



TOWN OF BALLSTON PLANNING BOARD
Regular Monthly Meeting: July 30, 2008

Present: Richard Doyle, Chairman

Josephine Cristy

Jeffrey Cwalinski

Joan Eddy

Derek Hayden

Members of General Public

John VanVorst

Audeliz Matias, Alternate

Kathryn Serra, Town Engineer

Peter Reilly, Planning Board Attorney

Thomas Johnson, Building Inspector

Chairman Doyle called the, July 30, 2008 meeting to order at 7:30pm and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

Corrections to minutes:

Page 1) under **Motion** change "a mend" to "amend", Page 3) 6th para; strike "the Board", 10th para; change "is" to "if", Page 4) 1st para add "if" before any, add "they" after lot, 2nd para; add "is" after it, 3rd para; change "is" to "are", 5th para add "sidewalks" after "any", 9th para; strike "for maintenance and" change to "to maintain the", 12th para; strike "s" on problem, 14th para; 14th para; strike "up" after sign, Page 6) 2nd para; strike "to it" change to "into", 16th para; strike "a" change to "as", Page 7) 2nd para; add "to be" before done, 11th para; add "to" after subject, 13th para strike "o" change to "of", Page 8) 2nd para; strike Cwlainski" change to "Cwalinski".

MOTION: Mr. Hayden made a motion to approve the amended June 25, 2008 minutes. Ms. Cristy seconded the motion and all present voted in favor. **CARRIED.**

OLD BUSINESS:

Christ the Savior Church, 349 East Line Road for a previously approved landscape and lighting plan. Rev. Birkhoff was present to present the proposal to the Board for an extension of their previously approved site plan. Rev. Birkhoff said since the plan was approved one year ago they have been working with the town to resolve the outstanding problems with regards to handi-cap accessibility and safety. The two issues in question were not addressed on the original site plan approval. Rev Birkhoff said that two additional walkways were added off of the exits were not in the original plan caused a financial hardship. The exterior lighting (poles) and landscaping that were on the original plan cannot be



completed due to the financial hardship of installing walkways for safety and accessibility. The two issues mentioned above are holding up the issuance of the certificate of occupancy.

The first request is to lower the pole length from 25ft. to 20ft. and to delay landscaping until next year.

Mr. Doyle asked Rev. Birkhoff about postponing the installation of the pole lights until next year. Rev. Birkhoff said that the lighting will be installed within the next year.

Mr. Doyle asked about the postponing of the landscaping plan. Rev. Birkhoff said planting would resume either spring or fall.

Mr. Hayden asked how much the church will be used in the evening. Rev Birkhoff said Saturday evening's which are vesper services and wholly days.

Mr. Hayden has a concern with lighting and evening services. Rev. Birkhoff said that there is a lot of light coming off the building.

Mr. Hayden asked about screening of the adjacent properties. Rev. Birkhoff said that there is proposed landscaping around the church and the planted trees toward the south have all died.

Mr. Johnson clarified that this property is located in the Ballston Lake Residential District which does not require a landscaping or lighting plan, but the Planning Board can put requirements specifically relating to the above mentioned issues.

Mr. Doyle asked the Board on postponing the landscaping plan until next year. Ms. Cristy said that in order for the applicant's to raise the funds they have to be open. Mr. Cwalinski is in agreement.

Ms. Eddy asked the applicant extending until next fall. Ms. Eddy said to be completed on/or before October 15, 2009.

Mr. Doyle asked the requirements on parking with regards to lights on poles; are there requirements that a certificate of occupancy cannot be issued without lights in the parking lot.

Mr. Johnson said that there are no design standards for the Ballston Lake Residential District and the applicant is required to install the light poles because it was included on the approved site plan.

Ms. Eddy asked if there is insurance for the building. Rev. Birkhoff replied yes.

Mr. Johnson said the building code requires lighting at the exits.

Mr. Doyle asked Mr. Reilly his opinion on this matter. Mr. Reilly agrees with Mr. Johnson's assessment. Mr. Reilly referred to section 138-89 "no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or an execution performance guarantee has been posted for improvements not yet completed."

Mr. Johnson said that there was discussion about bonding with Rev. Birkhoff and the contractor and CT Male determined a bond amount.



Rev. Birkhoff said that the bond amount was five times the cost of the lights.

Mr. Reilly suggested amending the site plan so as to allow moving in without landscaping and lighting and to mandate those improvements be installed by October 15, 2009.

Ms. Serra asked if the Board could make a motion that the applicant provide changes for Mr. Reilly to review for acceptance.

Mr. Reilly asked what the Board would be asking him to review. Ms. Serra said the changes to the site plan.

Mr. Reilly said that if that is what the Board wants to do by way of a resolution to amend the site plan and move forward without the landscaping and without the lights being installed would require those improvements by October 15, 2009.

MOTION: Mr. Cwalinski motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Ms. Cristy seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Cwalinski moved to issue a Negative Declaration, with the basis that there is not a potentially significant environmental impact. Mr. VanVorst seconded the motion. **CARRIED.**

Mr. Doyle opened the public hearing at 7:59pm

Tim Szcapaniak asked what happens if someone falls in the parking lot and gets injured, does that fall back on the town or is it covered by the owner's insurance company.

Mr. Reilly said that he does not see any liability on the town, but would be more concerned if this was required by ordinance and was waived. The applicant's site plan was designed by their professional and is not required by statute and does not perceive any real liability on the town.

Ms. Cassimeris said that the lighting and landscaping will be completed by October 15, 2009.

Dean Doin, neighbor to the south said that trees were planted 15 to 20ft. away has concerns for his horses and does not want anyone reaching over his fence to feed the horses. Mr. Doin also said that the hedgerow has been removed.

Ms. Eddy asked why the hedgerow was removed. Rev. Birkhoff said that National Grid forced the applicant's to move the road.

Mr. Doyle suggested an inexpensive fence to be placed in front of the electrical fence.

A further discussion was held on the type of fence to replace the hedgerow.

Mr. Doyle closed the public hearing 8:10pm.

Mr. Doyle suggested that a temporary fence might allow the requirements to be met and provide protection from the animals to include the opening in the hedgerow; 100 to 150'.



Mr. Doyle said that the applicant has agreed with the neighbor to work out an arrangement to construct a fence and fill in the hedgerow. Mr. Johnson asked for clarification. Mr. Doyle said that the agreement is to close up the opening which was created by National Grid due to the change in the entrance.

Mr. Doyle asked for completion before the certificate of occupancy is issued.

Mr. Doyle said that the motion should reflect the deletion of the landscaping and lighting because of hardship and is not required in the Ballston Lake Residential District.

MOTION: Mr. Cwalinski made a motion to approve an amended site plan which deletes lighting and planting as it constitutes a hardship for the applicant and are not required by our zoning and planning laws with a stipulation that the planting be completed on/or before October 15, 2009 and the lights be completed on or before October 15, 2009. There is also an agreement between the applicant and the southerly neighbor (Dean Doin) which would specify the extent of the type of fencing required to replace the hedgerow which was approved on the southern most property line starting at East Line Road going westward.

Mr. Reilly asked if the written agreement is prior to the issuance of the certificate of occupancy.

Mr. Cwalinski added that the written agreement is to be signed prior to the issuance of the certificate of occupancy. Ms. Eddy seconded the motion and all present voted in favor. **CARRIED.**

John Lentini, 485 Finley Road for a Minor Subdivision. Dan Wheeler PLS was present on behalf of the applicant. Mr. Wheeler said since the last meeting, the wetlands have been delineated and have been agreed upon by DEC. Since the delineation was confirmed, there has been a disturbance proposal plan which was sent to DEC which is shown on the map in the shaded grey area represents what DEC will allow for disturbance.

Mr. Wheeler said that DEC contacted Alton Knapp who accepted the plan and will be issuing a disturbance permit; which has not been received to date.

Mr. Wheeler said that the grey area is a portion of the 100ft. buffer which DEC allows disturbance of the lawn.

Ms. Eddy asked if the grey area can be dug up during the building phase and then grade it to a lawn. Mr. Wheeler said that the shaded area can be disturbed and also be used as a lawn. Mr. Wheeler should be receiving the disturbance permit in a few days.

Ms. Eddy asked about the disturbance of the tree line.

Ms. Matias asked how the future owners will know about the disturbance area. Mr. Wheeler said that all that information will reflect on the final subdivision which could be put in the to deed restriction, subject to all restriction as outlined in the DEC wetland disturbance area.

Ms. Eddy asked if the wells will be moved toward the road. Mr. Wheeler said that the wells are proposed near the septic percolations. Mr. Wheeler said that one well is installed and the other two are proposed.

Mr. Reilly said that the ACOE does have a precedent of template; declaration of protective covenants for corps wetlands. Mr. Reilly said this could be made a requirement that be a deed restriction which refers to the disturbance permit; refer



to the map. Mr. Reilly suggested putting a copy of the survey map that is prepared for new construction for each lot and appends it to the deed.

Mr. Cwalinski asked if the erosion control plan and storm water permit coverage has been completed. Mr. Wheeler said it is in works and will be sending notification.

Mr. Doyle opened the public hearing 8:30pm

Dorothy King said that her family has lived on Finley Road longer than anyone else. Her great-great grandfather came from England in 1842 and built a house on northern Finley Road. Mr. King said that her grandparents bought the 100 acre farm which lies just to the north of this property and this has been where the family has lived since 1907. Ms. King has a concern for the environment and the land where the subdivision is proposed is considerably higher than her land; three homes, driveways and paving. The soil cannot absorb the rain that comes down onto her property.

John McKoczy, 343 Finley Road has a concern for the exceptions that have been granted by the Planning Board for this property. Mr. McKoczy feels the intent of this subdivision is to "fit 10lbs of horse manure in a 5lb bag." Mr. McKoczy said that the prior two meetings state concerns:

100 ft. buffer surface area

Lot #1 (relief from the 100ft. buffer)

Lot #1 concern for having enough buildable room

Lots #1 and #2 mention issues similar to lot #3; "Mr. Doyle asked about lot #3 perc" Mr. McKoczy asked will lots #1 and #2 perc.

Mr. McKoczy said that at the March 26, 2008 meeting Ms. Eddy asked about the well on lot #2 if there is clearance to lot #1. Mr. McKoczy asked about the well on lot #3.

Ms. Serra asked on the March 26, 2008 meeting about the total land disturbance being one acre. Mr. McKoczy said that is 15% total land being built.

Mr. Doyle said at the March 26, 2008 meeting that there is a fair amount of land disturbance because the lots require a great deal of fill. Mr. McKoczy asked why does the lot require a great deal of fill; is there not enough buildable area currently to build without the fill, where is the fill going, and what kind of run-off concerns would there be for the neighboring properties based on this amount of fill.

Mr. McKoczy said between myself, Ms. King, Mr. Rimawi, Mr. Grupe (who sold the property to the applicant, Laura and Dave Orminski, and Shane and Laura Flynn totaling six neighbors in the immediate area who strongly oppose squeezing this many houses; 10lbs of horse manure in a 5lb bag. Mr. McKoczy said that there is a great concern for the impact on the rural nature of the neighborhood. Mr. McKoczy said that there is a great deal of planning to try to circumvent those environmental concerns which sets a very dangerous precedent.

Mr. McKoczy said that there are a number of questions which are unanswered and will put forth a list for the Board for the next meeting.



Mr. Doyle said that the town is not granting any waivers and meets zoning. The problems on this property generated when the Board began checking on the wetlands. If relief was not granted, then building would not be allowed.

Mr. McKoczy asked if the grey area on the map represent the disturbed area. Mr. Doyle said that is the wetland area which will be allowed for disturbance. Ms. Serra said that it is the wetland buffer.

Mr. Wheeler said that the portion of the 100ft. buffer will allow the homeowners to disturb the lawn or have a yard.

Ms. Serra asked Mr. Wheeler after speaking with DEC did you seek the right to erect decking, pool, and sheds. Mr. Wheeler said that he has not seen the original paperwork which was submitted to DEC.

A further discussion was held on building in the 100ft. buffer area.

Ms. Serra said that DEC does have jurisdiction over 100ft. away from any of there jurisdictional wetlands. Ms. Serra said that it is looked at on a case by case basis. Ms. Serra said that is a state jurisdiction; it is nothing that a town can mandate.

Mr. Doyle asked Mr. Wheeler to make sure that the drainage is correct.

Ms. Serra asked Mr. Doyle if he is asking for a drainage plan.

Ms. Serra said that for residential subdivisions that disturb more than one acre and less than five acres; likely the applicant will be disturbing between two and three acres; totaling three lots. The state mandates that the applicant prepare erosion and sediment control plan. A drainage plan is not required, but the town's storm water local law does not encompass this part of the town, therefore, the only mechanism for the Planning Board to ask for a drainage plan to be completed would be to make a motion to require a drainage plan be prepared.

Ms. Serra said under SEQR can mandate a drainage plan be completed.

Ms. Eddy asked if there is a higher sensitivity due to the wetlands. Ms. Serra said with regards to storm water.

Mr. McKoczy said that there is water running water and the wetlands from Route 67 north run across Ms. King's property and my property.

Ms. Serra said preliminary from the grading plan which shows 5ft. elevation contours; lot #3 drains back from towards Finley Road, lot #2 drains back to wetlands and lot #1 the house and the driveway drain back toward Finley Road.

Mr. McKoczy asked about perc tests. Ms. Serra said that the information is located on the subdivision map. They were tested at the location of the septic systems; water is absorbed at 31" below ground. Those tests were done at a location of the proposed septic which is next to the proposed houses which were performed at the end of April 2008.

Mrs. King requested a drainage plan.

Mr. Doyle said the consensus of the Board is to require a drainage plan.



Ms. Serra said that the contents of the drainage plan need to be discussed. Ms. Serra said that the Board may consider requiring a 10yr. storm.

A further discussion was held on the drainage plan.

MOTION: Mr. VanVorst made a motion to require the applicant to prepare drainage and grading plan based on a 10yr. storm event and to be reviewed by CT Male and a \$1,000.00 escrow fee will need to be established. Ms. Matias seconded the motion and all present voted in favor. **CARRIED.**

NEW BUSINESS:

Eugene Weiss, Brookline Road and Route 50 for a sketch plan conference. No one was present to represent the applicant.

Application tabled.

MOTION: Mr. Cwalinski made a motion to adjourn. Ms. Eddy seconded the motion. **CARRIED.**

Meeting adjourned 8:58pm

Respectfully submitted,

Michelle L. Dingman