

North Salem Planning Board Minutes

February 3, 2010

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
Charlotte Harris, Board Member
Gary Jacobi, Board Member
Bernard Sweeney, Board Member
Roland A. Baroni, Town Attorney
Sonja Teichmann, Planning Consultant
Joseph Bridges, Wetland Inspector
Frank Annunziata, Town Engineer

ABSENT: **Robert Tompkins, Board Member**

ATTENDANTS:	Salem Hunt:	Bill Balter
		Scott Blakely
		Tim Miller
		Jon Dahlgren
	Baxter Road:	David McAdoo
	Dubin:	Jeri Barrett
	Monomoy Farm:	Jeri Barrett
	North Salem Prop. LLC:	Ken Siegel
	Waldron:	Jeffrey Waldron
	Marsh/Agranoff:	William Wright

Chairwoman Cynthia Curtis calls the February 3, 2010 North Salem Planning Board Meeting to order.

PUBLIC HEARINGS:

- 1. Salem Hunt:** Tim Miller Assoc. (owner – June Road Properties, LLC)
Site Dev. Plan, Subdiv., Wetlands Permit (location – June Road & Starlea Road)
 - Open Public Hearing Regarding Site Development Plan, Preliminary Subdivision and Wetland Permit Applications.

Cynthia opens the Public Hearing and confirms with Dawn that the Public Hearing Notice was published in both the Journal News and the North County News. Cynthia states that this is a Public Hearing on a Preliminary Subdivision, a Site Development Plan, and a Wetlands Permit Application. Cynthia states that the Wetlands Permit Application requires publication of the Public Hearing Notice in two newspapers. Cynthia confirms Dawn has received the Green Card acknowledgements showing the notification to the property owners. Cynthia states that a written response has been received from the Westchester County Planning Department, Westchester County Department of Public Works, and the New York City Department of Environmental Protection, as well as e-mails from representatives of the North Salem Bridle Trails Association, and the Golden’s Bridge Hounds.

Cynthia would like to take a few minutes to explain the project and how it changed from the prior Public Hearing which was part of the State Environmental Quality Review Act. The numbers of units have not changed, and are still being proposed at 65 on approximately 40 acres. This piece of property has been referred to as being behind Kingsley’s. The development will be serviced by a private road. All of the units

are proposed to be two bedrooms. There has been a change to incorporate a sewage treatment plant. It no longer requires any variances. Cynthia refers to the green area on the map and states there will be a Conservation Easement, as well as trails throughout the property. Cynthia states that the Applicant has had meetings with the Fire Commissioners regarding fire protection and emergency access. Cynthia asks Tim Miller if he has any other highlights or changes to add.

Mr. Miller states that Scott Blakely will respond. Mr. Blakely states that the major modifications have to do with the stormwater design. We have incorporated a number of low impact designs for the treating of roof water such as rain gardens, and vegetative swales. We have made modifications to the stormwater basins based on comments received from outside agencies.

Cynthia states that another change is that this Project is now a Subdivision. We asked the Developer to consider making it fee-simple. The units will be assessed at 100% valuation. Originally the developer thought that the recreation aspect was fulfilled because there would be a swimming pool, club house, open space conservation easement, as well as trails on site. After discussions, the developer has agreed to contribute \$300,000 in recreation fees.

Cynthia opens up the floor to members of the public here tonight wishing to speak.

Robin DePaoli, a Brewster resident, states that her well had been tested, and she did not receive the results of that testing. Cynthia states that all of the information regarding the testing of the wells is available as part of the Final Environmental Impact Statement (FEIS). The information may be viewed either at the Planning Board Office, or online. We will provide Ms. DePaoli with the website. Cynthia asks Mr. Balter if individuals were supposed to receive packets with results. Mr. Balter states no, he will obtain address information for Ms. DePaoli in order to provide her with results. Cynthia states that there is a provision in the findings for some of the wells to be monitored as the development comes online. There is also a provision for a Bond or Letter of Credit to cover any potential costs related to possible problems. Ms. DePaoli states that they have been spoiled with a view of the woods, and is concerned with trees being taken down along the border. Cynthia shows the proposed landscaping plan, where planting will be added. Mr. Balter refers to the Plan and states that the biggest buffer is a wetland which borders approximately 50%.

Cynthia asks if there are any other comments or questions. There are none.

Cynthia states that procedurally we will adjourn the Wetland Public Hearing and the Site Development Plan Public Hearing, and consider closing the Preliminary Subdivision Public Hearing. The Board discusses leaving the comment period open for one or two weeks for written comments.

Cynthia speaks with Sonja and states that unless there are substantive issues we should consider one more submission. Mr. Balter states that they will make one more submittal to respond to the latest MDRA Memo, as well as address the comments from the Westchester County Department of Planning. Sonja refers to the letter from the Westchester County Department of Planning in regards to their questions about the sidewalks. Mr. Balter discusses the internal sidewalks and states that the comment didn't make sense. Cynthia states that we will go over the letter at the next meeting. Cynthia would like to see all of the comments addressed. There is discussion about starting to work on the Draft Easement for the Bridle Trails. Mr. Balter tried to get in touch with Steve Mulligan and states that he did not have an answering machine. Gloria Stein states that he does have an answering machine, and she will provide Mr. Balter with a contact number.

Chairwoman motions that the Planning Board Close the Public Hearing on the Preliminary Subdivision for the Salem Hunt Project, and Adjourn Both the Site Development Plan and Wetlands Permit Public

Hearings. Gary seconds. All in favor. No opposed.

2. **Baxter Road:** David McAdoo (owner – Fred Nigro, Trustee)
Wetland Permit (location – 193 Baxter Road)

- Open Public Hearing Regarding Wetland Permit Application.

Cynthia Opens the Public Hearing for the 193 Baxter Road Wetland Permit Application and confirms that the Green Cards have been handed in and the Public Hearing Notice published in both the Journal News and the North County News. Cynthia confirms that the neighbor having an interest in this parcel did receive the Public Hearing Notice. Cynthia confirms with Dawn that there have been no written comments. Cynthia opens up the floor for questions. There are none. Cynthia asks the Board if they have any questions. They do not.

Chairwoman motions that the Planning Board Close the Public Hearing on the 193 Baxter Road Wetlands Permit Application. Charlotte seconds. All in favor. No opposed.

REGULAR MEETING:

3. **Baxter Road:** David McAdoo (owner – Fred Nigro, Trustee)
Wetland Permit (location – 193 Baxter Road)

- Consider Draft Resolution of Approval, With Conditions.

Cynthia states that Mr. McAdoo has received a review memo from MDRA. Mr. McAdoo states that Attorney Mackin spoke with the daughter of the homeowner having an interest in this parcel. Mr. McAdoo states that the homeowner was not aware of the Easement. The homeowner does not have a problem an Easement. They are fixing up the property for resale. Their plumber will take a look at the old well house and confirm it is not needed. At that time we will draft a letter. Roland states that it has to be more than a letter. There has to be a recorded document that is a rescission of the Easement in recordable form. Roland states that assuming there is a filed Easement, you will now need a document that is in recordable form so the County Clerk's records will show that there was an Easement, and there is no longer an Easement. Mr. McAdoo states that he does not have a problem with the MDRA Memo.

Cynthia states that the Board has a Draft Resolution of Approval for tonight which spells out items prior to the Planning Board endorsement of the Final Plans. Number 4 is discussed. Cynthia states that Mr. McAdoo should make Mr. Arons aware of each of the steps. Cynthia states that the last section talks about deadlines and states that it is Mr. McAdoo's responsibility to ask for extensions if required.

Cynthia asks the Board if they have any comments or corrections. They do not.

Chairwoman motions that the Planning Board Approve the Draft Resolution of Approval of Wetlands Permit for 193 Baxter Road. Bernard Sweeney seconds. All in favor. No opposed.

4. **Waldron:** Jeffrey Waldron (owner – Jeffrey & Wendy Waldron)
Lot Line Change (location – 21 Baxter Road)

- Discussion of Lot Line Change
- Consider Draft Resolution of Approval, With Conditions

Cynthia states the Board has before them a Draft Resolution of Approval for the Waldron Property. This is a very simple matter. There are two lots on Baxter Road with a common property line. Mr. Waldron reads through the Draft Resolution. Cynthia asks Mr. Waldron if he has any questions. Cynthia states that once the Board gives their approval, the Applicant will require signatures from the Westchester County Board of Health. The Applicant will then submit two mylars.

Gary Jacobi motions that the Planning Board Accept the Draft Resolution of Approval of Lot Line Change for Jeffrey and Wendy Waldron. Bernard seconds. All in favor. No opposed.

5. **Dubin:** Jeri Barrett (owner – Dubin Properties)
Wetlands Permit (location –12 & 14 June Road)

- Review Reports from Planner, Wetlands Inspector, Engineer

Cynthia states that since the last time this project was in front of the Board, a meeting was held with Joe Bridges, Wetlands Inspector. Since that meeting there have been conversations with MDRA and Joe as to how we may move this forward and get a feeling on what aspects of this Application are problematic. Cynthia states that we are talking about three functions; repair of the bridges, dredging of the pond, and removal of phragmites. Cynthia states that the Board does not have a problem with the repair of the bridges. Cynthia states that at the last Meeting there was discussion about moving forward with the consideration for the dredging of the pond, and supplying the Board with more information so a comfort level is achieved and we are all on the same page. The removal of the phragmites, removal of plants, and cleaning up of the areas are discussed. Cynthia states that the question is whether or not it is necessary to add something in place of the phragmites once they are removed. The proposed gabion wall is discussed. It may not be suitable, and may not be approved by the DEC. Cynthia asks why not remove the phragmites and stabilize the area? With these thoughts in mind, and in order to move this Application forward, Cynthia would like to go through the questions and concerns that are outstanding, as we do have Joe with us tonight.

Don Rossi states that with regard to the dredging, he believes the comments from MDRA appear to be acceptable. Mr. Rossi states that they will apply for a Collector Permit from the DEC. Mr. Rossi states that may be the only issue with regard to the dredging. Mr. Rossi refers to Item 2 in the MDRA Memo regarding provisions and states those are also acceptable, and they may already be in the Plans.

Jeri Barrett discusses the bridge near June Road and states that the slope is falling apart. After reading Joe's Memo we will come up with something to make it better. Joe also talks about another area near the southeast bank. Joe talks about the Applicant conducting an assessment of the target areas. Joe states that the last time we met as a group to discuss this Project, Mr. Rossi had mentioned another tributary that comes in from the South possibly being a source of sediment. Mr. Rossi states that there is no problem with attempts to stabilize the stream banks. Mr. Rossi talks about mitigation measures. Mr. Rossi refers to the comment in Item 3, and states it is their intention to remove the entire accumulated sediment and phragmites area and replant with wetland vegetation. Mr. Barrett shows the areas of phragmites on their Plan and discusses their proposal. They are proposing to remove the phragmites from the entire area. Joe states that a pathway is still shown for maintenance. Joe asks if that area also has phragmites as well. Mr. Barrett talks about construction sequences, in addition to using no-mow mix, and states that the area would not remain gravel. The removal of the rye-zone is discussed. Mr. Barrett states that it will take several years to get it under control. Joe discusses the phragmites and states that if it is the intent to create open water area, then all of the phragmites

would be removed and the area would become an open water area thereby eliminating all of the rye-zone. Cynthia agrees, that would bring the area back the way it used to be. Cynthia refers to historical maps and states that they show the area as being all water. Mr. Barrett agrees it is a good idea. Eliminating the gabion wall is discussed. A stabilized path is discussed in order to provide maintenance in the future. Mr. Rossi talks about the sediment. There is a discussion about the ramifications of Hurricane Floyd. Having a path to the edge is discussed as well as reworking the grading. Maintaining depth and cutting down on rye-zones are discussed. Joe states that he does not see the need for a gabion structure. It would be difficult to get approval from the DEC.

Joe talks about the Town possibly entertaining a proposal for digging down deeper. Joe talks about the creation of a localized maintenance area, and suggests the Applicant take a look at the dispersion. Mr. Barrett talks about keeping a certain distance between the contours so there is no slumping. There is discussion about maintenance going down to the original base.

Mr. Rossi talks about this process coming to a close. Mr. Rossi would like to receive Town Approval on the Plan so his client may go to the Army Corps. of Engineers and the DEC. They will then come back to this Board if changes are recommended. Cynthia hears what Mr. Rossi is saying and would love to hear from the DEC. Cynthia states that we are more in line with what was discussed during the Field Visit. There is discussion about the DEC denying the Applicant's request for the gabion structure. Cynthia states that the Board is not going to sit on this, they are going to move forward. They do, however, need more information. Joe is comfortable with that.

Mr. Rossi refers to Item 7 regarding technical aspects, and bringing the EAF up to speed with the design changes. M. Rossi states that he is not of an opinion that the EAF needs to be changed. There are no large impacts. There is technical administrative work that needs to be done. Mr. Rossi does not believe his client needs to make a leap to a Part 3 EAF, as there are no items with potentially large impacts. Joe states a large impact could be the size of the pond. There is discussion about identifying the pond as a large impact. Mr. Rossi does not want to prolong the process and states that Part 3 EAF's have to be reviewed. Cynthia states that the Applicant has one more submission to make.

Frank Annunziata, the Town Engineer is here with us tonight. Mr. Rossi would like to request a Waiver of the SWPPP, and states they will submit an erosion/sedimentation control plan. It will be subject to review by the outside agencies. We would also like to request a Waiver of the Town's requirement to provide a post construction sedimentation SWPPP. Cynthia asks Frank to educate the Board on the process, what is required, and what is being asked for by the Applicant. Frank states that two agencies have to be covered under the State DEC's General Permit. Once 5,000 square feet has been affected, there is a requirement for a SWPPP. After that, depending on the nature of the project and the amount of disturbance, there are other items that would require the triggering of certain thresholds for a post-construction plan. Due to the type of construction activity, the State requires the preparation of a SWPPP. A Plan would be submitted with a Notice of Intent to the State. Cynthia confirms the Applicant will be doing those specific items. Frank refers to the Town's Ordinance in regards to the 5,000 square feet of disturbance for which a SWPPP is required to be submitted. Frank talks about post-construction practices being required if more than one acre is disturbed. The intent to mitigate is discussed. The Code doesn't have protection to qualify projects for a Waiver. Cynthia states this is the area that will look exactly the way it did prior to the work being done. Cynthia confirms Frank recommends the Waiver for one aspect of the Stormwater Law.

Chairwoman motions that the Planning Board Waive one Aspect of the Stormwater Law, Section 193-7c, Which Requires Post-Construction Practices. Gary Jacobi seconds. All in favor. No opposed.

After the motion, Mr. Barrett talks about the MS-4 Form with Frank as far as who receives the Form. Frank

states that Mr. Barrett may send it to him first. Frank will check with Bruce to see who forwards the Form to the State.

6. Marsh/Agranoff: Bill Wright (owner – Christine Marsh-Rijssenbeek)
Lot Line Change (location – 132 & 134 Titicus Road)

- Discussion of Lot Line Change
- Consider Draft Resolution of Approval, With Conditions

Cynthia states the Board has a Draft Resolution to consider for tonight. The Board had approved a Lot Line Change in 2004. The Map was filed, but the Deeds were never filed, which means it never happened. This Draft Resolution puts everything back the way it was when the original lots were created by the Benson Subdivision.

Chairwoman motions that the Planning Board Accept the Draft Resolution of Approval of Lot Line Change for Marsh/Agranoff. Gary seconds. All in favor. No opposed.

After the motion, Bill Wright states he will handle obtaining the signatures.

7. Monomoy Farm: Jeri Barrett (owner – Steven Rattner)
Wetland Permit (location – 806 Peach Lake Road)

- Review Reports From Planner, Wetlands Inspector, Engineer

Mr. Barrett states that they have received the review Memos. The purpose of this Project is to connect Monomoy Farm to 806 Peach Lake Road. This proposal requires crossing the watercourse and New York State Wetland Boundary. Mr. Barrett states that we have put a lot of work into this process. The State did not like our proposal and felt that there would be too much disturbance. We have gone back to our original Plan. There is a discussion about the recommendations from MDRA, as well as the use of equipment. Cynthia states that the area is relatively steep. There is a discussion about a different design which would not have as much of a disturbance. Mr. Barrett states that they have threaded the needle with this proposal, as it is a challenge. The level of disturbance is discussed. Using the roads in the winter is discussed. Mr. Barrett talks about the use of tractor trailers and states 12 feet of width would be required. Cynthia asks if the Applicant has thought about putting up a wall. Mr. Barrett states that is something we may talk about. Mr. Barrett talks about the stormwater issue, as well as having the berms so the water goes where it needs to go. Mr. Barrett states that this is an area Joe Bridges is concerned about as we are pushing up against the wetlands. Mr. Barrett talks about extending a wall, provide grading, and pulling the disturbance back. Mr. Barrett refers to the Plan and talks about grading on the other side of the road. Mr. Barrett states that the idea is to stabilize the swale liner, and install a staked core-log which would take years to rot out. We would make a berm and take out the grading.

Joe looks at the Plan, and refers to wetland areas on existing horse trails, and asks if the DEC referred the Applicant back to this specific Plan. Mr. Barrett states yes. He and Steve Coleman have had several conversations with Heather Gierloff. Mr. Barrett states that he feels the DEC is on board with this alternative Plan. The response sounded like this was the way to go. Joe refers to the initial Plan, which included a Stormwater Management Plan, and states that Plan was significantly different than the stormwater facilities now being presently proposed. Joe would like to know why the Applicant is proposing to increase the size of the stormwater management facilities. Mr. Barrett states that when we first came in, preliminary analysis was done which was not fully developed at the time. Before we took the next step, the concept of coming through the wetlands had come up. That Plan was abandoned. We put this Plan together and started to discuss how

we would handle the stormwater. We had trouble fitting it all in. Because the facility has to be downhill of where the work is, we tried to take advantage of every spot we could to make this work. Mr. Barrett states at that point, the by-pass concept hadn't been worked out.

Frank states that the stormwater practices were bigger in the last alternative version. There is a discussion about getting the water to be basins. Frank states the concept in the last version is fine.

Mr. Barrett talks about the consultant's Memo questioning the need for the basins. The relocation of the road is discussed. Mr. Barrett is concerned about creating a maintenance nightmare. He talks about the possibility of icing problems. The slope amount is discussed at 7 or 8 percent. The proposed plantings are discussed. A two-year maintenance plan is discussed.

Joe states that the SWPPP should be sent to the DEC for their feedback. Mr. Barrett states that Mr. Orphen will make a follow-up call to the DEC. Joe would like feedback from the DEC, as well as their opinion of this new Plan. Joe states that the stormwater management facility is very close to the wetland buffer area. Joe advises to pull the facility back. Mr. Orphen talks about the disturbance issue and states that the trail is already there. The last Plan had 500 feet of disturbance. This new Plan has 30 feet of disturbance. Joe talks about the trail through the wetlands being desirable because it is an existing horse trail.

Cynthia asks Frank about his initial reaction as far as moving the facility to the other side of the road. Frank states that as far as stormwater management, it does not matter.

Mr. Barrett refers to comments regarding to specific native plants, and states that it is no big deal for them to change their proposal. The seeding is discussed. Joe states that the Applicant is proposing to plant a lot of trees. Planting in specific locations on the hillside is discussed. Mr. Barrett shows the planting locations on the Plan. Mr. Coleman talks about the survivability of the plants being a concern. Providing a shoulder for the horses is discussed. Mr. Orphen states that Mr. Rattner will not have a problem with the addition of plants.

Mr. Barrett states that the EAF will be revised.

Cynthia states that the Applicant will leave the stormwater alone. They will look at their plantings plan.

Joe talks about the substitution of multi-flora rose in the buffer area. There is a discussion about native shrub replacements.

Mr. Coleman talks about receiving a letter from the Natural Heritage Program stating that there are no records for Monomoy Farm. Cynthia asks for a copy of that letter.

Mr. Barrett states that they will prepare a Notice of Intent for their next submittal. Obtaining Preliminary Approval is discussed. Going right to a Resolution after the next submittal is discussed.

The piece of property not owned by Mr. Rattner is discussed as far as long-term maintenance. Mr. Orphen discusses a Lease in place. Cynthia will speak with the Town Attorney. Improvements may be needed in order to maintain the road. Cynthia states the Board may not approve a stormwater facility that has a limited Lease. Roland asks Mr. Orphen to provide a copy of the lease to Dawn so she may forward it to him.

Cynthia confirms the Applicant will make one more submittal, and talks about preparing a Resolution of Approval. The Public Hearing has been Waived.

**8. North Salem Prop., LLC: Ken Siegel
Site Development Plan**

(owner – Michele Savino)
(location – Dingle Ridge Road/Rt. 121)

- Review Reports From Planner and Engineer
- Consider Draft Resolution of Approval

Mr. Siegel states that he has received a copy of the Draft Resolution, as well as comment Memos from both Hahn Engineering and MDRA. Mr. Siegel states that the comments will be addressed with the exception of the concern about the wheel stops. There is discussion about separating the wheel stops in the different areas, such as the back parking lot, the diagonal parking, as well as in the front of the market. Cynthia asks Mr. Siegel if the wheel stops in the front are there now. Mr. Siegel states yes. Mr. Siegel states these wheel stops are sold all over the country. Mr. Siegel states they are not a liability unless they are not installed properly. Mr. Siegel states that these wheel stops have been installed and maintained. Gary talks about continuous curbing. Sonja agrees with the wheel stops. The Board agrees with the wheel stops.

Mr. Siegel states that although he would like the Board to go ahead and vote on the Draft Resolution tonight, he would like to speak with his client and show them the Draft Resolution first. Mr. Siegel asks for a continuance to the next Meeting. There is a discussion about No. 17 in the Draft Resolution regarding to the time the lights are shut off. Mr. Siegel states that Market closes at 9:00 p.m. Mr. Siegel states that the lighting in the back parking area is on a motion detector and timer. Cynthia states that the lights should go off ½ hour after the business closes. Mr. Siegel states that the existing lights are all on motion detectors. They do not have any control over the NYSEG pole. Cynthia would like a provision added so that all exterior lighting goes off ½ hour after closing.

Mr. Siegel refers to the sign permit. Cynthia states that the Board has another meeting in two weeks and this Draft Resolution may be considered then. The new tenant is discussed in regards to a sign. There is no signature block requirement from the Board of Health. Mr. Siegel states that the Board of Health is closing out their building permit process of the Market. One condition was a change of use submission. Mr. Siegel states that at that point the Board of Health may ask for a field engineering report. On the last day when we received the approval we were told we needed a field engineering report.

Mr. Siegel talks about seeing a diagram of a connecting walkway from the property on one side of us to our property. Mr. Siegel states that concept-wise he has no problem with connecting the walkways. Mr. Siegel states that the walkway is directly over our septic system. Mr. Siegel talks about the sewer system going in and not needing the septic system in the future. Cynthia talks about the two property owners communicating, as the property owner next door is showing a connecting walkway on their Plan. Mr. Siegel talks about people parking where there are more spaces and then walking to their destination. People may park in one lot and walk to another lot.

9. Financial Report:

- January, 2010

Chairwoman motions that the Planning Board Approve the January, 2010 Financial Report. Gary Jacobi seconds. All in favor. No opposed.

10. Release of Escrow per Written Request:

- Piedmont II Subdivision - \$1,485.46

Chairwoman motions that the Planning Board Grant the Release of Escrow in the Amount of \$1,485.46 for the Piedmont II Subdivision per Written Request From Walter Hutchins. Gary Jacobi seconds. All in favor. No opposed.

11. Next Meetings:

- Work Session – February 17, 2010
- Regular Meeting – March 3, 2010

12. Comments from the Chair:

Cynthia talks about the Agenda for the February 17th Work Session and states that Peach Lake Commons will be on for a discussion of the review Memos. Clearwater Excavating will also be on for a discussion about a request from the Applicant to Waive additional SWPPP Requirements. Cynthia states that there is a large negative escrow, so there will not be any other discussions other than the Waiver request.

There is a discussion about homeowner's association agreements in conjunction with undoing them. Roland reads the agreement Cynthia provided to him. Cynthia recalls someone coming in the beginning of 2008 from Lost Pond Road. Roland asks Charlotte if she has heard any complaints from the bridle trails. Charlotte states no, she will check. Roland talks about obtaining Town consent before an amendment of the by-laws. There is discussion about the 8 lots on Lost Pond Lane. All of them were signed off. The document was recorded in 2005. There is a discussion about the trails being less assessable.

13. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Bernard Sweeney seconds. All in favor. No opposed.