North Salem Planning Board Minutes
July 6, 2011
7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
Charlotte Harris, Board Member
Robert Tompkins, Board Member
Bernard Sweeney, Board Member
Roland A. Baroni, Town Attorney
Sonja Teichmann, Planning Consultant

ABSENT: **Gary Jacobi, Board Member**

ATTENDANTS: **Auburn/Edens: David Sessions**
Greenberg: Glenn Ticehurst

Chairwoman Cynthia Curtis calls the July 6, 2011 North Salem Planning Board Meeting to order.

PUBLIC HEARINGS:

1. **Salem Hunt:** (owner – June Road Properties, LLC)
Site Dev. Plan, Subdiv., Wetlands Permit (location – June Road & Starlea Road)

- Continue the Public Hearing Regarding Site Development Plan Approval
- Continue the Public Hearing Regarding Wetland Permit Approval

Cynthia acknowledges receipt of a letter from Mark Rosa, Acting Commissioner of the Putnam County Department of Highways and Facilities. The letter went directly to Mr. Balter. There is an issue with a neighbor's driveway and the Permit that was issued. Mr. Balter has been asked to not finalize any plans or begin any work until Mr. Rosa provides the results of their review. There are no other items to discuss tonight.

2. **Auburn/Edens:** David Sessions (owner – The Auburn Group, LLC)
Wetland Permit (location – 301 Hardscrabble Road)

- Continue the Public Hearing Regarding Wetland Permit Approval

Cynthia states that we kept this Public Hearing open because we requested additional materials, which has occurred. Cynthia confirms there is no one present from the public wishing to speak on this Application. Cynthia confirms the Board has no further questions. The Public Hearing is closed.

REGULAR MEETING:

3. **Auburn/Edens:** David Sessions (owner – The Auburn Group, LLC)
Wetland Permit (location – 301 Hardscrabble Road)

- Report from Hahn
- Report from MDRA
- Consider Draft Resolution of Approval

Cynthia states that a Memo was received from Hahn Engineering which basically stated that everything is in order. A Memo was also received from MDRA which stated that most of the items are in order to the point where Cynthia prepared a Draft Resolution to consider tonight. Cynthia refers to the Hahn Engineering Memo and asks whether Mr. Sessions has any questions. Mr. Sessions states he thought he brought his copy with him tonight, but he didn't. Charlotte offers to bring up the latest Hahn Report on her i pad in case Mr. Sessions needs to see it. Cynthia states that while Charlotte is doing that, we should discuss the MDRA Memo. Cynthia refers to Page 2, Item c in regards to the intended finish of the bridge. The Memo recommends a stone finish to be used. Robert asks who made this recommendation. Sonja states that MDRA had this in one of their previous memos, which was never addressed by the Applicant. Sonja states the bridge was redesigned. Robert is curious as to why this recommendation was made. Sonja states the recommendation was made from an aesthetic point of view in keeping with the rural nature of the area. Robert states the bridge is at least 700 feet off the road, and no one else will see it. Robert states it is another expense that should not be a requirement. Cynthia states at this point we don't know what the bridge will look like. Mr. Sessions states that Mrs. Edens didn't have any intention of facing the bridge because of it is so far away from Hardscrabble Road. It also will be very costly.

Charlotte brings Mr. Sessions her i pad in case he needs to see the Hahn Memo when the Board gets to that discussion.

Referring to the facing of the bridge, Robert states the recommendation of stone is overkill. The critical issue to establish is the weight bearing of the bridge. Mr. Sessions states that on the side of the bridge we will have a 1 ½ foot fill to a 4 foot fill to where the actual road surface will be. The bridge is proposed to be shaped like an arch. Mr. Sessions states they are proposing a retaining wall to hold the soil back. The question is what materials are proposed to be used for the retaining wall. Mr. Sessions states they envisioned the retaining wall being made of concrete. Mr. Sessions states it is not their intention to face the retaining wall with stone. Robert states again that this would be overkill. Bernard agrees. Robert states for the record that the bridge will be facing multi flora rose. Mr. Sessions states they are trying to irradiate that.

Cynthia confirms Mr. Sessions does not have questions regarding the Hahn Memo. Mr. Sessions states that Mrs. Edens has not decided on a contractor yet. When she does, she will have the certification signed and forwarded to Hahn.

Mr. Sessions refers to the MDRA Memo, Page 2, Item b and states that as long as the Board would like this elevation drawing detail, they will provide it. The Board confirms they would like this detail.

Cynthia states that the Board has a Draft Resolution of Approval to discuss tonight. Cynthia states this is our standard format where all of the details for proceeding are provided. Cynthia states Mr. Sessions had a comment this afternoon about the Army Corps of Engineers (ACOE). Cynthia states it is very clear that the actual bridge is not disturbing any of the wetlands. Cynthia confirms with Mr. Sessions that none of the outflows from the detention basins will go directly into the wetlands. Cynthia confirms that by moving the multi flora rose, removing the trees, and replanting, this will not trigger any wetlands disturbance. Mr. Sessions states that it was a MDRA comment that we not remove the multi flora rose within 10 feet of the edge of the wetlands. Cynthia states the Board will not state that no ACOE Permit is needed. If Mr. Sessions wants to state that for the record, we will make it a part of it. Otherwise we have required Applicants to obtain documentation stating that no ACOE Permit is required. Cynthia states the last time the Board went through this with a prior Application, the DEC cooperated. Now it is getting very difficult to receive feedback from the ACOE. Cynthia asks Roland whether Mr. Sessions's office should obtain documentation stating that no ACOE Permit is required. Roland states he believes it should come from Hahn in a form of a Memo to the Board. Cynthia states that this has been discussed with Joe Bridges and he has stated it is not always 100%

clear in certain instances. Cynthia states in this instance we don't have any disturbance showing. With the Monomoy Farm Application, it was less than 1/10th of an acre, and the Board did ask for confirmation because of the disturbance. It was then determined that Monomoy Farm did need an ACOE Permit. Mr. Sessions states that this wetland system isn't on the national wetland inventory. Cynthia states it is in a State wetlands, so it should be. Mr. Sessions refers to a project he had done in New Castle. At one point we were proposing fill for a driveway crossing over a small wetland. We had the ACOE out to the Site. At that point we needed an ACOE Permit. The Plan changed over the years to where we spanned the bridge similar to the project we are discussing tonight. We spanned the entire wetlands. The abutments and footings were clearly outside the wetlands. We requested confirmation at that point that no ACOE Permit would be required. It took five months for us to receive an e-mail from the ACOE that stated specifically that as long as there is absolutely no fill to the wetland proper, a Permit is not required. We have had subsequent projects when we didn't contact them. Mr. Sessions states he knows what the answer will be at the end of the day and does not want to wait several months to receive it. Cynthia states that we put everyone else through the same requirements. Cynthia states the Board will not sign off on their Permit until all the other Permits are in place. Cynthia states that for Monomoy Farm the footings for the bridge were also outside the wetlands. There were other disturbances in the wetland area. Cynthia states she does not see any disturbance on the Plans. Mr. Sessions confirmed the outflow discharge. Cynthia asks Roland where we go from here. Roland asks Mr. Sessions if he is willing to provide the Board with a certification. Mr. Sessions states that is not a problem. Cynthia confirms Mr. Sessions will provide the Board with a certification that will be reflected in the Draft Resolution. Cynthia confirms that the Planning Board and Town Attorney do not have any other questions. Cynthia asks Mr. Sessions if he has any other questions. Mr. Sessions states his only concern was the ACOE issue. He states he didn't go through the Draft Resolution with a fine tooth comb. He states there are blanks to be filled in. Mr. Sessions asks if he finds anything glaring between tonight and the time they make their next response to MDRA if they would be allowed to let the Board know then. Cynthia states that the Draft Resolution may be adopted tonight, or at their Work Session on July 20th. Mr. Sessions states he would rather come back and request an amendment in two weeks if necessary.

Cynthia confirms with Sonja that the references to the Code have been corrected. Sonja added the phosphorous reduction language. Cynthia states that a whereas will be added stating that the Applicant's Representative will provide the Board a certification stating his opinion that an ACOE Permit is not required. Any reference will be changed throughout the Draft Resolution. In regards to the finish of the bridge, the language shall be changed so it states that "the finish of the bridge will be noted as part of the Plan".

Chairwoman motions that the Planning Board Adopt the SEQR Negative Declaration Chapter 107 Wetland Permit (#WP08-01) Approval Stormwater Permit Recommendation for Little Creek Farm (Auburn Group). Bernard Sweeney seconds. All Vote yes Except for Robert Tompkins who Abstains.

4. **Greenberg:** Glenn Ticehurst (owner – Stephen & Myrna Greenberg)
Wetlands Permit (location – 3 Great Oaks Lane)

- Referral from Wetlands Inspector and Consideration of MDRA Recommendations

Cynthia states that this is a new Wetlands Permit Application that falls under the new Wetlands and Watercourses Law. This Application started a few months ago. After one or two reviews it was noted that the Application actually met the qualifications for a referral to the Planning Board. Cynthia asked Joe Bridges to point out to us whether or not he really felt the Planning Board needed to be involved in the nature of this Application, or whether we should consider kicking it back to the Building Inspector and Wetlands Inspector. Cynthia refers to the Memo from Mr. Bridges dated June 20th where he makes a recommendation that this is a Wetlands Permit Application that we should consider not putting the Applicant through a full Planning Board review for reasons stated therein. Cynthia states there is a series of man-made ponds on the property. Cynthia

states that what we have seen in documentation from Mr. Bridges shows that this will be a vast improvement.

Glenn Ticehurst is here tonight to represent the Applicant. Mr. Ticehurst states his firm had a few meetings with the Building Inspector prior to preparing their Plans. Mr. Ticehurst states that Mr. Bridges, the Wetlands Inspector has reviewed their Plans and made recommendations which we have completed. Mr. Ticehurst states there is a watercourse that goes through the property. The ponds are man-made. It is our intention to go in and dredge. Mr. Ticehurst shows pictures to the Board. Mr. Ticehurst states that it is fairly dry at this time and looks like a golf green. We are proposing to take out approximately 130 yards of spoils, re-grade, and reseed. We are also proposing to realign and widen the driveway. A wooden deck will be removed and replaced. A screened in gazebo will be installed. We are within the wetland setback. We are capturing the stormwater into a rain garden. Mr. Ticehurst states they will are proposing to plant in the four corners with a variety of native wetland species which will create a margin buffer.

Cynthia states the reason this Application was to be referred to our Board is because it met five of the thresholds. Cynthia asks the Board whether, given the nature of what is being proposed, they agree to refer this Application back to the Building Inspector and Wetlands Inspector to handle, or whether they feel this should go through a full Planning Board review. Cynthia states this is an unlisted action. There will be direct disturbance to a wetland or watercourse. The disturbance is 5,000 square feet or more of a controlled area. There will be construction of a building, building addition and/or point stormwater discharge within 50 feet of a wetland or watercourse. There will be construction activity extending for a period of six consecutive months or more. Robert does not have a problem with kicking this back to the Building Inspector and Wetlands Inspector. Cynthia states she does not either. She has driven by this Site many times. Cynthia states this will be a major improvement. Bernard agrees. Charlotte agrees.

Cynthia confirms with Roland that this referral may be done as a Planning Board Resolution. Resolved that the Planning Board upon consideration of a Report from MDRA dated June 20, 2011 hereby refers the Greenberg Wetlands Permit #WP11-02 back to the Building Inspector and Wetlands Inspector for their final review and approval. Robert Tompkins made the motion. Charlotte Harris seconded.

5. Release of Escrows:

- NYSEG - $850.00
- Croton Creek Steakhouse & Wine Bar - $1,000.00
- Joseph Pinto - $25.00
- Shirlee Stokes - $1,991.75
- Allan Gordon - $287.50 and $375.00

Cynthia Curtis motions that the Planning Board Release the Above-Mentioned Escrows. Robert Tompkins seconds. All in favor. No opposed.

6. Discussion Regarding Chapter 89 Fill, and Chapter 189 Sand & Gravel/Tree Removal

Cynthia states that this discussion will be held over to the July 20th Work Session. Sonja revised the document to include what was asked for at the last Meeting, including the field change wording. Cynthia states there are still issues about how to define the Fill. Cynthia states she needs to sit down with Bruce, as well as speak with Sonja on the definition of Fill. Robert states he is working with Peter Kamenstein and Robert Somers to come up with something regarding the definition of Farming Operation. Robert states he will not be able to attend the July 20th Work Session. Robert refers to the definition the State uses for Farm Operation. He thought he brought it with him tonight, but he didn't. Robert refers to the second page of the definition from Peter Kamenstein and states he would like to review it further. Cynthia states this definition

will be considered for all of the local laws.

7. Discussion Regarding Sign Regulation Changes

Cynthia states that the North Salem Open Land Foundation (NSOLF) will be on the July 20th Work Session Agenda for their Sign Plan Application.

Cynthia refers to Page 2, No. 8 in the Draft in regards to on-site directional signs. Cynthia states she had suggested we change the size from two square feet down to one square foot. That size will not work for the request coming in from the NSOLF for their on-site directional signs. Cynthia suggests we leave the size at two square feet. There is a need for the on-site directional signs to be a little bigger in order to have all the information on them. The Board agrees. Cynthia refers to Page 4, Item C. At the end of that paragraph we should add in the wording "free standing" after the word "two". Cynthia states that in the GB District someone may have a free-standing sign and a façade sign. In the NB District someone may only have a façade sign, and not a free-standing sign. There have been two instances in an NB District where Applicants have free-standing signs because they have gone to the Zoning Board of Appeals (ZBA). Cynthia states this is the only District that does not allow free-standing signs. We are pulling all of the requirements out of the individual zoning districts and making them general for everybody, so everybody has the same rules. Cynthia states there are some people in business districts that have corner lots. They want to be able to have a sign on each corner. In this section we are saying that if someone has a corner lot, they may have a regular free-standing sign, and a second free-standing sign which has to be smaller.

Cynthia refers to Page 6 where Nonconforming signs are discussed. Cynthia states that when we wrote this ordinance back in 1987 the Board did not deal with pre-existing signs even though many members of the Town Board didn't like the idea that they were up all over Town and didn't conform. Cynthia states there are two types of pre-existing signs. There are signs that were in effect long before the 1987 Ordinance. Then there are signs that came up with the 1987 Ordinance that may now be nonconforming because of this chapter. Cynthia is suggesting that if someone has a pre-existing sign under the 1987 Ordinance that is now non-conforming, they would have one year to bring it into conformance. Roland states he has never seen a municipality do this before. Roland states if there are 50 businesses, 30 of them may be told they have to come into conformance. Roland states it may not be the right time economically to do this. Roland asks if there is already something in the zoning regarding nonconforming signs. Cynthia refers to the paragraph where she made changes from the current zoning. It is suggested the language read "Any sign which was in existence prior to the effective date of this chapter shall be deemed nonconforming and the display of such sign shall be permitted to continue". Cynthia states a provision has been added for a directional sign, such as the sign at the Croton Falls Fire Department.

Cynthia asks the Board if they are comfortable sending this over to the Town Board for their Work Session discussion. The Board is comfortable sending this Draft over to the Town Board.

8. Financial Report:

- June, 2011

Chairwoman motions that the Planning Board Approve the Financial Report for June, 2011. Bernard Sweeney seconds. All in favor. No opposed.

9. Minutes:

- May 18, 2011

- June 1, 2011

Chairwoman motions that the Planning Board Approve the Minutes as Amended for May 18, 2011. Bernard Sweeney seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board Approve the Minutes for June 1, 2011. Bernard Sweeney seconds. All in favor. No opposed.

10. Next Meetings:

- Work Session – July 20, 2011
- Regular Meeting – August 3, 2011

There is a discussion about the Meetings in August. The Board decides to move the Regular Meeting to August 10th, and move the Work Session to August 24th.

11. Resolution:

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