

**TOWN OF ESOPUS
PLANNING BOARD MEETING
FEBRUARY 13, 2013**

BOARD MEMBERS PRESENT: Roxanne Pecora
Fred Zimmer
Margaret Yost
Michael Minor
Darin DeKoskie
Rich Williams

BOARD MEMBER ABSENT: Michael Manicone

ALSO PRESENT: Myles Putman , M.L. Putman Consulting
Joseph Eriole, Esq.

Chairperson Pecora called the meeting of the Town of Esopus Planning Board to order at 7:10 p.m. beginning with the Pledge of Allegiance to the Flag. Roxanne advised the public of the building's fire exits and roll call was taken.

MINUTES: Board members were asked if there were any changes or corrections to the minutes of the January 9, 2013 meeting.

Fred made a correction to page 4, paragraph 3, 1st sentence John Busick is the second property to the south of the school; page 9, paragraph 2 , 1st sentence should state time limit for amplified sound 8:00 P.M.

MARGARET MADE A MOTION TO APPROVE THE MINUTES OF JANUARY 9, 2013 AS AMENDED SECONDED BY FRED. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Michael Michael.....yes
Darin.....yes
Rich Williams.....yes
Roxanne.....yes

VOUCHERS:

Daily Freeman (Public Hearing Notice – Ferguson).....	\$ 14.40
Daily Freeman (Public Hearing Notice – Highland Vineyard/Beechstone)	12.60
M.L.Putman Consulting (Month of January, 2013).....	\$1,750.00
April Oneto (secretarial services).....	41 1/2 hours

MICHAEL MINOR MADE A MOTION TO APPROVE THE VOUCHERS AS READ, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0.

OLD BUSINESS:

PECK: Case #2012-07 – Lot Line Adjustment Re-approval – 44 Peters Lane (Town Hwy 858), Ulster Park; SBL: 72.001-1-8.11 & 26.1

MICHAEL MINOR MADE A MOTION TO RE-APPROVE LOT LINE ADJUSTMENT FOR PECK, CASE #2012-07 SECONDED BY DARIN. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Rich.....yes
Darin.....yes
Michael.....yes
Roxanne.....yes

MICHAEL MADE A MOTION TO GO INTO EXECUTIVE SESSION TO SPEAK WITH PLANNING BOARD ATTORNEY REGARDING POSSIBLE LITIGATION SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. BOARD WENT INTO EXECUTIVE SESSION AT 7:15 PM.

Chairperson Pecora did not go into Executive Session with the Board.

MIKE MADE A MOTION TO RETURN FROM EXECUTIVE SESSION AT 8:14 PM SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR.

Chairperson Pecora recused herself at 8:15 p.m. and Fred Zimmer, Vice Chair, took over.

FERGUSON d/b/a “Aberdeen-on-the-Hudson: Case #2012-10 – Special Use Permit/ Site Plan – 1723 Broadway, (US Route 9W), West Park; SBL: 80.001-3-23.1

Applicant Maria Ferguson present along with her attorney John C. Cappello, Jacobowitz and Gubits, LLP.

Fred stated that the Board has prepared a “draft” report for acceptance of your request for a Special Use Permit/Site Plan. There are a number of conditions which were read by Myles Putman, M.L. Putman Consulting.

The conditions attached to this approval are as follows:

- a. All events and gatherings at the site shall be limited to Friday afternoons and evenings, Saturdays and Sundays.
- b. The maximum number of attendees (including wedding parties, all guests of honor, etc.) shall be limited to 265 people; and no more than 74 vehicles may be parked in the existing improved parking area on the site.
- c. Reception tents and other portable structures and enclosures shall be erected no earlier than 10 a.m. on a Friday preceding an event and removed no later than 10 a.m. on the Monday following the event.
- d. Similar to the time limits specified in the zoning law for amplified devices and sound systems for recreation areas and children's camps, the Planning Board is establishing an 8 p.m. time limit on all amplified noise – music or otherwise, and no outdoor crowd noise after 10 p.m.
- e. The frequency of events shall be no more than ten (10) weekends per calendar year.
- f. The proposed shed for the generator shall have an exterior finish that blends in with the wooded border along the northerly property line, to the satisfaction of the Building Inspector. A wood-like finish is preferred.
- g. The band shell, speakers and acoustic reflectors shall be directed in a westerly direction, toward the school building, and further to help reduce event-generated noise, the tent flaps on the northerly, easterly and southerly sides of the tent shall not be opened. At no time shall noise levels during events and gatherings exceed a level of 65 decibels (dB) at any location along the boundaries of the site. At a date prior to the one-year anniversary of this approval, the applicant shall submit to the Planning Board a draft report on sound level measurements during events, for which sound level sampling will take place for one (1) out of every three (3) events held on the site, and such sampling will take place on the boundaries of the site (said bounds depicted on Filed Map 11-74) and taken by a licensed professional acoustic engineer or other similar licensed professional. Before two years has passed following the date of this approval, a full report on sound measurement levels shall be submitted by the Planning Board for consideration in its review of the special use permit as set forth in paragraph **h** below.
- h. This approval for Case 2012-10 will be valid for a period of two years after the date of this resolution, after which the Planning Board shall review the case for compliance with these conditions and to determine if said special use permit will be approved without necessity for periodic renewal.

Fred asked Planning Board Attorney Joseph Eriole if he would like to respond to the conditions.

Joe stated that what we are discussing tonight is the result of some hard work between the last meeting and this one. There has been ongoing discussion about some concerns regarding this application which we think are well reflected in the record and each of the conditions proposed are supported by the record. He stated that we are in receipt of a letter dated 2/13/13 from John Cappello, Esq. and his firm indicating some concerns about the process here. Joe stated that for the record he and the Board do not share Mr. Cappello's assessment of the legal considerations but the hope is that an approval may be at least proposed tonight and voted on tonight with those conditions. The actions of the Board are dictated by the record, their conscience and their view of the case and don't necessarily depend on and may not be altered by your assessments of those conditions or the applicant's willingness to abide by them. Obviously we are prepared to engage in a discussion whether those are acceptable conditions and may allow us to put something up for a vote.

Mr. Cappello stated that he understands and appreciates that. He would like some time to discuss this with his client. There is one recusal on the Board and one Board member absent. He would like a minute with his client to see if it would be preferable to adjourn this to next month when there is a full Board and at that point they could submit something in writing stating that the conditions are great and lets move on or we think 8 of the 9 conditions are great and we have a concern with one and would wish that the board would reconsider. He would hate to commit to something and then come back and say if they just had some time to discuss this they would have responded differently.

Joe stated that he thinks that this is a reasonable request. Maria stated that if the Board votes tonight and the vote was off then they would have to come back again like they did last month. John stated that he appreciates the Board putting this on the line and they just received the tape from the last meeting and he would like to have a little bit of an extended time to discuss this with his client and will try to submit a response to the Board in writing well in advance of the next meeting. Hopefully we can move quickly at the next meeting. Some of the conditions are easy to agree to and some may require a little tweaking.

Fred asked if they would care to elaborate on which ones he think might need some tweaking. John said he has not spoken to his client but 10 weekends versus more events. He is not sure. Fred stated that he does not care how many events they have a weekend as long as the tents go up on Friday afternoon and are taken down Monday morning. Maria stated that with tent rentals if there were 200 people in one event and then 100 in another the prices would be different. Fred stated that we could table this for another month.

John stated that they appreciate the board providing this and he the thinks that we have a good starting point for a dialogue and are hopefully close to the ending point.

Applicant was told that the deadline date for the March meeting would be February 27th. John stated that he will submit something in writing by February 27th. Joe told applicant that they can get a copy of the resolution as soon as Myles makes the necessary changes.

MARGARET MADE A MOTION TO TABLE FERGUSON, CASE #2012-10, SPECIAL USE PERMIT/SITE PLAN UNTIL NEXT MONTH SECONDED BY RICH. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 5-0. VOTE WAS AS FOLLOWS:

Margaret.....yes
Rich.....yes
Darin.....yes
Michael.....yes
Fred.....yes

Roxanne returned to the Board at 8:26 P.M.

**C & M SACKETT DEVELOPMENT, LLC: Case #2011-14 – Minor Re-subdivision
Sackett St./Hamilton Ct/Kline Ln., Port Ewen;
SBL: 56.060-3-9.3**

Applicant was represented by Chris Zell, Brinnier & Larios. Myles read M.L. Putman Review dated 2/11/13. Copy given to applicant and copy placed in file.

Letter received from Michael Cafaldo, Highway Superintendent, dated 1/30/13 regarding the turnaround and the amount the Board should request in a Letter of Credit.

Fred stated that no Building Permits should be issued until the turnaround is completed and approved. Roxanne asked if this was going to come back to this Board for approval for the two-family house. Myles informed applicant that this would need a Special Permit. Chris stated that he will change the maps to a single family one. He stated that the applicants are well aware that they will need to come back to this Board if they decide to go with a two-family house.

DARIN MADE A MOTION TO DECLARE A NEGATIVE DECLARATION PURSUANT TO SEQR FOR C&M SACKETT DEVELOPMENT, LLC, CASE #2011-14 SECONDED BY RICH. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Rich.....yes
Darin.....yes
Michael.....yes
Roxanne.....yes

DARIN MADE A MOTION TO GRANT CONDITIONAL FINAL PLAT APPROVAL FOR C&M SACKETT DEVELOPMENT, LLC, CASE #2011-14, CONDITIONED UPON:

1. PAYMENT OF RECREATION FEE OF \$2,000 FOR NEW BUILDING LOT 3B;
2. FILING WITH THE TOWN SUPERVISOR'S OFFICE A LETTER OF CREDIT FOR \$8,000 TO ENSURE COMPLETION OF THE IMPROVEMENTS TO THE HAMILTON COURT TURNING AREA AS PER THE SPECIFICATIONS AND MATERIALS CITED IN THE TOWN HIGHWAY SUPERINTENDENT'S LETTER DATED JANUARY 30, 2013;
3. UPDATING MAPS TO SHOW SINGLE FAMILY HOME ON LOT 3B;
4. FOLLOWING COMPLETION OF THE HAMILTON COURT IMPROVEMENTS AND INSTALLATION OF THE WATER AND SEWER CONNECTIONS TO LOT 3B;
5. SUBMISSION OF AT LEAST SIX (6) PAPER COPIES AND ONE REPRODUCIBLE MASTER PLAT DRAWING BEARING THE SIGNATURES OF THE OFFICERS OF C&M SACKETT.

NO BUILDING PERMIT IS TO BE ISSUED UNTIL HIGHWAY IMPROVEMENTS ARE AT LEAST PAVED THROUGH BINDER SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
 Margaret.....yes
 Rich.....yes
 Darin.....yes
 Michael.....yes
 Roxanne.....yes

**ESCAPES REALTY LLC: Case #2012-08 – Minor Re-subdivision – 183, 192
 Martin Sweedish Rd., Esopus; SBL: 71.003-5-26.11**

Applicants Abram Rosenblum and David Pakenham were present along with their engineer John Wasylyk, North Engineers.

Myles reviewed M.L. Putman Consulting Report dated 2/6/13 and a copy was given to the applicants and a copy was placed in the file.

The new plans show that the house and driveway have been relocated and are out of the federal wetlands. Applicant has changed engineers and the applicant should work to coordinate the design plans from both of his engineering consultants into one complete and consistent submission. Myles has an issue with Sheet 3 and the amount of disturbance shown. Comparing the two different sets of plans from the engineers the disturbance area is not clear. He would like to see consistent plans and would like to be able to complete the SEQR process.

Mr. Wasylyk stated that they submitted revised plans to the DEC as an addendum to the

original application and are waiting for their response.

Michael stated that if they are melding two sets of drawings then Myles is going to need information about the total limits of disturbance and the disturbance area calculation. Mr. Wasylyk stated that he can coordinate the information for the road profile. Myles stated that it is especially important on Lot 3 because of the grading and disturbance that will be required to get a 12% or less grade for the driveway.

Discussion took place regarding the comparing of two sets of plans from two different engineering firms. Fred stated that we need a complete set of plans from one engineering firm. We need to be able to see it in one place and not go back and forth between different sets of plans. Darin and Fred feel that the hay bails might be an issue and it would be better to use silt fencing for erosion control.

Mr. Wasylyk stated that rather than have the clients incur an entire separate cost if their office incorporates the contours and the areas of disturbance for the wetlands and modifies the erosion control for Lot #3 and also highlights this for Lot #1 would it be possible to have the previous engineers grading drawings still be incorporated in the application. Otherwise they will have to redo it and recertify it. He is asking that we reuse his driveway profiles. Myles stated that they will have to reuse his sanitary plans. Fred wants a complete set of plans with North Engineering's stamp on it. Roxanne agrees that we are not going to go back and forth between plans. She further stated that it was the applicants' choice to change engineers and this is their problem. Abram stated that this was not necessarily a choice that they made. He stated that it is quite an expense to have this done. He said that it would be greatly appreciated if the Board would accept two pieces of paper from different engineers that were approved and stamped. The Board stated that they are somewhat sympathetic but they have had problems with this in the past and they are not willing to do this again.

Darin pointed out a couple of dimensions on Sheet #2 that look like they have been transposed. Darin asked if they had a preliminary meeting with DEC yet. He is wondering what their thoughts are on the 15" culverts opposed to a three side box. They have not had this meeting yet.

The final Board decision is that we want one set of plans, road profiles for Lot #3, total site disturbance and DEC approval.

NEW BUSINESS:

LAFFIN & BAKTER: Case #2013-01 – Minor Re-subdivision – 120 Soper Rd., West Esopus; SBL: 71.001-4-52.13

Chris Zell, Brinnier & Larios, was present to represent applicant. Myles reviewed M.L. Putman Consulting Report dated 2/7/13. Copy of the report was given to applicant and copy was placed in the file.

Chris stated that Mr. Bakter and Laffin are in contract to sell the lot to Mr. James Clark who is the adjoining property owner on two sides. He is purchasing this piece of property to protect himself from any further development. Chris submitted Health Department approval for the house, well and septic. This is being submitted for next month. The neighbor does not plan to develop it. Fred questioned why they do not do a lot line adjustment and the purchasers do not want to do that. Chris has no objection to provide some of the things the Board wants by next meeting but in an effort to move this along would the Board schedule a Public Hearing contingent upon receipt of the required information.

DARIN MADE A MOTION TO SCHEDULE A PUBLIC HEARING FOR LAFFIN & BAKTER, CASE #2013-01, MINOR RE-SUBDIVISION FOR 7:10 PM ON MARCH 13, 2013 CONTINGENT UPON:

- 1. RECEIPT OF MAPS WITH TOPOGRAPHY;**
- 2. 5' CONTOURS LINES WITH PROPOSED GRADES FOR DRIVEWAY;**
- 3. LIMITS OF DISTURBANCE;**
- 4. NYSDEC MAPPED "SIGNIFICANT NATURAL COMMUNITY" FOR RARE, THREATENED OR ENDANGERED PLANT OR ANIMAL AND**
- 5. A LETTER FROM THE HIGHWAY SUPERINTENDENT APPROVING ACCESS.**

MOTION SECONDED BY RICH. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Rich.....yes
Darin.....yes
Michael.....yes
Roxanne.....yes

LINDERMANN PROPERTIES, INC.: Case #2013-02 – Lot Line Adjustments – Peters Lane, Ulster Park; SBL: 72.001-1-8.11

Jeffrey Vendetti was present to represent applicants in this matter. Myles reviewed M.L. Putman Consulting Report dated 2/7/13. Copy of report given to applicant and copy placed in file.

Jeff showed a copy of the Boundary Survey highlighting the property. He then showed the Board a copy of the map showing highlighted areas for the lot line adjustments. There is an existing right-of-way for Hoban. He stated that they had some discussion about removing that right-of-way but the Hobans want to maintain the right-of-way. Jeff stated that Hoban does not use the right-of-way. They use the same right-of-way that he does but they do not want to get rid of the right-of-way. He was asked about the utilities and stated that all of the lots have the utilities come in off of Esopus Avenue. Darin

stated that everyone will need easements for the utilities lines if they cross one property to another. Darin questioned the location of the septic systems and wells. Fred stated that every property will have to have a deed description. Roxanne stated that there will have to be maintenance agreements. Myles stated that the right-of-way is exclusive to Hoban. To his knowledge no one else has any rights to use that other than Hoban. It is going through Lindermann's property right now and his deed should say also subject to an easement granted to Hoban and each of the new lots will have that language incorporated also subject to an easement granted. Fred stated that this means that the property owners granted rights to Hoban and should be in their deeds right now because it was part of the subdivision when this was done before. Myles thinks Hoban's right-of-way predates the subdivision. Michael stated that because this is so complex we need to look at where we want to be and work backwards to what we need.

Jeff asked if the right-of-way to Hoban's property that goes across all the lots where eliminated then this would be a lot cleaner and if it is not then the Board will want to see the new deeds for each one. Darin told the applicant that the surveyor would have the metes and bounds for all of them so it is not a big deal. Applicant was told that the utility poles are on the maps but they need to be connected to the lots.

Jeff is going to speak with his surveyor and get the information required added to the maps. Jeff stated that the surveyor recommended to the Hoban's that the right-of-way be removed but they did not want to do that. It is used but not used as access to their house. It is maintained. Their problem with getting rid of it is that they paid a lot of money for it in 1968 to put it in and they want it kept regardless of the fact that they don't use it. Fred stated that they could give it one lot that would encompass the whole thing. Darin suggested that the applicant needs to come back with all of the utilities shown, lot lines where they want them and easements on the drawings. He stated that he would not have deed descriptions done at this time. This would be the last thing to be done. If Hoban insists on keeping the right-of-way, this can be covered by the deed descriptions. Fred suggested that they provide before and after maps showing where the property lines are now and where they want them to be.

ZBA REFERRALS:

Stephen Johnson & Mary Frankini – 10 Rousner Lane – Applicants are requesting an area variance from Section 123-20 for an 11 foot encroachment into 20 foot side yard setback. Board reviewed copy of application submitted and they have no comment.

MISCELLANEOUS:

None.

RICH MADE A MOTION TO ADJOURN SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MEETING ADJOURNED AT 9:40 PM. MOTION PASSED WITH A VOTE OF 6-0.

NEXT MONTHLY MEETING:

MARCH 13, 2013

DEADLINE DATE:

FEBRUARY 27, 2013

NEXT PRE-SUBMISSION:

MARCH 5, 2013

Respectfully submitted:

April Oneto
Planning Board Secretary