



TOWN OF BALLSTON PLANNING BOARD
Regular Monthly Meeting: October 29, 2008

Present: Richard Doyle, Chairman

Jeffrey Cwalinski

Joan Eddy

Derek Hayden

Members of General Public

John VanVorst

Lee Ramsey, 1st Alternate

Kathryn Serra, Town Engineer

Peter Reilly, Planning Board Attorney

Thomas Johnson, Building Inspector

Chairman Doyle called the October 29, 2008 meeting to order at 7:30pm and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

Corrections to the August 27, 2008 minutes:

Mr. Doyle made a change to the August 27, 2008 minutes: Page 4) 5th paragraph to "Ms. Matias said "I actually don't mind apartments because she remembers when she moved here a few years ago could not find an apartment however, did not like the idea that these are high end apartments because I am a young professional and when we were looking for an apartment there was no way I was going to pay \$1,300.00 for an apartment, because I can pay that on a mortgage. I don't mind apartments, but am a little concerned about the high end and some other issues on how they are constructed."

Correction to the September 24, 2008 minutes:

Page 1) strike Donald Rhodes, 2nd paragraph change "is" to "if", 3rd paragraph change "12020" to "12019", page 2) 1st paragraph change "sates" to "states", page 3) 7th paragraph strike "the" before moving, page 4) 2nd paragraph change "an" to "and", 3rd paragraph change "where" to "were", page 6) 13th paragraph change "max" to "map".

MOTION: Mr. Cwalinski made a motion to approve the changes to the minutes. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

OLD BUSINESS:



Bradley Callahan, 1 Manning Road, Ballston Lake, NY 12020 for a Lot Line Adjustment. Duane Rabideau and Bradley Callahan were present to present the application to the Board. Mr. Rabideau stated at the last meeting, the Board requested corrections to the site location, numbering of the lots and a turn around was added for proposed driveway on lot #2. Mr. Rabideau said there were the outstanding issues and comments from Canadian Pacific Railroad.

Mr. Hayden asked if a copy of the applicant's submittal was forwarded to Canadian Pacific Railroad. Mr. Rabideau said yes and spoke with a representative from CPR who is going to contact the Board.

Mr. Cwalinski asked if the CPR representative had any comments or concerns. Mr. Rabideau said the only issue was safety at the crossing.

Mr. Doyle said that the Town has not received anything from the Canadian Pacific Railroad. Mr. Doyle tried returning a call to CPR and had no response.

Mr. Doyle asked if there was anyone in attendance representing CPR. There was no representation present.

Mr. Doyle opened the public hearing at 7:40pm

Mr. Doyle closed the public hearing at 7:41pm

No one wished to speak.

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

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

MOTION: Mr. Cwalinski made a motion to approve the Lot Line Adjustment as described on the drawing LLA between the lands of Bradley M. Callahan and John B & Philomena S. Callahan, dated September 25, 2008. Ms. Eddy seconded the motion and all present voted in favor. **CARRIED.**

NEW BUSINESS:

Christopher Bonitatibus, Lake Road, Ballston Lake, NY 12019 for a Sketch Plan Conference. Peter Lynch, Esq. introduced himself, Christopher Bonitatibus and the project engineer Mark Jacobson. Mr. Lynch said that a number of building lots were created by Sioban Bonitatibus and deeded to the family members which consist of five lots; four of which are the subject of this application. When the deeds were created, a reserve easement of 25ft. was retained by Sioban Bonitatibus who granted access easements. Mr. Lynch said currently there are four landlocked parcels with a proposed 25ft. easement in their deeds. Mr. Lynch said the applicant is proposing to create a 13 lot subdivision with 12 building lots all of which meet the dimensional requirements of the ordinance for the residential district; the 13th lot being a storm water detention pond.

Mr. Lynch said there are several problems with trying to gain access to Kingsbridge Ct. There are some steep slopes on the south easterly corner of the site and the turning radius could not be made in the ordinance for this particular point



of being an access. It has been determined that access via Kingsbridge Ct. is just not viable so the applicants are relegated to the 25ft. easement access.

The proposal will consist of a cul-de-sac which services 12 homes. The slope of the site with the exception of the rear portion on the easterly corner is essentially 3 to 10 percent. The road itself will have a slope of approximately 3 to 6 percent which is below the 7 percent threshold in the ordinance.

The applicant is very sensitive to the fact that the slope does slope east to west toward the lake. Mr. Lynch said that one of the benefits of this particular location is to propose tying into the sanitary sewer to the sewer system on Kingsbridge Ct. so all homes will be maintained by a public sewage system. Once a formal application is made, the applicant is proposing to bring in water from Kingsbridge Ct. After receiving comments from the town engineer and when water is brought in, the water will have to be brought to a stub on Lake Road. The sewer would only service the proposed houses and pumped back up to Kingsbridge Ct.

The storm water management run-off into the lake is a pivotal issue of the Planning Board and feels that the proposed on-site storm water system will adequately handle the lots. There is a 550' section of road running from westerly corner of the detention area all the way down to Lake Road. The proposal is for a hydrodynamic system to be installed down by the easement at the point of where it meets the road.

Mr. Lynch said that the initial plan for the road was proposed for 16ft. and comments back from CT Male were to have a 20ft. wide road inclusive of the wing gutter which can be accomplished within the 20ft. wide right-of-way.

Mr. Lynch said the footprints are within the envelope of the lot setbacks and the houses shown are 1700sq. ft. in size.

Mr. Lynch said that the proposed subdivision does not have frontage on a public right-of-way for access. The Town Law 280A requires that there is at least 15ft. of frontage for suitable access for purposes of vehicular traffic. Mr. Lynch said there is 25ft. for the easement, but not owned in feet. Mr. Lynch said that one of the applications to be filed with the Town is with the Zoning Board of Appeals to seek a variance or exception from that part of the State Law that requires that you own the fee interest in the access as opposed to having access by a permanent easement. Mr. Lynch said the easement area is actually 10ft. wider than the statues presuming that 15ft. would be suitable. The applicant feels that the 25ft. would be more than adequate to service these lots. The proposed road would be a privately owned road and the deed would have a maintenance agreement relative to the road and to record not only the maintenance agreement, but to have those deed restrictions in each one of the lots. Essentially each one of the owners will have an obligation to maintain, but each one of the owners would have an interest in common in maintaining that roadway.

Mr. Lynch said the 150ft. diameter of a cul-de-sac has met the ordinance requirement.

Mr. Lynch said that since the Zoning Board will be involved he is asking the Planning Board to coordinate the SEQR review with the Zoning Board and establish who will be the Lead Agency.

Mr. Hayden asked who owns the first lot. Mr. Lynch said that it is owned by Gregory and Joan Durnford which are relatives of Christopher Bonitatibus.

Mr. Hayden asked who resides on the north lot. Mr. Bonitatibus said it is owned by Eric Katz.



Ms. Eddy asked if the house on Lake Road will be given access to their home off of the proposed road. Mr. Lynch said that the applicant would not have any objection to allow access.

Ms. Eddy said that the water runs down across the road and freezes.

Mr. Jacobson said that the proposal is to capture and treat all the water that comes down within the extent possible without clearing back through the forest. Mr. Jacobson said that anything that is to be impacted will catch and treat and will not be released on a pre versus post development, but rather on the culvert that crosses underneath Mr. Katz's driveway and eventually goes on into the lake Mr. Jacobson said this will solve at least the extent possible of this development of water sheeting across Lake Road.

Mr. Eddy asked if the proposed roadway will be paved. Mr. Jacobson said that that the road will be built to support emergency vehicles 100,000 pounds for fire trucks.

Ms. Eddy asked if it exceeds 500ft. from Lake Road up to lot #13. Mr. Jacobson said he believes it is 550ft. Ms. Eddy said that a turn around is needed for emergency vehicles and asked how that will be accomplished.

Ms. Eddy said school buses will not be accessing the private road so she suggests that a couple concepts be shown for a safe place for kids to wait for the bus; a shelter, bus kiosk. Mr. Eddy has concerns for icy roads and children standing out on Lake Road waiting for the bus.

Ms. Serra asked that the road be widened to at least 20ft. which is dependent on the analysis that the engineer will do with regards to how the fire truck can travel on the road. Ms. Serra said that there are no provisions for turn offs with this particular project; the road will be wide enough for two fire trucks to pass.

Ms. Hayden asked where all the snow will be dumped. Mr. Lynch said there is an entire lot designated as a storm water detention area which will be an ideal place to dump the snow. Mr. VanVorst said that 500ft. of snow will be pushed uphill into a storm water area. Mr. Lynch said that the questions was asked on how to deal with the snow and said that the snow has to go somewhere.

Mr. VanVorst said after walking the site on the Chapel Hill and standing on their cul-de-sac looking west, there is a ridge and the elevation actually goes up five or six feet. Mr. VanVorst asked why this property cannot be accessed from that cul-de-sac. Mr. VanVorst does not feel that the slopes are too steep after cutting down the ridge it will be much closer to the elevation of the other cul-de-sac. Mr. VanVorst does not see any reason why that turn cannot be made and designed.

Mr. Jacobson said to make the extension the code requires that there is a 350ft. inside right-of-way radius. Mr. Jacobson said that turn cannot be made off of this property. Mr. Jacobson said that it may be possible to seek relief from that turning radius, but the code also states that the cul-de-sac cannot service more than 21 lots off a single access road cul-de-sac.

Mr. VanVorst said that it would be poor planning not to provide access to that development from both ends if possible. Mr. Jacobson said that it would be desirous of the client to come off of this if possible and will explore every option, but it does not look like it is feasible.



Mr. Lynch said that the point is well taken because ultimately the applicant needs to apply to the Zoning Board; whether it is for the easement versus the fee or to be relieved from the obligations of the ordinance relative to the limit on the length of the cul-de-sac exceeding 21 lots for the turning radius.

Ms. Eddy asked where the turning radius starts from the middle of the cul-de-sac or from the edge. Mr. Jacobson said the inner edge by code is 350ft. radius and will not be able to stay on their property.

Mr. Cwalinski asked if a stub road should cross. Mr. Jacobson said that provisions were made for the paper street, but it does not make provisions for that lot by itself. Mr. VanVorst said it appears that the right-of-way for that cul-de-sac on Chapel Hill comes to the property line and suggested coming off of the cul-de-sac on the extreme west end and not have to go down that paper street.

Ms. Eddy asked the applicant if they have spoken with Sterling. Mr. Bonitatibus said that he spoke with Mr. Lucarelli who said that he is not interested.

A discussion as held on making a provision on an emergency access road. Mr. VanVorst said that there were two different school districts.

Mr. Johnson said that there are two different fire districts. Presently the Chapel Hill subdivision is in the Round Lake Fire District and if a provision is made for the proposed subdivision off Lake Road then it is in the Ballston Lake Fire District and there is no way to access off Lake Road, then the Ballston Lake Fire District has to go all the way around in order to access that subdivision. Mr. Johnson suggested not eliminating access off of Lake Road for emergency vehicles year round.

Mr. Cwalinski asked if the post development into the lake will not be any greater than the pre development run-off. Mr. Jacobson replied not that it will not be greater than the pre development run-off. Mr. Cwalinski asked the quality of that water post development. Mr. Jacobson said that the DEC mandates that the ponds are built in such a way that it removes 80% of the solids, treats nitrogen phosphorous to a degree via the plantings that are in the storm water basin management area. Ms. Serra said that it is like an inside manhole and has a unit that spins. Mr. Jacobson said that it is a manhole which is made for tight spots; in commercial applications where land is premium an underground system is used. Mr. VanVorst asked what happens to the solids. Mr. Jacobson said that it has to be maintained like any other storm water basin. Mr. Doyle said that the solids need to be cleaned out periodically. Mr. VanVorst asked how often. Mr. Jacobson said bi-annual. Ms. Eddy asked how about when it's cold. Ms. Serra said that it is below ground so it does not freeze.

Mr. Jacobson said that because of what is being proposed with the vortex unit it puts the application in a 60 day review for the Notice of Intent for the SPEDES permit with the DEC. Ms. Serra said that this is a town review zoned district; Ballston Lake Overlay District. Ms. Serra said that all review and approval comes from CT Male's office and the Building Department, therefore if the town approves the project, there is no additional review by the state. Ms. Serra said this project is not in a state mandated MS4 it's in a town mandated extra zone for storm water review.

Joseph Casale, 1427 Route 50, Ballston Spa, NY 12020 for a Sketch Plan Conference. Brian Glasser of Tap, Inc. was present on behalf of Mike and Joseph Casale. Mr. Glasser said that the applicants are proposing a 60 unit apartment building located in the Business Highway -1 District. Mr. Glasser said the applicants want to create an apartment for empty nesters and young professional who do not want to own property. The proposal is for high end apartments with a mix between adirondack and colonial style with rents from 900.00 to 1,100.00. Mr. Glasser said the proposed site



consist of 4.25 acres mostly wooded with not a lot of street traffic adjacent to residential areas. The proposal is for a three story wood framed structure consisting of 60 units with 40 units having two bedrooms and 20 units having one bedroom. The size of the apartments will be between 900 and 1,000sq. ft. The building will have a central multi-purpose area consisting of 5,000sq. ft. One unique feature of this project is the private central courtyard which consists of 12,000sq. ft. and in the front are proposing a semi private public space. The proposed building is shown 200ft. back off the road; zoning requires 50ft. with green space to be used for a pocket park for people in the community. The parking shows 155 parking spaces, requiring 150 spaces.

Mr. Hayden asked if this proposal has been built anywhere else. Mr. Glasser replied no that Mr. Casale has built apartments in Troy.

Mr. Cwalinski said that he is not in favor of this project. The reason is that the areas that are zoned for businesses are being filled up with residential units. The residential units are net consumers of tax dollars where as the businesses would generate tax dollars and feels this will have a negative affect on the tax base and will be spread out amongst the taxpayers in the town. Mr. Cwalinski said the last thing he wants to hear is people on a fixed income say "I can't afford to live in the Town of Ballston; I have been taxed out of my house." Mr. Cwalinski said that he does not want to see PUD and variances granted to put businesses in residential areas because it is totally inappropriate.

Ms. Eddy said that she did not want the last proposal that was before the Board. Ms. Eddy would like to propose looking into senior housing and leave the front part for future business. Ms. Eddy does not want to see a "Holiday Inn" with a courtyard. Ms. Eddy said that there are 50 to 55 apartments approved on Route 67 and that there is going to a "boat load" of apartments if this all happens not to mention all the condos. Ms. Eddy said that she would rather have ownership in this town as opposed to all the renters.

Mr. Doyle said there are applications for apartments presently in front of the Board at several locations. Mr. Doyle said that the town is not against apartments, but feels it should be done smartly. Mr. Doyle said that the height of the building should be looked at. Mr. Doyle suggested commercial in the front area. Mr. Doyle mentioned signage, lighting on the building, walkways and parking lots. Mr. Doyle said to come up with a total green space for the project. Mr. Hayden asked for the percentage and does not feel that there is 35%. Mr. Glasser said there is roughly between 33% and 35%.

Mr. Cwalinski said that he would like to see a snow management plan.

Ms. Eddy asked "how happy are the people in the apartments in Troy with parking way out in the back 40 in the middle of winter." Ms. Eddy asked if parking is assigned. Mr. Glasser said that two spaces are for each unit one car could be parked in front and the second car parker further away.

Mr. Doyle asked the applicant to provide data as to other town parking requirements.

Mr. Johnson asked where the handi-cap parking will be located. Mr. Glasser said that those spaces will be designated within the first row. Mr. Johnson said that 2% of the spaces have to be handi-cap.

Mr. Hayden does not feel that the trash receptacle will be adequate for 60 units.

Mr. Doyle said that a combination of commercial and apartments will better utilize the property



Ms. Eddy suggested senior housing.

Mr. Ramsey asked the depth of the lot. Mr. Glasser replied 633ft.

Mr. VanVorst asked if any research has been done to obtain the property between this parcel and National Grid. Mr. Glasser said that the applicant has not looked at that. Mr. VanVorst said that there is a triangle piece of property that will be useless for anyone or anything else that will alleviate congestion issues. Mr. Glasser asked the use of that parcel. Mr. VanVorst said green space, parking and snow removal.

Ms. Eddy asked Patti Southworth, Town Supervisor how the town would feel about senior housing. Ms. Southworth said that she has received requests for assisted living and senior housing. Ms. Southworth said that her only concern is the 62 year old restriction. Ms. Eddy said that it can be changed and suggested 55.

Mr. Reilly said that the deed submitted with the application as record owner is different that the applicant. Mr. Reilly asked for a copy of the contract.

MXMAC, LLC (Joseph Mack), 2 McCrea Hill Road, Ballston Spa, NY 12020. Michael Toohey, Esq. and Joseph Mack were present to present the application to the Board. Mr. Toohey said the applicant has been before the Town Board seeking an amendment from the PUDD (Corporate Technology Park). The lot consists of a 6.4 acres parcel in the North West corner McCrea Hill and Route 50. Under the original legislation that was passed in 1999, it is dedicated to have a 60,000sq. ft. building on it and feels that this site is in fact for commercial development.

Mr. Toohey said that the applicant went before the Town Board and proposed legislation to allow the applicant to use that site for the exact same 60,000sq. ft. and allow the applicant up to five structures totaling 60,000sq. ft. on that site. Mr. Toohey said it gives flexibility with regard to the introduction to commercial utilization. Mr. Toohey said that there would be one added lot which would be owned in common by the owner of the buildings including green space, blacktop and the storm water area. Mr. Toohey said an example would be a Home Owners Association that would be owned by an entity that would have the right and the mandate to charge fees back against the property owner so that the landscaping, parking and storm water system is maintained.

Mr. Toohey said that this will allow smaller entrepreneurs who do not want to rent space, but cannot afford a large building to be able to buy pads on which the building would be constructed. They would own only up to 3ft. around the building and then pay money to take care of the common area charges. Mr. Toohey said that within the Corporate Technology Park legislation that there were some real setback desires and requirements especially along Route 50. Mr. Toohey said that the applicant is maintaining all those setbacks and any building that is built still has to fit itself within the building envelope that the original 1999 legislation wanted to use. Mr. Toohey said that is the requirement for internal setbacks would be controlled by building codes, fire codes and safety codes.

Mr. Toohey said that the applicant is seeking the ability to put this into the legislation so they have the ability to find people who want to develop commercial space in this corridor. Mr. Toohey said that the commercial spaces could be used for professional office's both doctors, lawyers and engineers. Mr. Toohey said a bank which would have good access off the road.

Mr. Toohey said when you have a grouping of businesses who come in to have a commonality of interest they can share the cost. Mr. Toohey said this as a method is a way to have commercial development that is more affordable than having to build as a 60,000sq. ft. building.



Mr. Cwalinski asked about the 800sq. ft. building on the plan. Mr. Mack said it could be some type of walkway or walkthrough which allows connection of the building. Mr. Toohey said the plans shown are conceptual.

Mr. Cwalinski asked about the two islands which would be confusing to a driver. Mr. Toohey said that area is a drive thru area.

Mr. VanVorst asked Mr. Mack if his intention was to sell all the buildings or maintain ownership and rent them. Mr. Mack said at this time it would be to sell them.

Mr. Hayden asked about signage. Mr. Mack said that there will be sign "McCrea Hill Square" on the corner when designed, but does not foresee large signs.

Mr. Doyle asked the Board their feeling on the concept of this project.

Mr. Doyle would like to move forward and make a recommendation that the Board recommend to the Town Council and have looked at the proposal and looks feasible and realizing that each building will be looked at individually.

Ms. Eddy asked Mr. Reilly if he is in agreement with the proposal. Mr. Reilly said that he has been going over the proposal with Mr. Toohey via email and has some recommendations which can be incorporated between now and if the Board is so inclined to recommend approval. The applicant will return to the Town Board to review and discuss any issues with Mr. Toohey.

MOTION: Mr. VanVorst made a motion to forward this application be sent back to the Town Board and recommend that the concept presented is acceptable to the Planning Board. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. VanVorst made a motion to adjourn. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

Respectfully submitted,

Michelle L. Dingman