



Town of Ballston
Planning Board Minutes
May 27, 2009

Present: Richard Doyle, Chairman

Josephine Cristy

Joan Eddy

Derek Hayden

Donald Rhodes

John VanVorst

Lee Ramsey, 1st Alternate

Audeliz Matias, 2nd Alternate

Kathryn Serra, Town Engineer

Peter Reilly, Planning Board Attorney

Thomas Johnson, Building Inspector

Members of General Public

Chairman Doyle called the May 27, 2009 meeting to order at 7:30pm and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

MOTION: Ms. Cristy mad a motion to accept the April 29, 2009 minutes as submitted. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

OLD BUSINESS:

Montessori School of Schenectady, 124 Lakehill Road, Burnt Hills, NY for Site Plan Review. Jodi McClernan was present on behalf of the Montessori School for the construction of a chain link fence at the above said address. Ms. McClernan said the proposal is for a vinyl coated chain link fence 48" wide to be constructed in the backyard of the school.

Mr. Hayden asked the gate placement. Ms. McClernan said one gate to be placed to the east and one to the south.

Mr. Doyle opened the public hearing at 7:39pm

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

No one wished to speak.



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

MOTION: Mr. VanVorst made a motion to approve the installation of the fence that has been previously approved. Mr. Hayden seconded the motion and all present voted in favor. **CARRIED.**

Geoff Brooks, Round Lake Road, Ballston Lake, NY for a Traditional Neighborhood Development (TND). Scott Lansing, P.E., of Lansing Engineering was present of behalf of the applicant. Mr. Lansing said since the last meeting the project was granted preliminary approval. The applicant has submitted to NYSDEC, NYSDOH, and SCSD and received comments back from those agencies and responded back to their comments. Since the last meeting, comments were received from CT Male and felt they were technical in nature and tonight are asking the Boards consideration for final approval of the project conditioned on stamps from NYSDEC, NYSDOH, SCSD, and addressing CT Male's comments.

Mr. VanVorst asked who will own all the wetlands.

Mr. Lansing said a Homeowner Association.

Ms. Eddy had a concern about HOA and wetlands.

Ms. Serra asked Mr. Brooks if he has been in contact with Clifton Park Water Authority about the water line. Mr. Brooks said that he has had initial contact with them. Ms. Serra recommends calling them because they are interested in assisting in upsizing the main and is also interested in knowing when building will begin in the summer or fall. Mr. Brooks said it will not be this year.

Ms. Serra said the water line is 16" that is upsized from 8" that will be servicing the Brooks Subdivision; therefore the Clifton Park Water Authority should be compensating Mr. Brooks for materials and construction costs.

Mr. Doyle said there is a request by the Fire District asking the Town of Ballston if there is any land available. Mr. Doyle said there are legal ramifications as to how that would work; so consequently that is something the Town Board will have to work out with the attorney's whether they can pass a resolution to turn some donated land into use for a fire house.

Mr. Doyle said there are fees that a contractor pays for each lot. Mr. Rhodes said a park and rec fee. Mr. Doyle said consequently that is pending and will leave it up to the Town Board.

Mr. Brooks said Mr. Doyle asked him about the possibility of substituting park and rec fees for donation of land. Mr. Brooks said "that was definitely doable".

Mr. Rhodes said that this Board is in a position to do anything other than stipulate the park and rec fees be paid. Mr. Reilly is in agreement.



Mr. Brooks asked how much the park and rec fees are per lot. Mr. Johnson said \$500.00 per dwelling unit.

Mr. Brooks asked when the applicant pays the park and rec fee. Mr. Johnson said it is paid at issuance of building permit. Mr. Brooks said the park and rec is not grandfathered in at the rate that you are approved. Mr. Johnson said that discussion is being held and what happens to the projects that approved at the present fee and what position after the fee goes up.

Mr. Doyle opened the public hearing at 7:50pm

Mr. Doyle closed the public hearing at 7:51pm

No one wished to speak

Mr. Doyle said that the Town of Ballston was determined Lead Agency of December 2007.

The SEQR has been completed. Mr. Hayden brought it to the Board's attention that the SEQR was completed in August 27, 2008.

Mr. Rhodes moved to renew the Negative Declaration.

Mr. Doyle referenced the August 27, 2008 minutes which said "Mr. Rhodes said this project has no negative affect on the environment and Ms. Eddy seconded the motion and all present voted in favor". **CARRIED.**

MOTION: Mr. Rhodes moved for final approval contingent on satisfaction of outstanding technical comments and receipt of all permits from all the regulatory institutes and park and rec fees. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

John Lentini, Finley Road, Ballston Spa, NY for a Minor Subdivision. Clark Wilkinson, P.E., of Paragon Civil Engineering representing John Lentini. This is a three lot subdivision in the rural district. The existing lot is 7.42 acres divided into three lots of a minimum of 80,000sq. ft. each. Mr. Wilkinson said his firm has prepared a storm water management plan and presented to the Board and CT Male. The storm water plan has been reviewed and approved by Ms. Serra. Mr. Wilkinson said based on a comment while performing the storm water design, went back to DEC to get the permit modified to make sure it was inclusive of storm water management in that buffer area.

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

Mr. Doyle closed the public hearing at 8:00pm

No one wished to speak.

Mr. Doyle said the Board established the Lead Agency in March 2008.

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



MOTION: Mr. VanVorst made a motion that the Board gives final approval for this project dwg. number 08-028.SP-01, dated February 9, 2008 and to include park and rec fees. Ms. Serra said the revision date should be April 30, 2009. Mr. Hayden seconded the motion and all present voted in favor. **CARRIED.**

Frank & Denise Volpe, Schaubert Road, Ballston Lake, NY for a Major Subdivision. Duane Rabideau of VanGuilder and Associates was present on behalf of the applicants. Mr. Rabideau said per the request of the Board the applicant has taken off all the proposed houses and have shown all the actual great lots which encompass each individual stand alone lot lines like the original subdivision. The proposal is for a 16 lot subdivision

Ms. Eddy has concerns with maintenance and enforcement of the basins on private property.

Ms. Eddy suggested to the applicant that both attorneys discuss the maintenance issues.

Mr. Reilly asked if this subdivision will have a HOA. Mr. Rabideau said yes. Mr. Reilly asked if the roadway will be owned by the HOA. Mr. Rabideau said yes. Mr. Reilly said the concern with drainage and ultimate enforcement ability of the town to charge it back to the homeowners if the taxes are not paid.

Mr. Rhodes asked for an explanation of the phasing plan with regards to the construction of the road and subdivision. Mr. Rabideau said the applicant is trying to limit and mitigate any delays with DOH. Mr. Rhodes asked the Town Engineer if the soil suitability and water supply is there. Ms. Serra said no (referring to CT Male comment "Septic System Design: Determination of which entity (the Town or NYSDOH) reviews the septic design depends upon the willingness of the Planning Board to approve the subdivision phasing as proposed. If the Planning Board approves the current application, it is not considered a Realty Subdivision and therefore the septic systems do not require NYSDOH review (Unless they are a non-stand system). In this care the review of the septic systems will be performed by the Town (i.e. the Building Inspector and/or our firm, when requested) at the time that the building permit is filed. We have performed a cursory review of the septic system layout and agree that all setback requirements are met").

Ms. Serra said that the review will happen when the Board decides to proceed with a minor subdivision.

Mr. Lansing said tests pits have been performed on individual lots and will be either convention shallow or a raised system. The town reviews conventional or shallow systems, but a raised system would have to go to the Department of Health.

Mr. Rhodes said the next phase the applicant has to revise any of the new systems to meet the new regulations.

Mr. Hayden asked about subdividing in a five year time frame. Mr. Doyle said the applicant is doing it by phasing.

Mr. Doyle opened the public hearing at 8:20pm

Sarra Garrand, asked what the SEQR process means. Mr. Reilly said it is the acronym for the State Environmental Quality Review Act. Mr. Reilly said the project gets reviewed under SEQR for the size and scope of the project. Ms. Garrand asked if the additional lots will impact the one that already exist.



Mr. Reilly said absolutely with regards to water and drainage. Ms. Garrand asked when the applicants will be meeting again regarding this particular project. Ms. Eddy said to check the agenda on the website.

Todd Hildebrant, 365 Schaubert Road has a concern with water quality, runoff, and drainage will impact his property. Mr. Hildebrant said the initial road was built for five homes and now converts for a 16 lot subdivision. A further discussion was held on Mr. Hildebrant deed restrictions.

Mr. Lansing said the septic system will be designed in accordance with DOH standards and will meet separation distances to existing wells depending on if the well was down gradient or upgradient of that septic system. The proposed wells on the project and from the adjoining property owners as would be in accordance with the proper separation distances and accordance with DOH regulations as far as the septic and the wells.

Mr. Lansing is working with the Town Engineer on a Storm Water Pollution Prevention Plan (SWPPP) which addresses storm water both during construction and after construction. Mr. Lansing said there are various ponds and swales to capture storm water, hold it, treat it, and slowly release it off of the property.

Ms. Serra said everything is going to be draining after construction to the northwest. Ms. Serra said any drainage will be intercepted towards the wetlands.

A further discussion was held on the proposed subdivision.

Ann Pierce, 110 Lake Road does not feel it is a good precedent for the town to set; letting the applicant apply for minor subdivision instead of having to apply to the Health Department.

Mr. Doyle said the septic systems will be designed by a Professional Engineer and will be checked by the Town Engineer.

Ms. Pierce said that this project is located in the WPOD and now the Board has changed the procedure.

Mr. Rhodes asked what procedure has the Board changed.

Mr. Rhodes said that the Board is reviewing this as a major subdivision as if they were creating 16 lots, the only difference is they are not going to create all the lots; this gives the Board a change to do additional review in the future as things change i.e., septic and storm water.

Mr. Lansing discussed the segmenting process again with the Board.

Sara Garrand said if after all this is done and if her well is affected or septic system fails, what is her recourse.

Mr. Doyle said to come back to the town because they made a mistake. Ms. Garrand said who pays to fix it. Mr. Doyle said Ms. Volpe will fix it at her cost.

Mr. Doyle closed the public hearing at 8:40pm

MOTION: Mr. Hayden 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.**



Mr. Rhodes said this project will require infrastructure to be added per phase. This review should identify certain stipulations that would require a certain set of review in the future; storm water, well, and septic should be reviewed for any potential changes that may result because of code changes or phase changes.

The Board is in agreement.

NEW BUSINESS:

Paul Pailley, 16 Hickory Grove Lane, Ballston Lake, NY for Site Plan Review. Mr. Pailley, Executor of the VanPatten Estate for the replacement of the septic system. Mr. Pailley said that the plans have already been approved by the Town Board and CT Male.

Mr. Doyle opened the public hearing at 8:45pm

A neighboring resident of 16 Hickory Grove Lane asked what the applicant is proposing and how it will affect his property.

Ms. Serra said this application has been to the Town Board for design variances twice. Due to the soil conditions and distance to the lake, the Town Board did mandate a special septic system that has a bit more treatment practice in it due to the soil conditions. Ms. Serra said that your well is more than 100' up hill of the septic system that is conformance of the state requirements. Ms. Serra said the Town Board and CT Male looked at the design to make sure that there was no detriment to the lake or the adjoining properties.

A further discussion was held on the location of the septic system.

Mr. Rhodes asked if the Town Board put any stipulations on future inspections, operation, and maintenance of the system for the waivers. Ms. Serra said no. Mr. Rhodes asked Ms. Serra if a recommendation that inspections not be required. Ms. Serra said originally the Town Board had questions; a standard fill system was proposed (the Board members thought that was questionable) and the engineer recommended some alternatives.

MOTION: Mr. Hayden 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. The system has been engineered by a Professional Engineer and rechecked by a Town Engineer and approved by the Town Board of Health. Ms. Cristy seconded the motion. **CARRIED.**

MOTION: Mr. Doyle made a motion for site plan review for septic replacement at 16 Hickory Grove Lane as specified for the drawings by Mr. Kant and approved by the Town Engineer. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**



Richard & Mary Czub, 152 Lake Road, Ballston Lake, NY for Site Plan Review. Duane Rabideau of VanGuilder and Associates was present of behalf of the applicants. Mr. Rabideau said the applicants are before the Board by the request of the ZBA and are proposing 1 ½ story 720sq. ft. residence; a variance for the proposed new septic area is within 200' of Ballston Lake.

Mr. Rabideau said the plan shows an area for a future garage an entrance off of Lake Road with a turn-around for safety.

Mr. Rabideau said it has been set up for a retaining wall; the corner of the house and around to contain the fill that is needed for 100 year flood elevation.

Mr. Rabideau said there is existing rip rap and the applicant has obtained permits from the ACOE and DEC for shore line stabilization.

Mr. Rhodes asked the mean high water elevation of the lake. Mr. Johnson said the 100 year flood is 258.3.

Mr. Rhodes asked the building setback.

Ms. Eddy asked Mr. Rabideau if it was possible if the wall was under water today. Mr. Rabideau said it was possible.

Ms. Eddy said that she has huge issues with this. We just went through a lot of issues with the Ballston Lake Overlay; we are now going to have impervious surfaces.

Ms. Eddy said your going to tell me we have no problem with this based on the Ballston Lake Overlay. Ms. Serra said the only time the code reads any disturbance of less than an acre is not subject to provisions of storm water.

Ms. Eddy said because there is a potential for a variance to make this is very small compared to what it should be, they are no longer covered. Ms. Serra said that she believes the way it is written under SEQR you are allowed to bring it up, not just under the overlay district regulations.

Mr. Rhodes said that it is in the site plan.

Mr. Rhodes asked the level of variance the Town Board issued.

Mr. Johnson said 90ft.

Mr. Rhodes said that we do not know where the mean high water mark is and we do not know where the applicant is proposing the septic that meets the setback that is given. Ms. Serra replied no. Mr. Rhodes said we need to figure out what the mean high is. Mr. Rhodes said that spring time levels are probably mean high what is being shown today. Mr. Rabideau said that is the issues where is the true shoreline on this lake; photos showing the brush line. Mr. Rhodes said that is not the mean high, but the channel. The mean high would actually take a look at other places on the lake to see where the water fluctuation is occurring and shoot that elevation and translate it onto this property.



Mr. Rhodes said that a lot of the development on the lake is on some of the steeper portions so the mean high water is not really a big problem, but on this it is. There is a 2' grade across the entire site and if the mean high water happens to be at elevation 253, which means the water has consumed half that site for the setbacks.

Ms. Serra asked Mr. Johnson if the Town Board granted this 90ft. variance and the plan was not clear as to what they were granting a variance to, does it need to go back to the Town Board. The plan shows edge of water as located December 2008 which we determined might be low which the plan was presented to the Town Board and approved. Ms. Serra said if we determine that we may be an error would it have to go back to the Town Board. Mr. Doyle said if we determine based on what we see today feels that is a valid question to ask.

Mr. Rhodes feels that is right within our purview because we are going to have our view of this project and with only 2ft of relief between the septic system and the edge of lake as located on the December 15th plan (not knowing whether that is high or low).

Mr. Rabideau said the septic system is designed to be above the 10year flood. Mr. Rhode said that is elevation, but not setback.

Ms. Serra said the Town Board granted a 90ft. setback waiver.

Ms. Serra said that she is not trying to fault the Town Board, but Mr. Rhodes does have a point and technically speaking the edge of water does fluctuate generally in engineering terms we do look at ordinary mean high water; that is a good assessment of what the lake level is at its highest in the spring and that is what it should be in the spring and that is what should be the separation to the lake, not from an arbitrary water level. Ms. Serra asked that the ordinary high water be determined and at the point it may even go back to the Town Board for a re-review of that separation

Mr. Rhodes said that this project gives comment to the Town Board and should be looking at this application and not assume just because there was a variance issued.

Mr. Rhodes said it looks the way it is set up short circuits some of the natural treatment of storm water that it is going from Lake Road toward the lake with runoff channels on either side of the improvements.

Once you find out where the mean high water mark is something needs to be put in there to attenuate that and get some natural treatment that's occurring today across this very flat site, instead of concentrating it to the either side of the site to run-off more rapidly with no treatment; swales may be needed to let water slow down and filter out versus shooting into the water where it would be mean high.

Ms. Eddy asked the number of bedrooms proposed. Mr. Czub replied two.

Ms. Serra said that someone needs to do research on ordinary mean high water and presumes that should be on the applicant.

A further discussion was held on determining the mean high water mark. Mr. Doyle asked Mr. Czub if he had permission to fill to that height along the shoreline. Mr. Rabideau said yes and a permit was obtained. Mr. Doyle asked how much that will increase the elevation. Mr. Rabideau said 18" in back of the wall.



Mr. Rhodes asked the applicant to show the Board what is permitted and what is being proposed to make sure the entire basis is covered.

Mr. Doyle opened the public hearing at 9:15pm

Anne Pierce said if the Board allows a substandard lot there is a potential for other people on the lake who have yards large enough and want to subdivide.

Mr. Johnson said this is non compliant lot in order to subdivide and create a non compliant one would have to apply to the ZBA for a variance.

Mr. Rhodes said this has happened in the past been referred from the ZBA to the Planning Board and asked why does that happen. Mr. Doyle said the ZBA feels that they do not have enough information to make that decision themselves; can a house be built on this property.

Mr. Reilly said the Board struggled with the application because of the size of the lot and did not know whether it was a viable project to support a single family home.

Ms. Eddy asked if the lots on either side are the same size. Mr. Reilly said one of the questions to the applicants were there other lots in the area similar in size that affect the neighborhood with any existing nonconforming smaller lots.

Mr. Rabideau said all the improvements have been pushed back; septic system is as far back as they can get it. One of the concerns are around the lake is having the huge houses on very small lots obviously this is a small lot, but this proposed house is relatively small.

Mr. Doyle said the Board is just trying to understand the relative placement of the septic tank to the mean high water mark, run-off to the two adjacent sides, and the driveway.

Mr. Rhodes wants to know how much of the land is regulated, by whom, once you figure out where the mean high water mark is, and whether you have a permit to change it.

Richard VonAhn, 840 Route 50, Burnt Hills, NY for Site Plan Review and a Special Use Permit. Paul Olund of Environmental Design Partnership was present on behalf of the applicant. The applicant is proposing a 1,500sq. ft. building to attach to existing business for vehicle storage, maintenance, and expand the gravel parking area.

Mr. Olund said comments were received from CT Male.

The applicant is proposing a freestanding sign which will be submitted at a later date.

Mr. Johnson said the Board has to approve the sign. Mr. Doyle said a drawing with dimensions has to be submitted and come before the Board for review.

Mr. Olund said the present sign which is mounted on the building will remain the same.

Mr. Olund asked the setbacks for the sign.



Mr. Johnson said 35ft. from the center of the road and 15ft. from the edge of the pavement.

Mr. Johnson said the maximum size of the sign is 4' x 8' (32sq. ft.)

Mr. Rhodes asked if the owner can come in with just a sign permit application.

Mr. Johnson said typically these signs are required to meet site plan approval.

Mr. Rhodes asked if the information gathered here tonight conveys with the zoning requirements and the applicant intends to meet them, can the Board can approve it, but the final sign sizing needs to be confirmed. Mr. Doyle said that a sketch needs to be submitted.

Mr. Hayden asked if it is going to match the existing siding. Mr. Olund said vinyl siding.

Mr. Hayden asked will it have indoor plumbing and bathrooms. Mr. Olund said no bathrooms. Mr. Hayden asked if there will be drains. Mr. Olund said a gravel floor. Mr. Olund said it will have electric. Mr. Hayden asked if it will be insulated and heated. Mr. Olund replied yes.

A further discussion was held on whether this was new construction or an addition to an existing building.

Mr. Rhodes asked that someone review the project in conformance with our code list items and give recommendations to the Board for what variance are appropriate.

Mr. Doyle suggested that Mr. Olund review the Design Standards for that district.

Mr. Rhodes asked if the Planning Board typically asked the designated engineer to review the project in conformance with zoning and make any recommendations for what needs to be changed.

Mr. Doyle said that Ms. Serra has reviewed the application.

Ms. Serra said that yes, normally CT Male would go through the exercise of looking at the design standards, landscaping, architecture, and make recommendations to the Board and waivers that are needed or recommendations on how you change the plan to meet the zoning.

Mr. Rhodes wants to make sure however, it has been done in the past and was a little concerned we were bringing things up that were maybe an issue that the Board wanted to look at versus having a consistent process in place.

Mr. Doyle opened the public hearing at 9:45pm

Mr. Doyle closed the public hearing at 9:46pm

A further discussion was held color choices, landscaping, and setbacks. Mr. Doyle also added a lighting plan.



Walter Katz, III, Route 50, Ballston Spa, NY for a Special Use Permit. John Gay of Northeast Land Surveyors was present on behalf of Walter Katz, III for a Special Use Permit for the purpose of building an additional three apartment buildings each having four units to the south of the existing apartment buildings.

Mr. Gay said in order to construct the proposed apartments, the applicant requires special use permit in this district and requests a setback variance.

Mr. Hayden asked the septic location for the existing building. Mr. Gay said it is to the north and east of the existing buildings.

Mr. Rhode asked if there is a reason that the buildings are not a maximum setback. Mr. Gay said it is not desirable to put the septic up against the roadway because of the esthetics; are in line with the other two existing buildings and would like to put the septic systems along the road side.

Mr. Rhodes asked if there is a reason why the parking areas are not connected. Mr. Gay said that the parking areas would be very difficult to connect.

Mr. Hayden said that there will be no connection to Outlet Road.

Ms. Eddy asked about the future road.

Ms. Eddy asked when construction will start. Mr. Katz said end of July.

Mr. Rhodes said that condominiums are not allowed, but apartments are allowed. Mr. Johnson said multiple dwellings require a Special Use Permit.

A further discussion was held Special Use Permits.

Mr. Doyle said it is the Boards concurrence that they will issue the Special Use Permit.

Mr. Gay asked to address the minimum and maximum setbacks.

Ms. Serra recommended seeing a detailed site plan.

Mr. Gay said obviously what the applicant is attempting to do here tonight is not spend \$40,000.00 in site plan design and feels that the Board has a responsibility to give guidance to the developer.

Mr. Rhodes said without spending \$40,000.00 you can address these technical comments; you do not have to design it out to address it. Mr. Rhodes said the reasons are valid.

Mr. Doyle opened the public hearing at 10:05pm

Jed Potocar asked if the storm water from this proposed development will run off into the existing detention pond. Ms. Serra said the existing pond is designed for everything from Outlet Road to the existing apartments. Mr. Potocar asked if another pond will be created. Ms. Serra said a much smaller pond. Mr. Gay said or we can use the existing pond.



A discussion was held on parking. Mr. Rhodes said to read the section of code that allows you to present and build as green and bank that parking.

Mr. Rhodes commended the applicants on the Community Care facility and said they did a great job and the place looks great. Ms. Eddy agreed.

Mr. Rhodes moved to adjourn. Mr. VanVorst seconded the motion.

Meeting adjourned 10:15pm

Respectfully submitted,

Michelle L. Dingman