself.

Board member Jorgensen remarked that if the board grants approval they can always come back. Consultant Wilson said, then what you end up doing is amending the condition of approval. It is better to reach an understanding and their willingness

to accept what Steve Marino is recommending, also that the Board is willing to

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accept what Steve Marino is recommending. If the cost is not what they are able to live with, may want an opportunity to come back and negotiate some of the species and plantings. Or, the Board can say this is Steve Marino's letter, this is what we want. Board member Kulpa questioned if there is a cost estimate on this? Consultant Wilson said the board doesn't have one, the burden is on the applicant. Board member Jorgensen remarked about the professional time involved, have his client look at this, recalculate, is it going to exceed the incremental landscaping cost. Mark Graminski said he doesn't know that, doesn't know about the cost of putting in a three or four foot tree, probably would be fifty dollars a tree. Chairman Schwartz said the cost is one hundred fifty dollars a tree for the (Acer rubrum), that is the only cost he knows because he bought one recently. Mark calculated thirty trees @ \$150.00. Chairman Schwartz said he doesn't know the cost of the other trees.

Consultant Wilson related that tonight the Board can adopted the Resolution that is proposed that includes the reference to Steve Marino's memo of today. If there are questions, issues, about Steve's comments as they pertain to the plan, they can come back. The Board can amend the permit if the board so wishes.

Chairman Schwartz questioned Mark about his preference, if he wants to talk to his client and "do it clean?" Mark said he would rather do that than agree. Chairman Schwartz remarked that the board can postpone it until next month. If there is anything to resolve, discussion to work it out, it can be done at the workshop. Mark said he can try placing a phone call now. Chairman Schwartz agreed that would be better.

Board member Shequine remarked that the landowner can say, I don't agree with this, and refuse to pay to do the work, after which the board has a choice, can fine them. He has no recollection that the board has ever been through this, ever. Consultant Wilson questioned, issuing fines? Board member Shequine said fines and enforcement. The board should realize the limitations it has unless the board really wants to exercise them, that would require the backing of the Town. Chairman Schwartz remarked that won't happen, the applicant sat here and said she wants to resolve it. Board member Cornell remarked the board is talking serious money, they are paying Steve Marino six thousand dollars just to monitor it. There are the same amount of trees, same amount

of bushes, different species, but taller. Board member Shequine said he is not hoping that we have this condition, just to keep in mind the conditions that the board has. Board member Cornell said he understands that but we are not talking threshold issues, we are talking about a small amount of money. They are going into a reclamation if agreeable, doing a lot of work spend much more money beyond what they are spending on these bushes and trees.

Howard Schuman, CAC, addressed the board, spoke to the Van Beuren Resolution, saying that the CAC had asked Mark Graminski to delineate some surrounding areas that he didn't put on the map. According to the Wetlands Code, onsite field delineation of areas that may or may not be on the original Wetlands map does now allow it, he would like to see that added into the Resolution. Read the following, "whereas at the request of the CAC additional adjacent wetland areas and their one hundred foot buffers were field and delineated made part of the site plan submitted by the applicant and be therefore resolved all regulations and restrictions of Section 396 of the Code apply to these areas as well." Howard said there are small adjacent areas that Mark Graminski delineated that may or may not be on the Wetlands Map, he would like to say in the Resolution that they also are of the Wetlands Resolution and the Code has to follow it.

Consultant Wilson said, "absolutely not", we are talking about a restoration of a define area. He is opening it up, appears to be extending restoration of those areas as well. That is the effect of talking about his language, he does not recommend it, we are talking about a restoration plan of a defined area. Howard questioned what happens to something on the map that's delineated, is not part of the wetland law? Consultant Wilson said if the wetland is on the ground and they are protected by the Wetlands Law they are regulated.

Mark Graminski returned to the board subsequent to making the phone call to his client. Consultant Wilson questioned Mark if the latest revision date of his map was dated December 22<sup>nd</sup>? Mark acknowledged affirmatively. Consultant Wilson said the board is approving that subject to future revisions based on Steve Marino's memorandum. That is what the Resolution says. Chairman Schwartz questioned Mark Graminski if that is consistent with what he just got the approval for? Mark acknowledged affirmatively but said the one thing that Steve Marino also notes is that "a specific proposal should be included on the plans for future maintenance and monitoring of the site, including the provision of escrow for Town inspections and up to five years of monitoring reports."

Consultant Wilson said the board has a requirement as a condition of six thousand dollars in a five year monitoring program. It is a condition of the existing condition of the approval. Mark said, "okay," Consultant Wilson said he talked to Steve Marino about it, five years is an outside figure, if everything gets established in three years, Steve at that point would come back to the board, say, its fine, do not need to go out there any further and would return whatever the unexpended monies are. If the monitoring goes to five years there is problem because it means that he is going out there, things are being established. Mark said, "okay, he didn't see that there was a six thousand dollar escrow on this." Consultant Wilson said, not in his, it is in the Resolution of Approval. It is an escrow in deposit.

**Chairman Schwartz called for a motion to adopt the VanBeuren/Kass Negative Declaration of No Significance, the motion was made by board member Hanson, seconded by board member Shequine. 6 ayes, 1 absent.**

**A motion to grant the Van Beuren/Kass Wetlands and Watercourses Special Permit was made by board member Jorgensen, seconded by board member Hanson. 6 ayes, 1 absent.**

Mark Graminski is to make changes on the Site Plan. Commented that Ms. VanBeuren wants to be able to skate where the actual standing water area is by the dam.

Fee Status: \$2,500.00 paid as requested

The application of MCM Equine Partners LLC Special Permit, 109 North Mabbettsville Road, request is for construction and operation of equine veterinary practice. The property is zoned RR 10. The project location is at 3967 Route 44.

Cyra Erwin, partner, appeared before the board, presented the survey map Barn Renovations Plan that the board has on file. Said, they wanted to show the board that they protested with the State, it looks as though they are going to be okay in this region (pointed out on the map) for a simple gravity system. They need further topo which they are having done. Chairman Schwartz questioned if the well is shown on the survey map? This needs to be shown, also a signature block needs to be placed on the survey map.

Consultant Wilson remarked that they need to obtain a copy of the application check list that the engineer needs to go through. Cyra said these are the renovations for the existing folder barn, and office space for the board to review. Cyra said they are now official owners of the property. Consultant Wilson said the board approves the site plan which is basically all that is outside the building. The interior is of interest to the board if they wish to see it but the board does not get involved in approving the interior. The floor plan is of interest, they may want to make that a package for the formal submittal so that the board can understand things like numbers of employees, doctors and professionals within the building.

Cyra said there is an existing structure, doesn't know if the building inspector needs to see first. Consultant Wilson said if it is in need of a roof or something to stabilize it, they need to talk to building inspector Jack Neubauer. Cyra said that is what they want

to do now that they own the property. Consultant Wilson said it is the occupancy of the building and other things they are going to do on the site that they cannot go forward

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with until the board has passed on that, they need to stabilize the building. Chairman Schwartz questioned if they have the driveway cut? Cyra said, no, both engineers that work for the DOT need to get a surveyor to put a couple of sight distances on, then the ultimate decision will be made, one engineer thinks it should be in the location pointed out on the map, the other engineer thinks it should not.

Consultant Wilson remarked that their engineer in putting the package together should go through the application check list, that information needs to be shown. If waivers are needed to be requested he needs to call those out as well.

Chairman Schwartz remarked that if they have everything done by the workshop, the last Tuesday of the month. they can review the plan then. Cyra said they should be able to have all that done. Chairman Schwartz said the plan might not be finished, its to get to the point where having to look at it again, hopefully will be ninety percent complete so that it can be presented for the March 1<sup>st</sup> meeting. Chairman Schwartz requested that their engineer send a copy in PDF format to secretary Caul. The applicant is to attend the February 23<sup>rd</sup> Workshop.

Louis Monaco, owner, 290 Hammond Hill Road property and attorney Lewis B. Stadler, Pawling, NY appeared before the board for a pre-application discussion for a lot line adjustment.

Attorney Stadler presented a survey map and parcel access photo. of the property, said Mr. Monaco purchased a piece of property at 290 Hammond Hill Road, is Lot 1 on the filed map, filed in 1975. The subdivision was in the names of Lands of Cascio & Moskowitz, total of three (3) lots. Mr. Monaco purchased the property as a foreclosure.

Attorney Stadler said what occurred before purchasing the property is that Mr. Monaco had some conversations with the attorney representing the bank. At the same time what was happening is the gentlemen that owned the two other properties, lots 2 and 3, was selling his property. When they did a survey on these two properties they found that the driveway serves two lots, wound up on being on lot 1, thirteen feet of paved driveway. They were notified of that issue which held up the purchase of the property and sale of lots 2 and 3.

There was somewhat of an issue because the seller had terminal cancer and passed since then. In order to allow Mr. Monaco to go forward what the bank retained had his client do a survey of the property to find out what the situation was. Attorney Stadler presented

a blow up of the encroaching driveway. Consultant Wilson questioned if each lot has

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its own driveway? No, its two flag lots. Said, there is no driveway to the back lot, because it is not approved, the same person owns it now. In order to get this somewhat cleared to be able to be sold the bank entered into an easement agreement with the neighbor (that was pointed out on the survey map) allowing this driveway to remain. When Brian Houston, L.S. did the survey found the encroachment on the driveway, also indicated that there were issues on the other side of the property, (pointed out on the survey). Chairman Schwartz questioned what lot is being talked about? It is Lot 1.

Mr. Monaco determined that there was a overlap on the two lots that were pointed out on the survey. The survey reads, "hatched area showing approximate limited deed overlay between properties shown herein with lands of Cascio and Moskowitz." Charles Miller, L.S. did this subdivision.

There is an easement agreement with respect to the driveway, they had discussions with the new purchaser. Mr. Monaco wants to give them that area that the driveway is on, does not want an easement on the property. They have agreed to accept it, attorney Stadler said he didn't know what the Town of Washington wants in order for them to convey that, wanted to come before the Town, see what the requirements are to be able to convey the strip that has the driveway on it. Mr. Monaco said he wants to do a lot line adjustment. A couple of the issues are with the lot, the size is 9.8 acres. The lots in the back are 9.8. Chairman Schwartz remarked that Mr. Monaco is subtracting the strip and adding it to this 9.8. Consultant Wilson said the property is in a RR 10 Zone, currently the lots are legal nonconforming lots but he is increasing the nonconformity of one in favor of the other.

Consultant Wilson said the board could agree that it is a minor matter, would probably make sense, but if you are taking land from one where its already legally nonconforming in area and decreasing the size, even though it makes practical sense, Mr. Monaco needs to go to the Zoning Board of Appeals in order to prove that before the planning board can approve the lot line. Consultant Wilson questioned if Brian Houston has also verified the acreage of these lots? Mr. Monaco said he has only done a survey of the one lot. Chairman Schwartz questioned to whose benefit would it be, where is the real line? Is Mr. Monaco on their property or are they on his property?

Attorney Stadler said the subdivision came first, then Charles Miller, L.S. subdivided the other lots and conveyed a portion of the same thing. Said, the other issue becomes the road frontage because they are going to give up 13 feet. If they give up the hatched area they have another 21 feet, so there will be less. Consultant Wilson remarked if Mr. Monaco needs to go to the Zoning Board for the lot line matter, might as well take care of the road frontage issue.

Consultant Wilson stated that Mr. Monaco needs to submit an application for a lot line adjustment with the planning board, submit an application to the Zoning Board of Appeals. Brian Houston is familiar with both boards process. Mr. Monaco needs to apply for all of the relief that he needs, needs to figure out what he is doing about that other lot line with lot limits, the question there is, is he going to end up with a lot line adjustment agreement with the new owner, now is squeezing the first lot even further, said he doesn't know. Consultant Wilson will be happy to talk to Brian Houston, asked to send him the PDF when completed, so he can walk him through the variances that are needed. Said the lot line adjustment portion for this board is pretty easy, but Mr. Monaco needs to go to the Zoning Board of Appeals first.

Mr. Monaco needs to make an application for a lot line adjustment to the planning board, concurrent to the Zoning Board of Appeals for the variances needed.

There being no further discussion, business, **a motion to adjourn the meeting was made by board member Hanson, seconded by board member Shequine. The meeting was adjourned at 8:57 P.M.**

Respectfully submitted,

Nikki Caul, secretary

