

North Salem Planning Board Minutes

December 5, 2012

7:30 PM – Annex

PRESENT:
Cynthia Curtis, Chairwoman
Charlotte Harris, Board Member
Gary Jacobi, Board Member
Bernard Sweeney, Board Member
Robert Tompkins, Board Member
Roland A. Baroni, Town Attorney
William Agresta, AICP

ATTENDANTS:
Hawley Woods Subdivision: Dan Gould
Steve Bliss
Kevin McKenna

Chairwoman Cynthia Curtis calls the December 5, 2012 North Salem Planning Board Meeting to order.

REGULAR MEETING:

1. Hawley Woods: Dan Gould (owner – Hawley Woods, Ltd.)
Subdivision (location – 396 – 404 Hawley Road)

- Consider Reports From Planning Consultant and Town Engineer

Cynthia states we have Reports from the Planning Consultant and Town Engineer, and it would be nice for the Board to have a brief overview of where the Project is in the process.

Dan Gould from Keane Coppelman Gregory Engineers is here tonight to represent the Applicant. Mr. Gould states they have taken the previous Review Memos from both Hahn Engineering and MDRA and have revised the Plans to update the stormwater, limits of disturbance, minor typographical errors, and inconsistencies. From the previous Plan to the current Plan, the main change we are showing is the implementation of the clearing and grading limit line and a limited disturbance line. Mr. Gould states he knows there has been some confusion in regards to both of these items. Mr. Gould refers to the latest Plan and states the clearing and grading limit line is more of a development envelope which would be the maximum development or clearing of the lot. Mr. Gould states that everything outside of the development envelope would need Planning Board Approval.

Cynthia states we should stop there and talk about this a little further because this is something that is going to raise a little more attention. Cynthia states that the clearing line is going to allow for a substantial amount of disturbance, which will trigger a number of items. Cynthia states this is really not what the Board envisioned when they asked the Applicant to tighten this up and tell them where the disturbances are. Cynthia states these changes will trigger SEQR and everything else. Cynthia refers to the white area on the Plan and states that what is being suggested would allow for all the trees to be taken down for the construction of paddocks, which would create a lot of land movement. Cynthia states that all of these items should be part of this Application here and now, as well as the SEQR, because the Applicant is establishing the line which will change the Application and generate a lot more work. Cynthia states this is almost like putting back the eight lot subdivision because the Applicant is proposing to clear areas that, at the last discussion, the Board did not think would be, or potentially cleared. Cynthia asks the Applicant if this is really the direction they want to go

in, as it will cause a lot more work, and cause the Board to think this through again. Cynthia refers to the green line on the Plan in terms of opening it up. Mr. Gould states he will review that with his client. Cynthia states realistically, this is not horse property. Mr. McKenna states if they do what is suggested, this will definitely not be horse property. Cynthia asks the Applicants if this is what they envision for the property. Charlotte states the property is steep and wet. It does adjoin the bridle trails system. Cynthia refers to the trails and states the Applicant may want to change their wording to horse trails. Cynthia states there are wetland buffer areas and steep slopes. Cynthia states the Applicant is suggesting these areas may become future paddock areas. Robert asks where the Applicant is suggesting the paddock areas be located. Mr. Gould refers to areas on the Plan. Will confirms the clearing areas are shown in white on the Plan. Mr. Gould shows the limited disturbance line and states the shaded area would be the area that would not be developed. Mr. Gould shows on the Plan where an area would be cleared for the horses to travel from one area to another. Cynthia states the Applicant has included the wetland buffer which is in that area. Mr. Gould states it is unavoidable to get from one point to another without going through the wetland buffer. Cynthia states she understands having an access, but there is quite a bit of a wetland buffer.

Gary asks why there is a need for such a big area. The topic of a horse farm is mentioned. Gary asks the Applicant if that is what they want to do. Mr. Gould states there is not a definite design, buyer, or plan for each lot. Mr. Gould states these will be large lots with large houses having pools, barns and terraces. Gary agrees with Cynthia's point about showing everything now.

Cynthia states everything has to be shown now and show it as real disturbance, not just something to be done in the future. There is discussion about the possibility of clear cutting. Cynthia states it might make more sense to pick some smaller areas that could be used as realistic paddocks, near the property. Cynthia points out areas of tremendous steep slopes on the Plan and also suggests other smaller areas that may be utilized. Mr. McKenna states those areas are not big enough. Charlotte states those areas are not big enough for paddocks, depending on the number of horses there will be. The steep slopes are discussed. Cynthia refers to a flat area on the Plan.

Mr. Gould states the reason for the white area around each house is because the house locations may shift, as these are conceptual plans. Mr. Gould states a person may want their house located in a different area on their lot. Cynthia asks what the purpose of the green line is, and states she thought the green line was to show the limit of construction for the house and all the facilities. Mr. Gould states yes, for this Plan as it is shown. Cynthia refers to the white line. Mr. Gould states the white line is in case there is the need for additional clearing or grading.

Will asks Mr. Gould which line is the line he is proposing to be the metes and bounds line that would require Planning Board assessment. Mr. Gould shows the shaded area on the Plan. Will asks whether the other area is nothing more than a design analysis. Mr. Gould states yes. Will states the reality is the blue line on the Plan does not really mean anything from an Application perspective. Will states some level of an analysis will need to be done. Will states the point is that the true line that will be a restrictive line is the outer line. Will states this Plan does not portray the actual impacts because if a house is moved down, the development envelope would have a larger disturbance than what is shown now. Mr. Gould states they can adjust the blue line and states maybe they need two different lines. Will states that is what they thought this might have been, as far as the blue line showing where the houses would go, and all the initial items regarding the first building permit. Will refers to the way he read the other line on the Plan in terms of having future clearing and limited activities that could occur. Will states the biggest item that was a nudge was the clear cutting for horses due to the steepness of the land. Will talks about wetland buffers being crossed. Will refers to the proposed changes in terms of the Applicant getting to where they are today, after years of working on the Project, and states the changes would make the Applicant go back to where they originally were. Will states these proposed changes

are not very different than having four more houses on the property.

Mr. McKenna states he is not into clear cutting, but would like to know if a person wanted to have paddocks, would they have to come back before the Planning Board. Mr. McKenna states if he makes the metes and bounds tighter, there would be no options. Will states there is the ability for relief to be requested, but an amended approval would be required. Will states if that were to happen, the then Planning Board may feel that they should not change the wishes of this Planning Board. Mr. McKenna refers to the green line around the houses and states it is tight. Cynthia states that is why she mentioned loosening up that line because it is tight. Cynthia states the Board is bothered by the white areas because if they were to draw those lines today, the Applicant would have to do another analysis because we have already been down that road and stated those are areas that should not be disturbed. Cynthia states there will be a lot of issues with the EAF. Cynthia refers to areas that she thought would be part of a Conservation Easement. Will states what he envisioned, and what he believes the Board suggested a year ago, was to have a line that was sufficient enough to have uses in these areas based on individual preference. Will states that to the extent anything were to be done beyond that, it would be for a very limited passive nature, not anything involving clear cutting. Will states that even the trails for the horses will require switchbacks. Will states the Applicant has to decide whether selling the product with the potential for horses will make a difference. Mr. McKenna states he is only interested on having this option for one of the lots. Cynthia states that concept triggered the level of comments in the MDRA Memo.

Cynthia asks Mr. Gould if he has had a chance to go through both Memos. Mr. Gould states yes, he has. Cynthia asks if he has any specific questions. Mr. Gould states he understands the comment regarding the stream location in the vicinity of the offsite properties and potentially associated wetlands. Mr. Gould refers to the location of the stream in regards to speaking with a neighbor in regards to obtaining permission in order to locate the wetlands. Mr. Gould states if locating the wetlands isn't permitted by the neighbor, he is not sure how they would proceed. Will states that an approximation would have to be made based on some type of information, such as aerials. Mr. McKenna states he has never had anyone let him do that. Will states that the neighbor may not. Mr. Bliss states they have spoken with the neighbor, but have not made any progress. Will talks about working out a way to make the amount as approximate as the Board is comfortable with. It may not be perfect, and we may not know exactly where it is on the corner. Mr. Gould talks about the condition of the pond and talks about whether it makes sense to get permission now, when the owner could change tomorrow or next year. Will states it might be too early right now to get permission. Cynthia states it will be to the neighbor's benefit to allow this to be done. Cynthia talks about the Planning Board presenting something to the neighbor which would state that this Project is in front of them, and it would benefit the neighbor to allow the Applicant to look at it now. Cynthia talks about having a remedy built in if something were to unfortunately happen. Will asks Roland whether, in other Projects, formal agreements were done in regards to the neighbors wells. Roland states he believes it has been informal.

Cynthia states an item that raised her attention is the number of truck trips that are anticipated to get the road and stormwater installed and states six months is a long period of time for all that activity to go on. Cynthia asks Mr. McKenna if he does the work himself or whether he hires out. Mr. McKenna states he does it. Mr. McKenna states he does not think it will take six months, it may be four or five. Will asks whether trucks will be going through every day. Mr. McKenna states no, not every day. Mr. McKenna talks about recycling everything they can on the Site. Cynthia asks whether rock crushing will be done on the Site. Mr. McKenna states yes, by portable equipment.

Cynthia asks for a reminder in regards to the phasing. Mr. Gould shows on the Plan in orange where the common driveway will be in Phase 1 as well as the house location. Cynthia asks what will happen if there is a buyer only for the last lot. Mr. Gould states the common driveway has to be constructed from the road. Mr. Gould states that each house will have their own separate phase, whether two are being built at one time, or all

three. Cynthia asks whether the road will be started before the lots are sold. Mr. Gould states yes.

Mr. Bliss refers to the MDRA Memo and states the language used lists this as an open subdivision, not a conventional subdivision. Cynthia states that the Applicant has established three lots and they all have frontage. Cynthia states that a private road is no longer being done, a driveway is being proposed. Cynthia states she wanted to double check on this with the Town Attorney, in regards to the driveway access and sending the Applicant for a 280-A. Roland states not if they have frontage. Cynthia states this is a very confusing section of the law.

Mr. Bliss refers to the comment on Page 4 in regards to the ovenbird and the vegetation and states they had submitted a Report from Evans Associates. Will states that the Report was submitted a year ago and there have been no comments since our Memo in January. Mr. Bliss states he believes they did have another Report. Will states it has not been submitted. There is discussion about providing this information with the next submittal. Mr. Gould talks about making another submittal which will include the comments in the latest two Memos to be used for the circulation. Will states it is up to the Board, but he will be fine if the Applicant makes the corrections to the EAF, and add the Wetland Permit back in. Will states we will be able to circulate then, as the recirculation is a formality. Will states that is why I stated this could have been done back in January. Mr. Gould states they thought there were other issues to be resolved. Cynthia states the Board did want to make sure the Applicant is on the right path with the proposed practices, which they appear to be. Cynthia states that there is work that still has to be done with Frank at Hahn, but we may circulate now. Will refers to the EAF and states that the Applicant should focus on Comment 3, and provide the Plans for circulation. Will states the Applicant should provide the Evans Associates document. Cynthia states if the Applicant is sticking with the blue line, or a version of the blue line for the disturbance, she does not believe the Board has an issue. If the Applicant goes beyond that, she is not sure. There is a discussion about the circulation. Will talks about circulating to let the agencies know the Plans have changed. Will states there will be Public Hearings down the road.

Mr. Bliss talks about providing the archaeological report. Will states it will not be needed for the circulation.

Mr. Gould states that is the extent of their comments.

Mr. McKenna asks if there is an easier way for the owner of the third lot to put paddocks there in the future. Mr. McKenna states again, he is not interested in clear cutting. Cynthia states the Applicant has to look at what is available for a paddock. Cynthia states that the Applicant has included a lot of wetland buffer areas that need to be taken out of the equation. Cynthia states if the steep slopes are taken out, she is not sure whether there will be sufficient acreage. Gary states that is not answering the question. The question is whether there is any way to get the approvals they need now, or whether they will have to tighten the lines and come back. Cynthia states she believes they have to tighten up the lines because realistically they are not showing us areas that are appropriate for disturbance. Gary states he agrees. Gary states the answer is the Applicant either show it now, or go through the process when the person who owns the lot wants to put in something. Charlotte asks how large the white area is. Cynthia asks how large the third lot is. Mr. Gould states 24 acres. Charlotte states the requirement is two acres for someone to have one horse. Roland asks how much room is needed for a paddock. Charlotte states that some barns have dirt paddocks and others have four or five acre fields, it depends on the operation. Charlotte states the smaller horse farms usually have one or two three acre paddocks. Will asks how much more the lot will command price-wise with the horse option versus without the horse option. Cynthia states that some people in North Salem do not keep the horses on their own property. Charlotte states it is not a great spot, because people would have to cross Hawley Road or June Road in order to get anywhere decent to ride. Cynthia states that if someone were to buy an eight bedroom house like this, they probably would keep the horses closer to where they actually would be riding

them, instead of dealing with getting them in and out of this driveway every day. Mr. Bliss asks what the riders do on Lost Pond Lane. Charlotte states they ride them down the driveway. Charlotte states that some of the barns have rings.

Cynthia refers to the circulation and asks Mr. Gould whether he will be able to turn this around. Mr Gould states definitely. Cynthia asks Will whether he is suggesting the Board should do a Resolution tonight in anticipation of the revised materials, or will it need another major review. Will states it depends on how comfortable the Board is. Will states we should poll the Board. The Board agrees.

Chairwoman motions that the Planning Board Agrees with the Circulation of the Materials for the Hawley Woods Subdivision upon Receipt of the Amended EAF and Plans, After a Review by the Planner, and Prior to Circulation. Robert Tompkins seconds. All in favor. No opposed.

After the motion, Mr. Gould asks whether he may submit digital copies of the EAF. Will states yes.

2. Minutes:

- August 15, 2012
- September 5, 2012
- September 19, 2012
- October 3, 2012
- October 17, 2012

Chairwoman motions that the Planning Board Approve the Minutes for August 15, 2012, as Amended. Gary Jacobi seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board Approve the Minutes for September 5, 2012. Gary Jacobi seconds. All in favor, except Robert Tompkins abstains. No opposed.

Chairwoman motions that the Planning Board Approve the Minutes for September 19, 2012. Gary Jacobi seconds. All in favor, except Robert Tompkins abstains. No opposed.

Chairwoman motions that the Planning Board Approve the Minutes for October 3, 2012, as Amended. Gary Jacobi seconds. All in favor, except Charlotte Harris abstains. No opposed.

Chairwoman motions that the Planning Board Approve the Minutes for October 17, 2012. Gary Jacobi seconds. All in favor. No opposed.

3. Financial Reports:

- October, 2012
- November, 2012

Chairwoman motions that the Planning Board Approve the October, 2012 Financial Report. Robert Tompkins seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board Approve the November, 2012 Financial Report. Robert Tompkins seconds. All in favor. No opposed.

4. Next Meetings:

- Work Session – December 19, 2012 – has been canceled
- Regular Meeting – January 2, 2013 – Board to discuss date below

5. Comments from the Chair:

- Continental Subdivision/Rob Fogle
- Regular Meeting – January 2, 2013
- Training Requirements

Cynthia states she may call another Meeting in December. Cynthia states she was late tonight because she and Will were having a conversation with Bruce. Cynthia states she received a phone call today from Rob Fogle who purchased the Continental Building Company Subdivision four lots. Mr. Fogle stated there are two very substantial oak trees, that the Planning Board had protected with the Notes on the Plat, which also stated the areas that were not to be disturbed, as well as the trees not permitted to come down. Mr. Fogle stated that he has received notification from his neighbor that one of those trees that is leaning towards his house could actually fall into his house. Mr. Fogle was put on notice that there is a potential liability. Mr. Fogle stated the other tree could potentially fall on the new house he is building. Cynthia states when she received the call she said she would speak with the Building Inspector, and if he is of the opinion this is of an emergency nature, and should be handled immediately, she will have him weight in on this. Cynthia states she spoke with Will today as to whether this will require an action of this Board too because of the Note on the Plat, and Will stated it would unless Bruce declares this to be an emergency. Gary states if it is a hazard, it does not necessarily mean it is an emergency. Cynthia states that no one is in these houses yet. There is discussion about construction having begun on one of the houses. Robert states that one of the trees is probably 140 feet tall and it does lean towards a garage. Roland states it would be legitimate to have the Plat conformed to remove that restriction. Cynthia states that Bruce is going to request Mr. Fogle obtain the opinion of an arborist. Cynthia states that upon receipt of a Report from Bruce, the Board would have to meet to vote on whether or not to amend the Note on the Plat. Cynthia states if Bruce thinks this is something that has to be acted upon quickly, she may ask to have a quick Meeting. Gary asks when it will be on an Agenda if it isn't something that has to be acted upon quickly. Cynthia states it will be on the January 2nd Agenda. Gary states what if the tree falls before then. Roland states that is why Bruce should receive the opinion of an arborist. Gary states if is the opinion of an arborist that it won't fall and it does fall, then what? Roland states we are protected. We did what we had to do, by receiving a certified opinion of an arborist. Roland states an act of God can always happen. Roland states the Town would have acted prudently, so he is not worried about their exposure. Cynthia states we could do a Resolution tonight that states upon confirmation from the Building Inspector, these trees may need to come down. Cynthia states she will fill in the specifics of the Resolution later when she is back at her desk.

Chairwoman motions that the Planning Board is of the Opinion that if they Receive a Report from the Building Inspector Stating that one or both of the White Oak Trees on the Fogle Property of the Continental Subdivision Should be Tended to, the Planning Board Concurs, and Thereby Amends the Note on the Plat. Gary Jacobi seconds. All in favor. No opposed.

After the motion Will states when the Resolution is written it should be noted this is an Amendment to the Subdivision Condition. Roland asks whether a new Plat has to be filed. Will states no, it is a Condition. Roland asks if it is a Note on the Plat. Will states we are not eliminating the Notes, we are revising a Note in regards to these two specific trees.

The Board discusses the January 2nd Meeting. Bernard states as of right now, he does not believe he will be here. Cynthia asks the Board to check their schedules and talks about possibly pushing the Meeting to January 9th. Both Charlotte and Gary state they are not available January 9th. Cynthia asks the Board to check their schedules and get back to Dawn.

After the Meeting is adjourned Will is going to provide the Board with a one-hour training session regarding Site Plans.

Cynthia states that the Board Members are required to have four hours of training each year and should be reporting the training they take to Dawn.

7. Resolution:

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