



TOWN OF BEEKMAN PLANNING BOARD Minutes of Thursday, February 15, 2024

The Town of Beekman Planning Board met for their regularly scheduled meeting on Thursday, February 15, 2024 at 7:00 PM at the Beekman Town Hall.

The following members were present:

Chairman- John Frustace
Robert Lopane
Peter Poltrack
Jayson Abbatantuono

Faye Garito was absent.

Also present:

Town Engineer - Dan Koehler
Town Attorney – James Horan
Recording Secretary- Aletha Bourke

J. Frustace - Led the Pledge of Allegiance
Noted the emergency exits

J. Frustace – Asks if board members reviewed meeting minutes for January 2023 and January 2024 and asks for motion to approve.

R. Lopane – Motion to approve minutes. Seconded by J. Abbatantuono. All in favor. Motion carried.

PUBLIC HEARING

1. Cemco Development Group – Lot 2 & 3 Boyd Re-Subdivision- Continuation
Pleasant Ridge Road
Grid # 6859-00-434759
Zone R-135

J. Frustace – Asks if there is a representative present. Confirms there is not. Asks Dan to elaborate on status.

D. Koehler – The wetlands specialist said that he had flagged some wetlands towards the bottom of the property and we've been asking for that to be surveyed for several months. Was recently driving by and saw flags so they are there. They've got to locate them and put them on the map.

P. Poltrack – Confirms flags were seen where the wetlands are supposed to be.

R. Lopane – Should survey right after flagged, otherwise if you lose flags, the integrity of the delineation is gone.

J. Frustace – This is the frustration. Asks if there was anyone that would like to have spoken about the CEMCO development project. Confirms there is and a motion must be made to reopen.

R. Lopane – Motion to re-open public hearing. Seconded by P. Poltrack. All in favor. Motion carried.

J. Frustace – Offers apologies to residents and explains that the board is making efforts to curtail this issue moving forward. Notices went out a year or so ago and the public is unaware of the adjournments.

Bill Crain, 254 Gardner Hollow – Took interest when the project was first proposed and has three main issues. One is that it is on a steep slope and the comprehensive plan states we should prohibit development on steep slopes. Another was the trees. The applicant wanted to remove approximately 80 trees (was very vague) and put in 4. That combined with the steep slopes as the trees are preventing erosion and mud slides and so on is a disaster. Third problem is the wetlands and the fourth problem is they never show up. It looks like the board has bent over backwards to give them an opportunity to move forward and I'm getting a little tired of showing up too. Don't know what the board's obligations are but suggests application withdrawal.

J. Frustace – Asks town attorney for feedback.

J. Horan – With respect to the status of the application, I agree with the comments. One of the issues though, is that the applicant is entitled to at least some due process. What would be appropriate for the board to do is authorize that a letter be sent by the planning board secretary on behalf of the board to instruct the applicant to appear at the next meeting and provide the information that has been requested regarding the wetland mapping. If they don't have that information available, then give a reasonable timeline at which it may be available or if they have taken a position that their hired professional has been unresponsive to them. One of the things you can put in the letter is that if it is not addressed, the board will deem the application insufficient to meet the criteria for an approval and it may be denied. The obligation is on the applicant to satisfy the conditions in the town code for granting subdivision approval and, to the extent the applicant is unwilling to submit the information that the board needs to grant an approval, that could get it denied.

J. Frustace – The letter should also point to all other outstanding items in the comment letters. Two months seems generous.

J. Horan – Due to weather conditions etc., don't think it is feasible for them to get something done right now. Give them at least a little bit of latitude and should they have the information beforehand and want to provide it ahead of time, the deadline is probably near.

D. Koehler – Confirms submission deadline for March meeting is March 4th. Clarifies that this is not an extension but a continued adjournment of the public hearing.

J. Frustace – Adds it is because they have not met the request of getting the wetlands delineated on the plan.

P. Poltrack – Suggests pushing for the next meeting.

J. Horan – You can certainly have them make a submission for the next meeting but I would delay on acting on the application at the next meeting. You could give them an opportunity to submit. If they wanted to switch professionals, the new professional would not be ready to do any submissions for the next meeting.

J. Frustace – Understand the applicant is entitled to due process but what about the public?

J. Horan – Unfortunately, as a general rule, due process is afforded the people in the system rather than the people outside the system.

R. Lopane – Asks what is compelling the board to keep the public hearing open. Let's say they've abandoned the project. That's what it looks like.

J. Horan – They had requested it. To the extent they requested an adjournment, I would say they've taken an affirmative act.

Secretary – Confirms adjournment was not requested by the applicant.

R. Lopane – Under the impression we're keeping it open because we opened it and once we close it, it starts the clock which means we have to act within 62 days. Also understood we could reopen a meeting if they present new information to us that the public wasn't privy to.

J. Horan – You have to take action within 62 days. Action would also include denial. When you close the public hearing, if the board does not take action within 62 days, there's a default preliminary approval.

Board members discuss pros and cons surrounding closing the public hearing versus keeping it open.

J. Horan – One issue is that as a general rule, once you close the public hearing you cannot introduce any new evidence to the public unless the public hearing is reopened and that would require consent of the applicant. Should you not reopen the public hearing, there is some potential for outside parties to challenge any approval that might be granted by the board. It's complicated because of default approval provisions. If you're going to give the applicant another shot, the recommendation would be not to close the public hearing. If you want to adjourn it to the next meeting and provide a letter stating that if they do not respond by the next meeting, the application will be deemed incomplete and potentially denied, that would be appropriate.

P. Poltrack – If we close the public hearing and at the end of the 62 days they have not submitted anything or made a request to submit new info, why can't we make a motion to cancel or not approve.

J. Horan – Certainly free to do that. The problem becomes if you close the public hearing and the applicant submits new information, you're creating a legal issue whereas third parties may challenge. You also must reach a SEQRA determination before you can approve or deny the application.

J. Abbatantuono – Asks what constitutes a response.

J. Horan – Confirms a response is information responsive to the requests.

R. Lopane – Would like to give one last warning and if no response then deem inactive and close the meeting.

D. Koehler – One main reason why this continues to get pushed out is because our code requires for the water course and wetland permit to have a public hearing as well. This is a subdivision public hearing and if he shows us the wetlands and they require town permitting, then there will have to be a public hearing on that aspect as well. Don't see how we could close a subdivision public hearing because we're going to have to make a SEQRA determination, but we don't know about the wetlands. We have been asking about the steep slopes and about some design criteria that needs to be shown. The Fire Advisory Board had comments on the T turn-around. There's a lot of stuff going on there that hasn't been addressed.

J. Frustace – So there would be a second public hearing anyway.

D. Koehler – If those wetlands qualify, that's the whole point of why we need to have them shown on the map.

J. Frustace – We're not going to be making a SEQRA determination until it's been delineated on the map and we've closed the public hearing.

J. Horan – I believe you can run the public hearing for the wetlands and the subdivision concurrently.

R. Lopane – I think if we close it we're going to be restricted to many legal variables that could affect us negatively.

J. Frustace – In the future, we'll issue this letter earlier in the process so we don't run into this kind of thing.

R. Lopane – In the future, we're not going to public hearing until they have everything.

D. Koehler – Suggests a motion be made to have the town attorney in conjunction with the planning secretary, prepare a letter to be sent out.

J. Horan – Will draft the letter to be sent out on the board's letterhead to the applicant and the professional.

R. Lopane – Motion for the town attorney to draft letter to be sent to the applicant requesting attendance at the next meeting and provide the information that's been requested in past meetings. Seconded by P. Poltrack. All in favor. Motion carried.

2. Pozzuto Lot Line – Lot Line Adjustment- Continuation

110 Frog Hollow Rd.

Grid # 6757-00-445645 & 563722

Zone R-45

J. Frustace – Asks if a representative is present.

D. Koehler – The applicant sent an email asking to be adjourned. They've made progress with DEC but haven't finalized it. Health department is reviewing the septic plan and they expect that approval soon.

Board members briefly revisit wetland discussion, adding that DEC is changing the rules on wetlands and stressing the importance of the applicants going out to survey and delineate wetlands.

J. Frustace – Asks for public comment. Negative response.

R. Lopane – Motion to adjourn to March 21, 2024. Seconded by P. Poltrack. All in favor. Motion carried.

DISCUSSION

1. Safe Haven Animal Shelter

186 South Green Haven Road

Grid # 6757-00-106399

Zone C-3

Joe Berger, Engineer – Representing the applicant. They need to get reapprovals as time has run out, so they can build the portion of the site they did not build. Understand it was due to finances and time to get finances together, now securing finances to do the work.

P. Poltrack – Asks if they have the finances now.

Joe – Yes. A lot of it based upon reapproval. They are confident they'll have the finances.

R. Lopane – Question if anything has changed with the plan and where the project left off.

D. Koehler – The applicant received, from this board on February 17, 2022, a reapproval of the conditional site plan special use permit and that was conditioned on a number of things including satisfying the original November 19, 2020 resolution of site plan and special use permit approval. Our code is 180 days the site plan expires unless you ask for an extension. That had expired and so they've asked for it again. Adds that in December 2023, Josephine Santoro who is the applicant, mentioned that she's also applying for grant money from the state to help her get to that point. If you recall, phase 1 of the work that has to be done is construction of a parking lot because there are contaminated soils beneath it and the remediation for that was capping it with the asphalt and that hasn't been done yet.

Joe – Those grants are subject to any approvals, that's why she feels she'll get them but they can't even be secured until there's a valid site plan so it's chicken or the egg.

P. Poltrack – Asks if the committed funds are sufficient to complete the project.

Joe - Cannot answer that because a lot of them are subject to having it. People could pull back but I've been told they are confident they can get it done.

J. Frustace – Asks for clarification on action to take.

D. Koehler – Explains that they are asking for a re-approval. Their last approval expired February 17, 2022. If re-approval was granted this evening, it would go through August 13, 2024, 180 days. They could ask for an extension. For Special Use Permit, construction must start within 1 year of final site plan and complete within 2 years. Part of it is satisfying the conditions for the site plan so it can be signed. Would have to go through the conditions. Performance bond was already established via resolution.

Joe – Offers remediation resolves.

D. Koehler – Brief history of project surrounding details leading to expiration to include issues with contamination and DEC requirements. Since there are no substantive changes, the board can determine that it does not constitute reopening SEQR, consider waiving the public hearing and grant re-approval based on prior approval. That is what was done in February 2022, when they wanted to change things, they were directed by the board that would re-open the entire process. They're coming back with the exact plan as it was to get the reapproval for the grant. Resolution was prepared for consideration.

J. Frustace – Motion to grant re-approval through August 13, 2024. So moved by P. Poltrack. All in favor. Motion carried.

EXTENSIONS

- 1. Grape Hollow East - Subdivision**
Grape Hollow Road
Grid # 6756-00-731467
Zone R-135

John Kalin, Engineer – Offers explanation regarding the confusion with DEC requirements and SWPPP misunderstanding and offers formal revisions. Explains it was determined that one of the lots is considered an enhancement and is a more simple plan and the other two will be full on storm water plans. Confirms the goal is to provide an update as the project has been ongoing.

D. Koehler – Adds that as the MS4, we are obligated to make sure there's post construction storm water maintenance agreement. The town has rights but not obligations to make sure the people are still maintaining the storm water structures that were shown and improved on the lots. It has to be done as part of the approval

process, part of reviewing the technical on how the ponds function and how to make sure it is maintained afterwards.

R. Lopane – Asks if that would covenant on the deed.

D. Koehler – It's been done that way in certain areas, yes. Normally would ask for it to be put into the deed as the operation and maintenance and the agreement would include the operation and maintenance schedule so it's clear to someone that is buying it that there are storm water practices that have to be maintained.

John – Once the owner buys it, there's sign offs in the documents that the owner is aware of the obligations.

Board members briefly discuss streams and wetlands, and historical storm water practices.

J. Horan – Asks applicant to confirm the changes in storm water will not change lot line configuration or driveways.

John – Confirms everything stayed exactly the same, just introduced things in and around the space. The biggest thing was the rain garden added .2 acres of disturbance.

D. Koehler – Today is the expiration of the last extension so the board can choose any time frame it may wish to have added on and I'll write something up to that effect.

R. Lopane – Questions how much time they may need.

John – If Dan concurs, could reproduce for the other two lots fairly quickly. Thinks 60 days.

D. Koehler – Thinks it appropriate if the board would consider 90 days which would bring him until May 15, 2024.

R. Lopane – Clearly making genuine effort to move expediently.

J. Frustace - Inclined to give 90 days.

J. Abbatantuono – Second

P. Poltrack – Good

J. Frustace – All in favor.

Aye. Extension granted.

D. Koehler – That is through May 15, 2024.

J. Abbatantuono – Motion to adjourn the meeting. Seconded by P. Poltrack. All in favor. Meeting adjourned 7:58pm.

Respectfully submitted.

Aletha Bourke