

**North Salem Planning Board Minutes**

**June 16, 2010**

**7:30 PM – Annex**

**PRESENT:**           **Cynthia Curtis, Chairwoman**  
                  **Charlotte Harris, Board Member**  
                  **Gary Jacobi, Board Member**  
                  **Sonja Teichmann, Planning Consultant**

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

**Chairwoman Cynthia Curtis calls the June 16, 2010 North Salem Planning Board Meeting to order.**

**WORK SESSION:**

**1. Discussion of Site Inspection which took place tonight prior to the Work Session regarding a Wetlands Permit Referral Application for the Tonery Property.**

Cynthia states that the Board just returned from a Site Inspection at the Tonery Property. We are going to briefly discuss this Application and where we are in the process. This is a referral from Joe Bridges because it triggers a Chapter 189 Permit which is for the disposition of the dredged materials on the site and the spreading of it. It is also in a DEC Wetlands. In this instance, an Application has already been made to the DEC, and a Permit issued. This is very unusual because the normal procedure would be to file the Application with the Town first and to work in a coordinated way with the other agencies, including the DEC. Cynthia states that at a very brief meeting last Friday part of the confusion came about because Paul Jaehnig was hired by the Applicant to handle the DEC Permit, and not the Application to the Town. This is partly the reason why the Board has received materials late tonight. Mr. Jaehnig is now trying to play catch up with the Town Permit. We already have a review from MDRA to the extent that this Application started with the Building Department. Joe Bridges visited the site. An MDRA Referral Memo from Joe dated March 10, 2010 was circulated to Mr. Jaehnig to provide further direction, and request additional materials to be provided. Cynthia has asked Mr. Jaehnig at a minimum to tell us to what extent he will be responding to the MDRA Memo and if he has any questions or concerns about the materials being asked for. Cynthia asks Mr. Jaehnig to provide the Board with a very quick overview of the Project for the benefit of our Board Member, Gary Jacobi who is seeing all of the materials tonight for the first time. Cynthia states that the main focus tonight will be how Mr. Jaehnig intends to respond to the MDRA Memo, in addition to letting the Board know if he has any questions or concerns.

Mr. Jaehnig states he is a Wetlands Consultant who is working for the Applicant, Pam Tonery for the dredging of an existing pond on her property. Mr. Jaehnig handed out an 11 x 17 Map tonight that shows the wetlands mapping done in 2008 on the site. There are various areas highlighted which include the watercourse stream and pond. The small red dots on the Map show where we took soil borings. On the right side of the Map the Board will see the different types of soils listed. Mr. Jaehnig states there is a valley that goes northeast to southwest through the property which slopes down to a flat location near the small pond which is approximately 65 by 50 feet in size. There is a stream that comes into the site at the northeast part of the property which flows down through the valley floor. There is a small dam at the southwest part of the pond which discharges into an open channel. The land is relatively flat in and around the pond area, but was disturbed. The pond is approximately 50 years old. When the pond was built wetlands were disturbed on either side of the pond. On the eastside of the pond the lawn is level, but it is considered a wetlands. The soil

key on the Map shows the disturbed wetland type soils. The westside of the pond is a level lawn area comprised of compacted silt. The wetlands end where the water domed wall is along the westside of the pond. Mr. Jaehnig shows the Board on a Map where he is proposing to come into the site off of June Road, along an access route, and down onto a lawn area to begin the operation. The reason why we decided to dredge the pond is due to the slow fill-up of the pond. There is no single point source upstream that is driving sedimentation into the pond. There is no washout or construction going on. The pond is like a catch basin that needs to be cleaned out every so often. The pond is currently very shallow. We probed through the sediment to get to the old pond's depth. Mr. Jaehnig states his Map shows the connecting points of thickness. The red shaded areas of the pond are approximately four feet thick. Our proposal is to get this pond back down to where it originally was. In order to do this we prepared a Map that shows how much materials will need to be removed to get the pond down to five feet. We will need to remove approximately four feet of sediment to get to a five foot depth. Erosion and sediment control measures will be installed. Mr. Jaehnig shows a Map of the construction sequence and how they will proceed from the beginning to the end of this Project. Mr. Jaehnig refers to the Planting Schedule which he will talk about later.

Mr. Jaehnig shows the access area route and staging area shaded in red on the Map where they propose to come in off of June Road. They are proposing to use traditional excavation machines. Operators will install all of the erosion and sedimentation control shaded in yellow on the Map. This will be useful so we are aware of the areas not to be disturbed. Silt fences and hay bale locations are shown on the Map. While an operator is getting ready to start the excavation, another operator will be making a cofferdam to be constructed just upstream of the point where the pond begins, in order to create a slight sump or concave collection area. A sump pump will be placed in this point so as to collect and re-route drainage flow and de-water the pond. Re-routed drainage will be carried alongside the pond via flexible water hose and then drainage will be discharged back into the stream channel, at a point just downstream of the pond.

A temporary steel plate will be placed across the stream bed, at the crossing point, to minimize disturbance caused by the excavator tracks. It will be picked up on the way out. When the water is sufficiently drained from the pond, the operator will reach in and start the excavation process stockpiling the materials to the edge to be picked up and dumped into disposal area one shaded in green on the Map. Disposal area one is lightly vegetated. There are cross sections which show the slopes and thickness of the pond. Mr. Jaehnig has tabulated the areas of disturbance and the amount of proposed dredging. There will be approximately 500 yards of cubic material to be excavated out. The materials will be tilled into the top soil. Once the areas are excavated, the areas will be graded and re-vegetated using seed mixes and shrubs. We received recommendations from both the DEP and DEC regarding this process. We will then take down the erosion and sedimentation measures.

There is a small dam on the property which is in great shape. During the de-watering and dredging operation we are proposing to do some light repair of the top cap, where the stone has deteriorated. It will be like repairing a chipped tooth. Because of the silt, the dam condition has become worse over time. We will not be going down to the foundation. This will be cosmetic work.

Mr. Jaehnig states he will be happy to answer any questions the Board may have.

Mr. Jaehnig confirms with Cynthia he should go through the items in the MDRA Memo. Cynthia states that direction needs to be given to MDRA as to whether the responses from Mr. Jaehnig are sufficient. Mr. Jaehnig refers to the documentation he submitted and states he reviewed the Memo and added his comments and replies for each item.

Comment 1 referred to a determination of the wetlands. Mr. Jaehnig states that he did not prepare a Wetlands Report; his Wetlands Map provides a background of where the wetlands are. Cynthia states that Mr. Bridges

specifically asked for a functional assessment and ecosystem components of the pond. Cynthia asks if any of that information is in the documentation previously submitted. Mr. Jaehnig replies no, the only documentation he has submitted is what the Board is seeing tonight. Mr. Jaehnig states that a formal Wetlands Report has not been submitted at this point. Mr. Jaehnig has provided a Wetlands Map that would accompany such a report.

Comment 2 refers to sediment loading to the pond. Mr. Jaehnig states that his findings are that there is no single point source for the erosion. There is no construction going on. The pond has had a long life. We would like to clean it up. Mr. Jaehnig refers to the comment about a provision which would prevent this from happening again. Mr. Jaehnig talks about possibly excavating a small fore-bay or depression just before the point where the stream meets the pond as a location for a sediment trap. We wanted to keep the disturbance to a minimum. It is not a high-flow stream. Cynthia states that the Board has been down this road with another Project and does not feel a fore-bay would be an option.

Comment 3 refers to a site evaluation for potential alternative locations outside the buffer for the proposed dredged material. Mr. Jaehnig states that alternative site locations for fill placement, particularly land beyond the 100 foot wetland adjacent area, are significantly more difficult to access, because of the physical setting of the Project in a narrow valley. We would need to go up steep slopes, and it would not be practical. The DEC and DEP understood and agreed with our disposal location. Cynthia states having gone out to the site and seeing the areas already disturbed, and seeing the cross section detail provided, it appears reasonable for the Applicant to use the locations proposed. Cynthia states the question has been sufficiently addressed. Charlotte agrees and states the grading will be improved. Cynthia refers to Chapter 189 and states that a 15% slope should be achieved, but the Planning Board has the authority to grant a lesser slope. Cynthia states that having been to the site, it seems like there will be an improvement to the slope.

Comment 4 refers to a Pond Maintenance Plan. Mr. Jaehnig states that the homeowner takes pride in this property. Ms. Tonery will be removing unsightly weeds. She will be a good steward of the pond. There will be no chemical applications used to maintain the health of the pond.

Comment 5 refers to a High Stream Flow Contingency Plan. Mr. Jaehnig states it is his intention to work during the driest periods of the year. During rainy periods work will be suspended, and will not resume until the work area is sufficiently dried-out. Cynthia confirms Mr. Jaehnig has added a construction narrative and sequence on the Map, and asks Mr. Jaehnig to be more specific.

Comment 6 refers to a Mitigation Plan. Mr. Jaehnig states that the proposed Project will incur no net loss of wetlands. Those areas of land disturbed by the proposed Project will be stabilized with an enhanced vegetative cover, as compared to ground conditions prior to carrying out the Project. Mitigation measures are depicted on the Site Plan submitted tonight.

Comment 7 refers to a table detailing quantities of proposed temporary and permanent disturbances. Mr. Jaehnig states he has prepared a table detailing disturbances which was submitted with the Site Plan tonight.

There is a discussion about the original application that was submitted at the beginning of this project. Gary states that from a number of these comments it seems as if MDRA did not read the submission. Mr. Jaehnig can't speak for what was originally submitted. The plan revision dates are discussed. The original file from Janice is discussed. Mr. Jaehnig states that the last revision date due to a minor substitution made of a plant at the recommendation of Mr. Bridges.

Comment 8 stated that the plans should be referred to the Town Engineer for review. Mr. Jaehnig does not have any objections to that.

Cynthia refers to Comment 9 regarding the disposal area. Mr. Jaehnig has provided the Board with a verbal description of how the pond will be dredged. Cynthia asks if that information could be put on the Plans. That is part of the detail Mr. Bridges is looking for. Mr. Jaehnig states the disposal area is a work area. Cynthia states it could be a broad area.

Referring to Comment 10 regarding the proposed plant materials and planting plan, trees to be kept should be added to the Plan. Cynthia does not want Mr. Bridges to review this set of Plans when more information has to be added that was asked for. Cynthia states that Mr. Bridges asked for details on the proposed dam repairs.

Cynthia asks if the copies of the Maps handed into the Board tonight are shaded. Mr. Jaehnig states he didn't have enough time to do that. Any further submissions will be color coded. Cynthia asks if Mr. Jaehnig could get another set of Plans by next week for Mr. Bridges to see instead of what has been submitted tonight which would show the staging area, and tree information. There is discussion about the dam. Mr. Jaehnig states that Mr. Bridges asked for a lot of information. The dam is not failing. In fact, Bruce stated to us that no Permit is required.

Referring back to Comment 10, the plant material list is discussed. Mr. Bridges recommended a substitution for some of the plants in order to provide a better ground cover. Cynthia asks who suggested the black chokeberry and northern bayberry. Mr. Bridges has stated that they are not typical of natural areas of the region. He suggested a substitution with species representative of natural habitats of the area such as American hornbeam, blackhaw, and/or witch-hazel. Mr. Jaehnig states the plants he proposed are normally recommended for a restoration project because they are hearty. Cynthia asks if Ms. Toney has seen the recommendations by Mr. Bridges and if she prefers them. Ms. Toney states she does not care. Mr. Jaehnig states that their goal is to have something that is native. Cynthia states that the Applicant is a great gardener, and if she would like the plants changed, she should tell the Board now. The seed mix is discussed.

Cynthia states that unfortunately more work needs to be done.

Mr. Jaehnig states that he provided the Board with a Part 1 EAF in their packets tonight.

Cynthia states that from a practical standpoint, this is a submission that will go to MDRA. Joe Bridges is going to review the submission and see items that he asked for that may or may not have been provided. The Board did notice some items tonight that need to be done. Cynthia asks Mr. Jaehnig if he would like to make the revisions now before Mr. Bridges takes a look at the submittal with the hope that Mr. Bridges may confirm the Application is ready for a Resolution, or would he like Mr. Bridges to review the submittal handed in tonight. That would generate another consultants bill. Mr. Jaehnig states that it would be most productive for him to make the changes to the Plan. Mr. Jaehnig states that it is totally unproductive for him to write narratives and studies of flow regimes, and drainage areas. There are projects for which asking for this information would be valid. The real meat for our Project is making amendments to the Site Plan.

Cynthia will talk with Mr. Bridges about why he feels certain items are necessary.

The detail work for the dam is discussed. A profile will be shown. The footings and foundation will not be shown. Cynthia asks if the documentation handed in tonight clearly states the footings and foundation will not be touched. Mr. Jaehnig reads his note on the Plan regarding the dam detail. Cynthia states it would be helpful to see the grade detail for the stream in a notation.

Cynthia advises Mr. Jaehnig to work on the Plans more. Cynthia asks Mr. Jaehnig to call her to discuss summarizing what will be added to the Plans. Cynthia talks about getting the Plans into much better shape so

that a Resolution may be generated. Cynthia states that the Board will set a Public Hearing once the Application is complete. Cynthia states it will take time to get through this. The Board would like to work with the Applicant to move this forward. Cynthia states the Application only came to the Planning Board this past December.

The revision dates on the Map will be confirmed with Mr. Bridges to make sure he has the latest version.

## **2. Wetland Amendment Discussion:**

Cynthia wanted to have a wetland amendment discussion with the Board tonight. Peter Kamenstein e-mailed Cynthia and let her know he has not finalized his comments of the latest Draft. Cynthia states that the Town Board Meetings are available for viewing on the Town Website. Cynthia states that the definition of wetlands is a concern for the Town Board. Cynthia would like to obtain feedback from Sonja tonight. The Town Board brought up a lot of examples such as having a drainage pipe leading away from a home which is discharging water and asked if that would be considered a wetlands. Cynthia states that we define wetlands by soils and vegetation. There is a discussion about catch basins and sediment basins which require maintenance. The Town Board discussed the size of wetlands. Cynthia talks with Sonja about identifying certain items that are not wetlands, such as catch basins, curtain drains, and detention basins. Sonja states that is not exactly a typical definition. Cynthia states that Steve Bobolia suggested we take out the word "or" in the Wetlands Definition where we talk about the hydric soils. The Town Board wants to make sure we are not regulating man-made situations. There is discussion whether a man-made ditch would qualify as a wetlands. Sonja states that ditches are now governed by the Army Corp. of Engineers. Cynthia thought it was a man-made ditch only if it flows continuously. Sonja understood from Joe that a determination is not made until the ditch is examined. Cynthia spoke with someone from the Army Corp. of Engineers who asked for information on the frequency of the flows, if it is intermittent, and how many months is it dry. Cynthia mentioned to the Town Board that a NSBTA Section needs to be added. Sonja states she believes Hilary may have prepared a version including the NSBTA trails. Charlotte states that Jack Manes prepared the Best Management Practices documents. For the continued maintenance of bridle trails in wetlands, it would not be necessary to file for Wetland Permits. It will be necessary to verify each year with the Building Inspector that the maintenance activity conducted in each calendar year will be in accordance with the maintenance plan we already have. Charlotte discusses trails being created in the wetlands. Cynthia suggests we speak with Bruce, as that might be considered a Minor Permit Application.

There is discussion about modifying the fee schedule to add in the Pre-Applications.

Cynthia refers to sediment ponds and dredging. Some Members of the Town Board would like this to be an easy process. There is a discussion about man-made ponds. Cynthia states that sometimes sediment ponds do not involve streams, and other times, they may be in the middle of a trout stream. The Town Board would like us to work on the continued maintenance of sediment ponds that would not trigger a special review.

Cynthia states that Steve Bobolia requested a definition of the Environmental Monitor.

Cynthia states she has not heard from Peter Kamenstein with his comments.

## **3. Sign Application Revision Discussion – Acknowledgement and Planning Board Approval**

Cynthia states that Maureen Eckman, Assistant Building Inspector has stated that Applicants are still having  
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trouble and asking a lot of questions on how to fill out a Sign Plan Application. Cynthia told Maureen that we are getting better results, but there are areas that could be improved. Maureen tackled the Application and reorganized the material. All the same information we have asked for is still there, it has been better reorganized. Cynthia asks the Board if they have any questions. If not, we would like to go ahead and start using this new form. Sonja asks if she received a copy of the revised application. Cynthia states no, because she does not review the sign applications. Cynthia asks Sonja about SEQR, and whether we should be attaching a Short Form if the Application doesn't involve SEQR. Cynthia states that this may have been considered an administrative permit in other towns. Cynthia asks Sonja to look into this because if it is not a Type II action, she suspects the Planning Board has to do the Short Form as an unlisted action.

#### **4. Next Meetings:**

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

#### **5. Comments from the Chair:**

Cynthia states that the stormwater documentation went to the Town Board.

Cynthia asks if the Board had a chance to look at the revised draft for the outdoor dining. They have, and it looks good. Cynthia will forward it to the Town Board.

- Hawley Woods:

Cynthia states that the biologist for Hawley Woods has requested Joe Bridges make a Site Visit in order to go out in the field with him and assess the vegetative species. Rather than having the biologist prepare another listing of the species, he would rather meet with Joe Bridges. Cynthia states that normally there would be a concern about consultant charges going to the Applicants. In this case, a request is being made on behalf of Hawley Woods. Charlotte states she would like to attend. Cynthia will confirm the details by e-mail.

- Crown Atlantic:

Cynthia states that Crown Atlantic has asked for a renewal of their Special Permit. We didn't have an Application to give them. They submitted a letter requesting the renewal. When a response is submitted after our discussions at the last meeting, most likely, the response will be sent to MDRA for review which will generate fees. Cynthia spoke with Roland and he stated that we may consider the letter as a form of Application. Even though it is not specifically identified in the fee schedule, Roland confirmed we may ask for an escrow. The Board confirms we should ask for \$1,000.00. Dawn asks about the Application Fee. Cynthia asks Dawn to send Crown Atlantic a Pre-Application Form to fill out and request the \$100.00 Pre-Application fee be sent as well as the escrow.

#### **6. Resolution:**

**Chairwoman motions to adjourn the Planning Board Meeting. Gary Jacobi seconds. All in favor. No opposed.**