

North Salem Planning Board Minutes

March 10, 2010

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
 Charlotte Harris, Board Member
 Robert Tompkins, Board Member
 Gary Jacobi, Board Member
 Sonja Teichmann, Planning Consultant
 Bruce Thompson, Building Inspector

ABSENT: **Roland A. Baroni, Town Attorney - not required to attend**
 Bernard Sweeney, Board Member

Chairwoman Cynthia Curtis calls the March 10, 2010 North Salem Planning Board Meeting to order.

WORK SESSION:

1. Discussion Regarding Wetlands Law Revisions

Cynthia refers to the Theresa Havell Wetland Permit Application that Bruce and Joe are reviewing. The driveway goes straight back and runs parallel to a stream and wetlands, and then goes across the back of the property. Mrs. Havell is proposing to take the driveway back almost all the way, cutting towards her house in a different way. The disturbance is approximately 6,000 square feet, it is not in the wetlands, it is along the edge of a wetlands buffer. For some reason months ago when Cynthia recommended this, she thought that if there was a disturbance of 5,000 square feet or more, which triggered a Stormwater Permit, it meant Applicants would have to come before Planning Board. Cynthia states that is not the case. In the Draft Wetlands Law we added in language so that if an Applicant is disturbing 5,000 square feet of a buffer, they would come before the Planning Board. Referring to the Havell Application, Cynthia states that 5,000 square feet is really not that much. If it is running along the outer edge of a buffer, we don't want those Applications to come before the Planning Board. If the 5,000 square feet goes right down to the edge of the wetlands, with a lot of stormwater issues going on, we have a provision for those Applications coming to the Planning Board if they are significant. Cynthia proposes to take the language out of the Draft which would trigger a referral to the Planning Board in the instance discussed above. Robert states that Mrs. Havell explained to him what she is proposing to do. Robert states that the wetlands are to the left west of the existing driveway when going through the gate. Mrs. Havell is proposing to go east. Robert asks if that area would be wetlands. Bruce states that is in the buffer which extends east to the driveway into the hillside. Cynthia states that the existing driveway happens to be in the buffer. Technically the driveway is being moved away from the buffer. Cynthia talks about relying upon the determination from Joe and Bruce as to whether an Application is significant enough to be referred to the Planning Board. Bruce states that the old driveway will remain as a service driveway. The proposed driveway will be wide enough for cars to go in and turn around and come back out. Bruce states a change in the elevation in a short distance, as well as re-grading to take place on either side of the driveway being the bulk of the disturbance. Robert states that it is all fill. Cynthia refers to Page 11(3)(3) of the Draft which refers to referrals to the Planning Board. The Board decides to delete (3)(3). Bruce states that the threshold is defined in (2) as well. Cynthia states that if someone went in and had no permit in front of the Planning Board but had to obtain a stormwater permit for land disturbance, the trigger to come over to the Board would be five acres, not 5,000 square feet. Bruce would like to know how we are defining stormwater as it is used in (3)(2). Cynthia reads over (3)(2). Bruce understands now. The Board discusses whether someone moving a driveway would trigger an excavation permit. Bruce talks about the Planning Board receiving a referral, and then turning around and deciding it was

something they were not required to review, and asks if there is language referencing such a situation in this Draft Wetlands Law. The determination is that the language is not in this version. Sonja will look into it and add it back in.

Cynthia refers to the language regarding fishing discussed at a previous Meeting and states she spoke with Heather Gierloff at the DEC about this and confirmed it is all about fishing and clamming. Cynthia states it is a standard exemption which is regulated under the DEC. Ms. Gierloff suggested we keep the language in the Draft Wetlands Law. She stated to Cynthia that we probably will never use it.

Charlotte talks about pumps and does not understand why a pump is not considered a water controlled structure. Cynthia states a pump is considered to be a tool, it is not a structure. Robert talks about changing the language to water controlled device instead of structure. Cynthia refers to water controlled structures being an exemption if someone is repairing or maintaining one. It would be considered a pass. Cynthia states that the pumping of water is not a pass and requires a permit. Bruce inquires why culverts were dropped. Referring to Pietsch Gardens, Bruce states that they had a stormwater culvert pipe that needed to be replaced. Bruce states that at the time, under the current Ordinance, he interpreted it to be a water control device. Bruce did speak with Frank about it and he agreed. Bruce asks if the Board is going in the direction that for the replacement of such a pipe, the Application would come to the Planning Board. The increase in pipe size is discussed. Cynthia states that we did not have a definition of water controlled structure before. Cynthia did not want to see bridges being considered water controlled structures. Box culverts are discussed to be changed to open bottom culverts in order for the wildlife to move through. This would not be an exempt activity. The question is whether it would be an automatic referral to the Planning Board. Cynthia states it would not be an automatic referral to the Planning Board. Cynthia states that the operation, maintenance and repair of dams, sea walls, docks, and water controlled structures that were in existence on the effective date of this revised Chapter are listed as excluded activities. Culverts are no longer considered to be an excluded activity. A permit would be obtained from the Building Department. It is not an automatic exclusion, and would be considered a minor activity. Cynthia refers to bridges where footings are not being touched. The new bridges at Stony Creek are discussed. Bruce states that they were done with new footings. Robert refers to the new bridge on the Fink property and asks if that is considered to be a water controlled structure. Bruce states not by the definition we currently have.

Bruce refers to Page 6, 107-5(a)(5) regarding prohibited activities. Cynthia asks if we are doing that on the Monomoy Wetlands Application. Bruce was thinking of Sunset Ridge as far as the stormwater basins. Cynthia asks Sonja if Joe looked at this section. Sonja states that he did, but she will point it out to him. Cynthia inquires whether or not Monomoy Farm has their stormwater basins within 50 feet of the wetlands. Cynthia states that there is an application currently before the Board. The stormwater basins are discussed. The Board agrees that Joe and Frank should look at this section.

Bruce refers to Page 6, 107-5(a)(2) and gives the example of a 70-year old septic located in a wetland buffer which needs repair and asks if this would prohibit the repair from being allowed to take place. Bruce states that in this instance there is no place for the sewage to go except for where it is. Cynthia states this refers to the running of a line, not the installation. Bruce does not want to prohibit people when there is no other choice. Changing the language is discussed in terms of excluding the repair of existing septic systems. Peach Lake is discussed. Robert discusses 100% expansion. Bruce states that it is very important to distinguish between a repair and remediation. Bruce states that a repair is a replacement in-kind in the exact same area as a septic system currently exists using the same technology. Bruce states that repair may only be done by a licensed septic installer and must be filed with the County as a repair. Anything besides that is remediation. If someone goes into the expansion area, that is remediation. The County will permit a licensed septic contractor to put in new fields in an expansion area provided that contractor first file with the County for County approval. Cynthia states that the language may have been taken from the elicit discharge law. She

will take a look at that. Bruce states that one way to take care of this is to add in language such as “above ground” to 107-5(a)(2).

Cynthia talks with Bruce about taking a few of the new applications and giving them a test run against this new Draft Wetlands Law, such as 193 Baxter Road.

Robert refers to Page 8, 107-5(c)(1)(j) and is concerned with hedgerows. Referring to Page 8, 107-5(c)(1)(b), Robert discusses the language about farmers filing written notice of intent with the Building Inspector stating the activities they are going to engage in. Robert asks if he is required to obtain an approval if he wants to fence off an area for grazing. Cynthia states no. Robert does not mind filing notice of intent. He does not want any work to be held up. Bruce refers to a farm where they are installing fencing. They are not exempt from the need for a permit for the fence, they are exempt for needing a wetlands permit because of the use of the fence for farming. The fence is going up in a restricted setback area. Fences are regulated within the setbacks by the Town. The only way we can say that the fence went up per the zoning is to review it and issue a permit for it. Cynthia states that this is for activities such as people who have dead trees and will be utilizing a chainsaw to take down the trees. When a farmer goes out to work, a notice of intent would be filed with the Building Department. Robert does not believe the State would agree to this requirement. Bruce does not agree. Bruce states that the yardstick for the State refers to the expense of time and money for farmers. Robert talks about making a phone call to state his intent, and then finding out he can't do it. Cynthia states the point is filing a piece of paper. There is nothing about a review or approval of the activities. Bruce states that Robert is not arguing the process, he is arguing the decision. There is discussion about the definition of farming being the same as the definition in Chapter 250.

Cynthia states that we have not heard back from the CAC. They are receiving notifications.

Bruce refers to Page 8, 107-6(a)(1 – 3) regarding the pre-application conference. Bruce understands this to be an opportunity to look at delineation work to see if it needs to be adjusted in some way so that the Applicant may proceed with fulfilling the requirements to submit a survey that has the delineation on it. Bruce states if that is the case, where would we provide for fees for such a conference. Cynthia talks about having a \$50.00 pre-application conference fee. There is a discussion about adding in language to the fee schedule. The fee schedule structure is discussed, as well as adding in an escrow.

Bruce talks about where there is reference to the Town Clerk throughout the document. Page 12 refers to reference being made to the Town Clerk. Cynthia states the Town Clerk is supposed to get the copy of the approval. Bruce does not understand why. Bruce believes the language should be changed to Janice Will or the Secretary to the CAC. Cynthia will speak with Ronnie and Roland. Cynthia states this is for the official record. Cynthia will ask Roland to check with Ronnie to see if she agrees with the approval being on file with Janice. Robert asks if that would be the responsibility of the Town Clerk.

Cynthia confirms with the Board that as long as she and Bruce do not come up with any issues after reviewing the test cases, procedurally they are ready to refer this Draft to the Town Board.

Chairwoman motions that the Planning Board Refer this Proposed Draft 4.0 of the Chapter 107 Freshwater Wetlands Amendment, Including Tonight's Corrections, to the Town Board. Gary Jacobi seconds. All in favor. No opposed.

2. Draft Comprehensive Plan Discussion:

Cynthia states that most of the Town Board comments were incorporated. Cynthia received the revised draft

late this afternoon which included the Town Board comments. Cynthia also received comments from MDRA which were circulated.

Gary has a couple of comments. Cynthia states that both she and Charlotte will be attending a Comprehensive Plan Meeting tomorrow night and will submit the Board's comments then. Gary refers to the Housing Section regarding policy considerations and targeting existing housing. Cynthia states that this was something raised by one of the Town Board Members. There was discussion about bringing in Westchester Housing Authority. Cynthia believes this section was changed. Gary also has a concern about targeting foreclosed housing. Cynthia states that John White clarified the need to improve setbacks due to the visual impacts from the road. Gary states that is fine. He would take out the whole concept about McMansions. There is a discussion about oversized homes. Bulk requirements are discussed as far as lot sizes. The size of the house across from the Post Office is discussed. Gary suggests the language regarding co-location be taken out. Cynthia asks why. Gary asks what our regulations are now about co-location. Cynthia states that it forces us to co-locate. Giving the Planning Board discretion is discussed. Cynthia states that co-location took place in Croton Falls. There is a discussion about not binding the Planning Board by pushing applicants in the direction of co-location first.

Gary refers to alternative energy sources and states he is not in favor of that. There is discussion about taking out the language "by offering tax exemptions". There is a discussion about accessory structures being dangerous. Wind turbines are discussed. Gary does not want to see wind turbines in the Town. There is a discussion about alternative energy. Cynthia states it is the Town's first priority to reduce emissions. Police vehicles are discussed. Gary does not want to have his taxes spent on the reduction of green house emissions.

The local food production incentive is discussed as far as community gardens. Gary does not want to have his taxes spent on fostering local food production.

Robert refers to the protection of environmental resources in relation to loud machinery. Robert refers to the suggestion of allowing flexibility of business types by expanding the RO Zone. Cynthia states that flex-zoning is being looked at to allow for more businesses. Cynthia states that Joe Bryson's property may be part of that zone. Robert states that he is all for expansion. Cynthia states they are not expanding the land, they are expanding the uses. There is a discussion about performance zoning regulations. Robert refers back to the RO Zone and states the word "explore" has been changed to "expand". Robert is all for that.

Robert talks about the steep slopes legislation as far as preserving view sheds, water courses, and wetlands. Robert does not agree. He believes people should be able to put a house where they want to. Blending in with tree-lines is discussed to permit scaring.

Robert asks what is referred to by the capital infrastructure maintenance for recreation facilities. Robert asks who owns and who uses the licensing agreement with the County regarding the pool at Mountain Lakes. Cynthia states there is a summer camp for which the pool is used. There have been discussions about opening it up for weekends.

Gary talks about the write up about affordable housing being overdone. Cynthia states that whole issue has been taken over by Warren Lucas and Peter Kamenstein, and they are handling it.

Robert refers to land use regarding 14,863.6 acres of land in Town, less than 1% of retail and commercial. Robert states that large lot subdivisions have brought in significant revenue to the Town at a low cost. Robert states that this may not continue to be sustainable. Expanding the uses on Fields Lane is discussed as being the only area in Town that we may look to for future residents. Robert refers to the existing facilities on the Southeast side. A topographical zone is discussed. Cynthia states that nothing has been proven that

expanding commercial will lower taxes. Fields Lane will have the least impact. Cynthia talks about the Contractor's Business. Rezoning has been recommended for Joe Bryson's Property, as well as the Center of Town. Changing part of Turkey Hill from R-2 to R-4 is discussed.

3. Executive Session:

Chairwoman motions that the Planning Board go into Executive Session. Bernard Sweeney seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board go back into the Regular Meeting. Bernard Sweeney seconds. All in favor. No opposed.

4. Next Meetings:

- Regular Meeting – April 7, 2010
- Work Session – April 21, 2010

5. Resolution:

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