

MINUTES OF THE PLANNING BOARD – JUNE 22, 2011

The meeting was called to order at 7:20 P.M with the Pledge of Allegiance. Members Present: Barbara Albro, Nate Currie, James Seamon. Donna Doody was absent. Also present, Town Attorney, Donald Armstrong.

Chairman Harris reported that Mr. Shirley's newest map was received yesterday. He further commented that Lot #3 has been eliminated to meet the required 150 Ft of road frontage. The maps are still marked preliminary, and we are not at a final plat stage yet. The Board felt it had enough information to begin its SEQR process and the applicant had indicated he would address the various issues raised, that is why the Board went ahead and began the process based on the information it had up to that point in time. The Board had expected to hear comments at the public hearing conducted before the SEQR review. Even though the maps are still preliminary, County Planning has written a letter and made a recommendation as to additional steps the applicant needs to take. Nate Shirley was then asked to address the May 24, 2011 letter received from County Planning, which recommends approval of the subdivision contingent upon a number of steps to be taken by the applicant. Addressing those steps, Mr. Shirley stated:

- 1. He is in the process of following the procedure established by the Town for a major subdivision;**
- 2. Area Variance: needs to apply for and receive an area variance as the proposed lots do not all meet the minimum frontage requirement (60' vs. 150') required in a R1L District. Mr. Shirley has addressed this by moving the lot line back on lot 3, which is shown on his most recent map;**
- 3. Town must weigh the benefit of the reduced road frontage to the applicant against the detriment to the community or neighborhood;**
- 4. Deed restriction (area variance): No longer applicable due to the change Mr. Shirley made;**
- 5. Applicant obtaining a variance for lot #12 because the depth of the lot is more than 3 times the average width of the lot. Mr. Shirley addressed by adding a piece on the back of Lot 12 to make it conform;**
- 6. County Health approval under NYS Public Health Law: Mr. Shirley will do this after he has completed the two test wells being required.**

He has held off as he wants to pinpoint the exact location of the test wells. He intends to complete shortly; 7. County Health Waiver as to private wells and septics: Not all of the lots will need the waiver and lot 12 now complies; 8. Assessment of potential on-site drainage problems: The map shows the infiltration area. The town's engineer and the applicant's engineer have been coordinating on that. As to how that is measured, Paul Sheniman, the town's engineer indicated that there is a method to quantify and he will review once that is finalized; 9. Aquifer Protection District special permit: Mr. Shirley needs to get this from the Town Board and this does not come from the planning board. He has spoken with James Doring who wants to wait until the planning board's review is completed; 10. Driveway permit: He has not yet submitted that application and wants to make sure that the driveway locations won't change from what is shown on the map. He will do the application once he is satisfied there are no other concerns to be addressed; 11. SEQR compliance: The Board has completed the SEQR. Mr. Shirley further stated he is making every effort to comply with all of those conditions.

James Harris asked for any comments from the Board. He again reiterated that approval of the subdivision is contingent upon the Aquifer Protection District special permit and he will speak to the Town Supervisor regarding the timing of that application. He further stated that even though we don't have the Aquifer Permit, the Board still must take into account the environmental impact and we are relying on the advice and guidance of the County Planning and County Health for assistance on those issues.

Mr. Harris then addressed some of the concerns raised in letters received after the SEQR process. One concern raised by Joseph Heath was that he believed it was unlikely that a well as deep as 50 feet could be drilled on the lot due to the bedrock in the area. Two well drillers have been consulted on that issue and both indicated that this is routinely dealt with by drilling a bigger hole and that it will not be a concern even though it is on top of the aquifer. The Board also received a letter from the NYS Office of Parks, Recreation and Historic Preservation. The letter recommended a Phase I Cultural Resource Investigation due to its location within an area that is environmentally

sensitive for Native American sites and within an archaeologically sensitive area as defined by the OPRHP. The Town Engineer had looked into this prior to the SEQR and received incorrect information from the organization's website. Attorney Armstrong recommends that the Board require the review and if any significant findings are discovered, the Board could re-open its SEQR review.

Motion made by James Seamon that we require the applicant to comply with the Phase I Archaeological Review, seconded by Nate Currie, Barbara Albro abstained, the motion carried. The Town engineer will review the results of that review on behalf of the Town.

Another concern was raised about re-routing of snowmobile trails currently utilized in the proposed area. Nate Currie stated that the landowner always has the option to allow or disallow the use of his property for snowmobiles – it is a privilege, not a right. Mr. Shirley stated he had no intention to close the trail and has met with the Tully Trailblazers president to discuss the re-routed trail. The Club supports the applicant and has sent a letter to that effect which Mr. Shirley presented to the Board. Mr. Shirley will bear the cost of the re-route and it should not involve the cutting of any trees, but rather clearing of brush and utilization of existing logging trails. He further stated the area is relatively flat and will not require any extensive grading.

A further concern was raised as to whether the applicant was a corporation in good standing. A search of the New York State Corporations conducted by Joseph Heath showed the corporation had dissolved. Mr. Shirley stated he had taken the necessary steps to have the corporation reinstated and paid the required filing fee. Mr. Harris stated that before any final approval is made of the subdivision, the application will need to show a certificate of good standing. Barbara Albro asked about the letter received from SUNY ESF and the issue of whether the project site contains any species that may be threatened or endangered. Discussion followed that the real concern is whether the subdivision will have any impacts whatsoever on the lake. The Board wants to make sure that nothing leaches into or reaches the lake and that it be protected from anything that would cause any harm or negative impacts. The Board is mindful of and

wants to address any and all concerns and will continue to thoroughly research and consult with experts to be certain those concerns are addressed.

Nate Shirley was also asked to address the concern raised by many Song Lake residents that he has recorded an easement with the intent to allow lake access to the lots across his property. Mr. Shirley stated that when he did this, he knew the Town Board was considering passing a law which would prohibit keyholing. He wanted to record the easement as he wanted to keep his options open and he did not know what the Town would do. He further stated that the way the Keyholing law is written he knows he has to comply. He understands and does not intend to violate the law by allowing lake access over the recorded easement. Mr. Harris stated that the issue of access will not then be a part of the SEQR process and we are now aware of the right of way. Attorney Armstrong said there is a further concern that the applicant will challenge the law. Nate Currie gave an example of residents having a Fourth of July party and allowing guests to use the lake. Attorney Armstrong said that the concern is that the owners of the lots would use the lake as though they had a lake lot, and that is very different from occasional use granted by a lake lot owner. The concern is that there would be (12) more users of the lake due to the subdivision and should the Board address that impact now or not? He again stated the law can be challenged and overturned but at this point, we need to assume that we have proper legislation in effect which prohibits that access. Jim Harris suggested that this be clearly indicated on the final approved subdivision map to the effect that any potential buyer will need to comply with the Keyholing law. Further, that the Board have the option to make approval of the subdivision subject to, and reference the law on the map as further notice to a prospective purchaser. The maps are filed with the County Clerk's office and become public record. Don Armstrong believes that this could be noted on the map and would make the law clear to, and put a buyer on notice.

Jim Harris stated that going forward, we will review and digest the data coming in. Don Armstrong said the Board cannot proceed further until the archaeological review is completed, even before the test

wells are done. Nate Shirey agrees he will do that before drilling test wells. In the interim, he will be working on the various applications and county planning requests. He will likely do the Aquifer Protection special permit at the next Town board meeting. He further stated that he was not aware of needing any DEC approvals and that they seemed satisfied with the stormwater management plans. Attorney Armstrong stated we are not under any timelines as this juncture. He has spoken to the applicant's attorney and wants to make sure that we are not out of compliance with any timelines. Nate Shirley verbally agreed to that statement that the Board is not out of compliance with any required timelines. Further discussion was had and bills submitted to the applicant to cover the current services of the town engineer, Paul Sheniman. Mr. Shirley will make payment for those services directly to the Town.

Jim Harris said at this point we are not ready to schedule the second Public Hearing until all of the other reviews have been completed. He further stated that the Board will accept public comments at the next meeting.

Motion to approve the minutes with one correction, made by Barbara Albro, seconded by Nate Currie, all in favor, the motion carried. Motion to adjourn made by Barbara Albro, seconded by Nate Currie, all in favor the motion carried and the meeting adjourned at 8:20 PM.

Respectfully submitted,

Mary Anne McCloskey, Secretary