



TOWN OF BEEKMAN PLANNING BOARD Minutes of Thursday, January 18, 2024

The Town of Beekman Planning Board met for their regularly scheduled meeting on Thursday, January 18, 2024 at 7:00 PM at the Beekman Town Hall.

The following members were present:

Chairman- John Frustace
Faye Garito
Robert Lopane

Peter Poltrack and Jayson Abbatantuono were absent.

Also present:

Town Engineer - Dan Koehler
Town Attorney - Craig Wallace
Recording Secretary- Aletha Bourke

J. Frustace – Meeting called to order at 7:24pm
Led the Pledge of Allegiance
Noted the emergency exits
Moment of silence for service personnel

J. Frustace – Asks if members had a chance to review December meeting minutes.

R. Lopane – Motion to approve December meeting minutes. Seconded by F. Garito. All in favor. Motion carried.

DISCUSSION

1. Contractor Yard – Site Plan
83 Church Street
Grid # 6758-00-917930
Zone R-45

Jeff Econom, Applicant's Representative – Back with updated submission. Parcel has 2 barns on it. One is currently being used for the contractor storage. Subsequently submitted photographs to show what type of equipment they're having inside. The secondary barn is in need of repair. They've repaired the foundation at this point and are hoping to have that brought up to the same standard in the next couple years. In receipt of comment letter. Most are addressed or in the process. Need to have a sit down with the

contractor for some of the other questions. Awaiting response from health department. Will do a test on the well for capacity as existing well serves both parcels of land under the same ownership. Need additional exploratory for existing septic in rear. Trying to find out where, if needed, the contractor will store a piece of equipment outside. Most is usually transported on site. Took photos showing some vegetation that was planted. He doesn't want too much blocking the view from his house as there has been a break in. That is why we are going to enclose the two sides with the six-foot fence with screening. Vinyl coated chain link fence.

D. Koehler – Confirms fencing is within code for the area. Adds that they are proposing vinyl slots as well.

C. Wallace – Documents from the building department show that this was converted to a two-family and there's no record of it. They noted a violation and, if there's a violation, the special use permit cannot move forward. Under our code, the applicant would have to cure the violation on the main home in order to move the rest of the application forward. That would be one condition of approval that would have to be done before you can consider. Putting the applicant on notice right now to legalize that issue would be in his best interest. There's a violation letter from April 7, 2017 from the building inspector at the time, Shawn Beresford, regarding building permit 17-079 for renovations. His comment was that the single-family dwelling was converted into a two-family home without any approvals or permit but we were advised that the renovations will correct the violations. There was no close out of this particular renovation permit according to our records.

Jeff – Confirms this is new information and asks for copies of violations.

D. Koehler – This has to do with the primary house that's on the other side of Church street. It's all one lot even though Church street bifurcates the parcel. There's a land hook. It's one parcel. When created by filed map, it specifically noted that this particular parcel that the barns are on would not be its own building lot.

Jeff – Henceforth, that's why there's a well on the triangular piece that serves both the house across the street and this parcel. The health department would like to get a test on the wells to make sure its adequate. We have to dig up the tanks, find the distribution boxes and sort of snake them out, put a metal detector, find the length of the fields and see what's out there. The FOIL request was filed, there's no record. The health department said there was mention of a septic but nothing official.

R. Lopane – The health department wants you to demonstrate to them that there's a good septic and the way you do that is you're going to do some test pits, test digging to locate the septic and then also do you have to look inside the pipes and make sure its clear.

Jeff – Could do a perk test if they want. It would be about 150 gallons a day for usage. Can we match that with dimension, linear feet of fields and size of tank and what kind of tank is in the ground. Health department will give you a sign off that they acknowledge what's in the ground and it's ok for this use.

R. Lopane – The key is that they have the system and the approval on record.

Jeff – It's documented that you've done your due diligence. Confirms there is a bathroom in the office, the house, which is not in question, has its own septic and a separate septic for the barn.

D. Koehler – It is in your purview to the extent that you're doing an environmental review so you want to know how much is getting into the ground. It's in our aquifer overlay so if we have a septic that's not within a standard of approval for the health department. That's part of the reason it needs to be considered for redesign possibly or a certification from the licensed professional that it is sufficient and meets the standard. It's important to work that out with the health department.

R. Lopane - Asks for septic location, if anything if being proposed over that system and whether that effect will be detrimental to the septic system.

Jeff – Points out location on plans. Indicates it will be a gravel drive and might have an effect on the septic depending on how it was constructed.

D. Koehler – Might necessitate other site changes as a result of that. If you're saying it's like a 4-inch perforated pipe and it doesn't have much coverage, the health department would probably say you can't have a driveway over this anymore which might change the way the plan lays out. They might say it just doesn't meet any standards and you have to put a new one. Technically, they have land area on the opposite side of Church Street. Church Street is a town road, town right of way, they may be able to make some sort of deal with the town as a use agreement or something if they have to put a pipe across underneath the road. There would have to be some legal agreements on that.

Jeff – It would be a pump-up system. Worst case scenario, might be able to put in a drywell pipe system with gravel.

D. Koehler – You will have to sharpen your pencil with the health department and come up with an agreed upon flow based on the number of employees. It was mentioned in the letter about the number of employees so that will help come up with that flow confirmation with the health department and then you can work backwards from there.

J. Frustace – The silo was 1947 but the barns were constructed in 1780 and the shed in 1942 so those items were there before zoning laws but not the addition for the home. That permit was pulled and not satisfied and there were a number of complaints dating back to 2008. That information will be provided for you to take back to the applicant.

C. Wallace – You cannot consider the application without it being resolved. For the record, there's an order to remedy dated December 22, 2014. There's a CO report with objection noted dated April 7, 2017. There's a CO dated July 13, 2004 referencing certain improvements, issued by Patricia Fox. There's a Department of Health cover page dated October 15, 2008. This is a house inspection from the Department of Health dated October 15, 2008. Some of these may or may not have been resolved but for information purposes you should have them.

D. Koehler – You can work with the building department concurrently with the continuation of this process.

Jeff – Regarding the vegetation, is what the applicant put out there sufficient?

Board reviews photographs supplied by applicant and discuss vegetation, buffers, lighting, vehicles, etc.

R. Lopane – Will hear from the neighbors at the public hearing if there are any issues with the view shed.

Jeff – Questions if the project will be on hold until building department issues are resolved or if public hearing can be scheduled.

D. Koehler – I think you need to advance with the septic part too because that could completely change where there's site disturbances, etc. and we don't want to get in that cycle.

Jeff – Asking with the violation that was brought up tonight, does that put this project on hold until I get that violation resolved.

C. Wallace – What Dan was saying was spot on. You really need to wait and evaluate the septic issue so that you can determine if it is economically feasible or what the cost factor is going to be to legalize whatever is there now and then incorporate that into this particular site plan for this improvement. There might have to be some type of enlargement to address improvement on the other side of the road.

D. Koehler – If you were to have a use agreement with the town, it would probably have to recirculate to the town board also in terms of circulation for lead agency. Even though we've done that process now with the agencies we thought were going to be involved, if there ends up being something. You had mentioned that the well may serve both. There may actually be a line under Church St. now that should be under some sort of a use agreement anyway. It would be good to show that actual line if we can figure out where that is and you have to figure out if that septic needs to be on the other side of the road.

Jeff – I think worst case I can get 1,000-gallon drywell and that will be more than adequate for a small septic over there with 3 or 4 feet of gravel around and underneath.

D. Koehler – Your client has all the equipment so you can certainly do the test pits and all that. Not sure if they're accepting test pits right now at the health department. It would be appropriate to work with them a bit. What I was saying about including the town board as a potential interested or involved agency, I think we have to at least circulate them and give them the opportunity to say yay or nay to objecting to or allowing the planning board to serve as lead agency.

Jeff – Existing well they can't really say much about that one. If I come back and have to get the septic then that's where it may raise an issue. The well has been like that since the 1800s.

J. Frustace – 1780 according to the documents.

D. Koehler – If there's a supply line or anything that goes underneath Church St., which is our road, then we have to have some sort of use agreement in place. It would be good to clean that up. God forbid the town is doing drainage work or whatever and hits the well line then we have an issue so at least we have it memorialized, responsibilities, rights, obligations and all of that.

Jeff – In my experience as a municipal official, I would put in your agreement that if there ever was a need to change that whatever utility, it's put in a sleeve so if in the future there is ever a problem, you could just snake a new line without touching the road. When there's a problem, if there's a problem, we have to touch the road but, in the future, we put a sleeve in, could use PVC pipe, snake that through for the water and never have to touch the road again. That would be my recommendation for the town's best interest.

D. Koehler – Asks if he will be able to possibly find the line. If it ends up being that there are separate wells. It sounds like if there was one well that served both, then it has to cross Church St. somewhere.

Jeff – That's all the documentation I have seen is just the one well.

F. Garito – At one point you had to have a well to serve the cows. You couldn't use stream water or anything other than a drilled well back somewhere in the 50's, early 60's.

Jeff – I've looked at when it was subdivided and did have the property surveyed again and that's all they found.

F. Garito – Any sign of water?

Jeff – The rehabilitation of the barn was done before I came on board so I can't answer that.

R. Lopane – Sounds like there are some open-ended issues before going to public hearing.

D. Koehler – With the board’s authorization, we’ll send the circulation letter to the town board as well and mention that they may need to be an interested or involved agency and if they object to the planning board acting as lead agency. We’ll get something formal from them. That was one of the steps I was going to suggest could be done tonight but this is kind of new information. We had received a letter from the health department and some correspondence from Dutchess County Planning and Development that did not object to the board as lead agency. The timeline for the other agencies to respond has expired, so that’s a default they do not object, but we can at least ask the town board and give them a little bit of time. That will give Jeff some time to figure out some of the answers to these questions and we’ll go from there. He got a letter from the highway superintendent that he is fine with reuse of the existing and its location.

R. Lopane – Motion to declare intent to act as lead agency and to send lead agency notice to the Town Council. Seconded by F. Garito. All in favor. Motion carried.

C. Wallace – You should make a motion to direct the applicant to comply with legalizing the violations during the pendency of this application.

F. Garito – Motion to direct the applicant to resolve any outstanding zoning and/or building code violations. Seconded by R. Lopane. All in favor. Motion carried.

Jeff – There’s really no zoning violations.

D. Koehler – There was a question of whether it was a one or two-family. Recommends leaving motion as is, that way it covers both.

J. Frustace – The documentation shows clearly what occurs prior to zoning and code. Confirms vote and motion passed.

D. Koehler – The only other thing I would mention because it was a point last month was about the above ground fuel storage or any kind of fuel storage. Jeff will address that more on the next submittal.

Jeff – There will be no fuel storage. Typically, the fuel equipment is taken to the job site and that’s when they have the trucks filled. I did add that to the aquifer report and as a note on the drawing.

EXTENSIONS

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

J. Frustace – Unfortunately no representative for Grape Hollow.

R. Lopane – Asks if extensions have been granted.

D. Koehler – The original conditional final subdivision plat approval was January 20, 2022. The 180 days went on and then there were some extensions at the November 2022 meeting, the May 2023 meeting, the July 2023 meeting and the October 2023 meeting.

F. Garito – Are they dealing with the New York Watershed?

D. Koehler – They're in the watershed. They don't have to deal directly with DEP but they have to deal with the Town of Beekman as MS4 so we're reviewing what they've submitted and have had a few issues with regard to their interpretation versus ours.

F. Garito – Asks if that is holding this up.

D. Koehler – Yes

J. Frustace – Also understand they've had a problem interpreting the DEP and the DEC's interpretation of what they should and shouldn't do.

D. Koehler – Can expand on that. In July of 2023 we had a review letter with regard to our review of the storm water pollution prevention plan. This area is in the east of Hudson watershed so when you're over 5,000 sq.ft. of land disturbance, you have to get a basic SWPPP approved and as the MS4, it's our job as the Town of Beekman to approve that on behalf of the DEC. Notices of intent are sent to the DEC. They end up giving the coverage but lean on us as the MS4 to be the approving agency. When you get over and acre for the project in that area for residential, they have to do full storm water controls or full SWPPP, meaning that they have to do quantity and quality controls for the storm water for all the development, as much of the disturbed areas as you can capture and treat. The applicant took it upon himself to say that there are three lots proposed. They're all coming off an existing road and we're going to treat them individually but the rules pretty clearly read as a common plan of development. The subdivision is what's creating the other two lots so it's an action that's creating that extra disturbance and over an acre necessitates that. It doesn't have to be over an acre for each lot. It's the totality of the project itself. There was conversation between the applicant and DEC about submitting separate Notices of Intent. That's where you gain coverage. This issue comes up sometimes because there's normally one person that owns that coverage and it's difficult if you're going to sell individual lots and individual people end up building as now you're holding coverage for what they're doing. DEC agreed that they could get separate coverages. They came back with an interpretation that that also meant they didn't have to do storm water for each lot. We disagreed, called the same person at DEC and they said they had mistaken what the DEC had said. They are indeed over one acre and are subject to storm water controls. We've directed them again and that's going to necessitate some soils testing and things that may or may not be done within the 90-day extension if you choose to authorize. We are waiting on more information, more design, and better supporting documentation to satisfy the conditions of that approval.

J. Frustace – This has been going on since June of last year, 7 months.

D. Koehler – There were some periods of very little activity after original approval. We were trying to get closer by last July and kind of hit the brakes due to their hesitancy to follow direction to provide storm water controls. They interpreted it differently and then tried to get their own interpretation from DEC if we were right or wrong.

J. Frustace – The regulations seem pretty clear to me and you were clear with them back in June. This is where those very steep slopes are in the back.

R. Lopane – Thought that acre threshold kicked them into needing to do a SWPPP and then there are other standards and requirements that determine whether you need SWPPP with post construction storm water controls or just erosion control plan. They're definitely over the acre so they need SWPPP.

D. Koehler – They're actually over 5,000 sq.ft. This is east of Hudson which is lower threshold. Table 2 of the general permit specifically states that if you're in east of Hudson watershed and you have over one acre of land disturbance, you subject to full storm water controls. The town is the MS4. Generally, we are

tasked with administering the DEC's rules for storm water as they don't have the personnel so they passed it on to the municipalities.

R. Lopane – Confirms MS4 is a jurisdiction, not a permit. We are the MS4 because we are in charge of our own storm water drainage system in our town. We have to enforce the storm water regulation. The applicant submits the plan, we're the approving authority, but we have to make sure it meets the New York state standards.

D. Koehler – Ultimately, the MS4 has to sign off on the SWPPP and there's still a Notice of Intent that gets sent to the DEC. They review it to some extent and if there are no red flags, they'll authorize the coverage.

J. Frustace – Asks if there has been any feedback regarding what is impeding the process.

D. Koehler – Takes effort

R. Lopane – Most applicants over an acre of disturbance go through this process while we're reviewing the project. Why don't we require that they get NOI and have SPDES permit approved before we approved the subdivision?

D. Koehler – That was part of the conditional approval was satisfying my letter which had to deal with providing the full SWPPP.

R. Lopane – They need our approval of the SWPPP and get the SPDES permit.

D. Koehler – At least be in a position where all you have to do is submit the paperwork and get the coverage. That's a reasonable condition.

R. Lopane – That permit process can send you down several rabbit holes, one being potentially having to hire an archaeologist, SHPO may need to issue letter of no impact. They haven't even submitted the NOI yet. Some of the impact issues, it was represented to us that there are no impacts to storm water or archaeological resources. Some of this information gets found out during the SWPPP process but we've went ahead and approved it already and said we don't think there's an impact. It's a quandary because allowing them to proceed without getting that SWPPP. There's no reason why they couldn't do this concurrently with our process. This could be occurring while they're getting Department of Health approvals.

J. Frustace – Asks town attorney to weight in.

C. Wallace – In this particular case, you need to order the applicant to come to the next meeting. Extend it to the next meeting and you need to hear it from him. Dan has reiterated some things that need to be addressed directly by them before you.

J. Frustace – It seems as though they are ignoring his comment letter and trying to find another way around it by not conforming.

C. Wallace – You can direct the planning board secretary to send a letter to the applicant that their failure to appear in person could result in a denial of their application for an extension

R. Lopane – Asks how the engineer intends to handle the MS4 and what the approving authority is.

D. Koehler – The Supervisor writes off on it normally upon my recommendation.

R. Lopane – So they didn't need to come back to us. They could solve this, come up with a good plan that you review and are satisfied with and then the supervisor could approve it and they wouldn't have to come back. That was the path you were looking to take.

D. Koehler – That is the path everyone thought they were going to take since January of 2022. That is when the conditional approval was.

Board members discuss retroactive extension.

R. Lopane – It's in here that they are diligently working to satisfy the conditions. Have we spoken with them? Is there additional information?

D. Koehler – Information was submitted in December but that information was based on the premise that they were doing a basic SWPPP for each lot and not storm water controls. Then I had the conversation with DEC and rejected the submittal. Confirms DEP permit not required as it is not over 2 acres.

R. Lopane – Motion to extend conditional approval for 36 days to February 15, 2024. Seconded by F. Garito. All in favor. Motion carried.

R. Lopane - Motion to direct planning secretary to send letter to applicant directing applicant to appear at the next planning meeting. Seconded by J. Frustace. All in favor. Motion carried.

R. Lopane – Motion to close the meeting. Seconded by F. Garito. All in favor. Meeting adjourned 8:22pm.

Respectfully submitted.
Aletha Bourke