



TOWN OF BEEKMAN PLANNING BOARD Minutes of Thursday, April 18, 2024

The Town of Beekman Planning Board met for their regularly scheduled meeting on Thursday, April 18, 2024 at 7:00 PM at the Beekman Town Hall.

The following members were present:

Chairman- John Frustace
Robert Lopane
Peter Poltrack
Faye Garito
Jayson Abbatantuono was absent.

Also present:

Town Engineer - Dan Koehler
Town Attorney – Craig Wallace
CAC Chair – Cliff Schwark
Recording Secretary- Aletha Bourke

J. Frustace – Noted the emergency exits
Led the Pledge of Allegiance
Confirms approval of minutes will be pushed to next month. Introduces first item on the agenda.

PUBLIC HEARING

- 1. Cemco Development Group – Lot 2 & 3 Boyd Re-Subdivision- Continuation**
Pleasant Ridge Road
Grid # 6859-00-434759
Zone R-135

J. Frustace – Reads aloud letter prepared by secretary for record detailing history of public hearing. (Enclosed) Apologizes to public for length of time public hearing has been ongoing. Due to lack of clear information to date, asks CAC Chair to provide update on wetlands.

C. Schwark – Indicates a letter was sent to the town engineer and asks if he is in agreement.

D. Koehler – The question was about the town’s definition of a watercourse, and you went to the NRI maps, which the town prepared relatively recently, and there’s an intermittent stream that shows going through there and generally runs along where the wetlands were flagged that were given to me by email earlier this month.

C. Schwark – Agree. There is not a wetland on there, but there is a water course, an intermediate stream, which is covered the town's wetland law as protected by 50-foot buffer. Ours does not specify. If it runs at all ever, it's covered and needs 50-foot buffer. According to maps, will run right through septic. From a CAC standpoint, can't do that but it's up to the board.

D. Koehler – In terms of meeting the definition of wetland for the town.

J. Frustace – That does not include the watercourse (clear on the NRI maps), steep slopes, tree mitigation plan.

R. Lopane – Per the definition in the regulations, that's a watercourse.

D. Koehler – We had a comment about delineating the area of disturbance in each slope category, don't know if that's been provided yet.

Mike Gillespie, Project Engineer – Indicates area on map showing conditions. Confirms all trees have been shown on map as well as outline of area where previous trees had been removed.

Roy Bargicciotti, Applicant - There's also a significant amount of dead trees on the property.

J. Frustace – Comments that the board is merely needing what the engineer asked for and has been waiting over a year while the public hearing has been open. All of this should've been prepared before the public hearing was opened and the board was assured when voting to open the public hearing that all of this information would have been provided and it wasn't. At the first hearing, there were people that had showed up to see things and we've had another citizen that has shown up since and nothing has been provided.

Roy – Comments that he has had no control over the matter.

J. Frustace – Reminds him that he is the applicant and offers apologies for him being put in this position.

Roy – Prior approval for stream to be brought around the side of the property so no longer would be going through the property, would be going around the side. Spoke to Dan about it, was on a plan prior to this as a single lot.

R. Lopane – Asks town attorney for clarification on considering previous subdivision or consider the application as is today.

C. Wallace – As it is today because the field conditions can change. It was 19 years ago this application came before the board so it can only consider present field conditions.

R. Lopane – Appreciate you might've had a previous approval in years past. Our job is to consider the application as it is today.

Roy – This is what Dan had been asking for for quite a while from Mr. Gillespie was the calculations for this because it was going to remain there.

R. Lopane – Because that's your new proposal for the current subdivision and he would need that.

Mike – Would like to speak on a couple of things. Offers apologies to public and board for length of time public hearing has dragged. Indicates he did not receive letter requiring appearance at public hearing but due to new information regarding wetlands, he planned to attend.

J. Frustace – Indicates that it has nothing to do with a letter but representation is required at a public hearing in order to answer questions etc.

Mike – Understood. If the board was looking to re-advertise or close the hearing, we could certainly do that and make sure we get everybody out there again since this has been puttering along month after month. Seems that based on the current information, if that's considered a stream or watercourse then that basically kills the project right down from the top.

J. Frustace – We were concerned about that.

Mike – That's the reality of it. What he is saying is this used to be a 3-lot split. Lot one was split off and there were 2 lots left and that was consolidated into 1. Now we're going for a 2-lot split, basically originally what it was but the rules have changed.

J. Frustace – Insists the rules have not changed and it was asked at the very beginning to plot wetlands and watercourse. It is not ok, a year later at the expense of the applicant, to just say well now the project is off the table. All of that time has gone by and the biggest problem with what has occurred is that we and he are finding that out now.

Mike – When he went forward with this, there was a discussion which I was not involved with. He called Dan and there may've been a sit down and he said it was split before, we'll split it again so this is what we went with. This was the original Boyd subdivision going back 22 years, now we're here and the regulations were different then than they are now.

R. Lopane – The regulations were different 20 years ago. When you came with this new proposal for the 2-lot subdivision, I think the regulations were in place.

Mike - They were.

Roy – This should've been addressed to all the new regulations right in the beginning, not bring up the old plans and say hey I got my old plans. I went to zoning, that was approved. The change of the intermittent stream had a conversion, there were some calculations on it.

R. Lopane – We had asked in prior meetings if that is a watercourse. You had said it's dry, it doesn't run, may be seasonal but not a watercourse. That is what we were led to believe. It's a watercourse by definition of our code simply because it's been mapped on that map that's specified in our code, it's considered a watercourse. We should've determined that from day one. What's happening this year is we are seeing water running, so it's further demonstrating to us that it is a watercourse.

Roy – Asks if watercourse can be moved over as shown on original plan or inched over.

R. Lopane – You're subject to the regulations of our code as it pertains to watercourses. There needs to be a 50-foot buffer in the watercourse. Whether you can move it or not is something that we need to interpret in the code. I don't believe so as it is a sensitive ecological environment that supports wildlife habitat, biological activity. We have deemed it in the code as an important sensitive environmental feature. We need you to follow the code.

J. Frustace – Whether that is possible or not would've been determined by the engineer before the public hearing.

D. Koehler – In terms of code requirement, the process is delineated in §155-52 of the zoning code which is our wetland, water body and water course protection section of the zoning code and the application

process is Subsection 8 of that section of the code. The onus is on the applicant to provide this board with the information discussed in that process and then subsection I delineates the standards for permit decisions that this board would have to make. There's a relatively long list of things that would have to be shown. One of the parts of that process was the public hearing. This could be a concurrent public hearing with regard to the subdivision as well. That's why this was brought up about the watercourses and now that it has been identified, the onus is on them to provide you with the information in accordance with the code so that you can make a decision in accordance with the code. It's a water resource permit and §155-52 delineates the whole thing.

R. Lopane – We are not going to tell you how to design the subdivision. There may be a design solution to avoid the watercourse that allows you to have 2 lots. That's up to you and your engineer to figure out a way to come up with a concept that is acceptable to the board that will not have an impact to the watercourse or wetlands or steep slopes or any other environmental features that we are required to protect in our code.

Roy – Asks if the code for watercourse is new.

D. Koehler – 2011

J. Frustace – The due diligence should've been done during the discussion phase of this application and the proper information supplied to us at that time.

Roy – The watercourse was noted on the property 22 years ago, whenever it was done originally.

J. Frustace - Right now it's going right through your project.

Roy – From the original subdivision, it was always being diverted. Did anything change with the law?

D. Koehler – This law was added as part of the 2011 revisions. The zoning code was replaced in its entirety in 2011. The original approval of that subdivision was 2005 so it was the previous zoning code that the approval was based on.

Roy – Questions the ability to move the intermittent stream. Was there anything about that specifically, as that's what we're looking to do is the same thing that was on during 2005.

D. Koehler – That is what §155-52 addresses wetland, waterbody, watercourse protection section of the zoning code. Don't know the old zoning code.

R. Lopane – Watercourse, steep slopes, wetlands, scenic. Believe they were all added in 2011. Don't remember there being code for those environmental protections. These were added in 2011.

P. Poltrack – Questions if physically, what they're requesting is different than what was approved in 2005 and, if not, why are we here?

D. Koehler – Pretty similar. The zoning code changed.

Mike – The lots were consolidated.

P. Poltrack – Questions length of time between approval and when it must be acted on.

C. Wallace – What happened was that in the interim, the subdivision was abandoned and the former two lots merged back into one. They are coming back before us to subdivide again.

D. Koehler – The previous owner submitted a lot consolidation request, which is processed through the Dutchess County Clerk. They took the two lots that were created in 2005 and after I believe its 5 years, you can consolidate those lots back into one. The previous owner decided to do that and then sold the one property to this applicant and they want to subdivide that back again, subject to the process.

P. Poltrack – Asks if previous owner would not have consolidated the two lots and it was a two-lot subdivision, would they still have to be here?

D. Koehler – They would have to go to the building department for approval and then the code may still require based on steep slopes and other things that are now within the zoning code, quite sure it would get referred back to planning. A building permit application would be submitted and she would take a look at the content and make a decision.

F. Garito – Asks what provision allows someone to change the intermittent water course and what avenues need to be taken in order to do that.

D. Koehler – That’s part of what is delineated in §155-52. There are standards for you to determine if they’re acceptable to the board for alterations, wetlands or water bodies and water courses.

F. Garito – Confirms we have not done that.

Roy – We have them on paper. Mike said he does have the calculations now so that would be something you could decide on.

J. Frustace – Comments that we are in the middle of a public hearing.

P. Poltrack – Also, all of this information and the alteration of the water course, if it was going to be altered, should’ve been submitted in the original submittal prior to the public hearing.

D. Koehler – Don’t remember the specific day the board said you could go to public hearing but we did note in our review letter that there was an NWI wetland shown on the map. NWI wetland mapping is an indication so as the process went, we said we need the wetlands to be flagged, delineated and surveyed, and shown to the board.

P. Poltrack – Confirms the information should’ve been submitted to the board prior to a public hearing. For future reference.

Mike – Having other projects before the board as well, the board has moved towards that. Plans must be much tighter before moving to public hearing but it wasn’t that way at the time. Want to make it clear that I did not delineate the wetlands. I’m not the consultant that does that. Not saying they don’t exist. It was always defined that there was something that was always shown on our plan but there was a public hearing set anyway.

J. Frustace – At some point we have to open the public hearing. We’ve shared everything we could with the public and the applicant.

F. Garito – Motion to open public hearing. Seconded by R. Lopane. All in favor. Motion carried.

J. Frustace – Asks if there are any public comments.

Bill Crain, 254 Gardner Hollow – June 16th to today is 22 months since the first public hearing. A lot of those came to speak and see if their concerns were being addressed and nobody showed up. Don’t know

whether they should've been discussed before the public hearings began or not. They could've been discussed during the public hearings as there were a lot of open concerns that were not addressed and the applicant didn't show up. The board has been very generous. Last I heard there 80 some undefined number of trees that were going to go and replace by 4. Now we hear some are dead trees, no specific number, can hold soil as long as the roots are in there according to DEC. There are also wildlife habitats. I mostly want to speak for the environment that the plan is on steep slopes. It's a problem. It has wetlands on it and many trees that would have to go. The trees hold soil. You run the possibility of mud slides and so on. The water is getting greater every year. The trees are home to wildlife. These are three serious environmental impacts. Concerned about preserving natural environment.

J. Frustace – Asks for motion to close or adjourn public hearing.

C. Wallace – Before adjourning, let's identify what we're adjourning for with the help of Dan.

D. Koehler – As stated before, the water resource permit section would require public hearing so we could just parlay this public hearing into that public hearing. Mike would have to go through §155-52, provide you with all of the things that are listed. There's a checklist of things that have to be provided to you so you can make a decision and that should be part of the public review as well.

P. Poltrack – Asks if it could be a separate meeting from this public hearing.

J. Frustace – Confirms it has to be a new public hearing with new announcements at the end of the day. The drawings are going to change.

D. Koehler – That could be up to you I suppose. The thought this whole time was that there might be a water resource permit associated with this project and that public hearing could run concurrent with the subdivision public hearing. That point has been made but it's up to you. If you think it is fair to notify neighbors again and give them a fresh look, that would be appropriate.

J. Frustace – Would like to know what the applicant's intentions are.

Roy – Don't know what is going to change. It is news that the water course can't be moved.

R. Lopane – Did not say that.

Roy – Coming to light that we need to dig deeper into this. Thought we just had to have it flagged.

D. Koehler – Now that it's been flagged, we know.

Roy – Always knew there was an intermittent stream. We had a plan put together. Didn't think there was ever going to be an issue with that. We were worried about the wetlands and how big they were.

D. Koehler – So the water resource permit should've been submitted. There're two things. There's the town portion and then if you fill over 1/10 of an acre, you may need Army Corps permitting as well. Now that we know where this is, we have to know how much of this is getting filled.

Mike – Will get something more defined. Didn't delineate the wetland but the consultant did and he's determined it wasn't Corps because of its current or intermittent nature. Looking from a size perspective as a wetland, there is a wetland out there, it's just below the threshold where the town gets involved, so that wetland issue is off to the side now this definition of this coming down as a water course.

J. Frustace – We don't have clear plans to present to anybody and it's going to be 2 years soon.

Roy – Not going to ask you to do something that is against your process.

J. Frustace - Is it your intention to move forward? It's been 2 years.

Roy – It's paid for. Intend to move forward.

R. Lopane – If we close the public hearing, that doesn't preclude us from opening another one in the future.

C. Wallace – You would have to re-advertise if you close.

R. Lopane – Just avoiding sending a mailer out? I'd prefer to freshen up with a mailer at this point. Think we need to close it so that we can get the correct information we need to inform the decision. It looks like there will need to be modifications to the plans which will need to be reviewed in a future public hearing. There's this water resource permit which has to be a public hearing so I'm thinking we need to close the public hearing. The applicant can revisit the plan based on the information that we've recognized there's as water course there. He needs to provide the rest of the information that is required.

C. Wallace – The other thing the board has to consider is if you close the public hearing, you're starting the shot clock. Recommend keeping public hearing open and order applicant to re-advertise. Get realistic timeline.

Board discusses options regarding closing the public hearing versus adjourning and concurrence with water resource permit public hearing.

Roy – Questions timeline.

Mike – Need to sit down and review that section. No definitive answer.

R. Lopane – These are a set of standards. Design needs to be modified and standards met.

C. Wallace - Must adjourn to specific date.

F. Garito – Motion to adjourn public hearing to May 16, 2024. At the point to which the board is satisfied with the information, the applicant will be instructed to re-advertise the public hearing. Seconded by R. Lopane. All in favor. Motion carried.

2. Pozzuto Lot Line – Lot Line Adjustment- Continuation
110 Frog Hollow Rd.
Grid # 6757-00-445645 & 563722
Zone R-45

J. Frustace – Asks if there is a representative present for the Pozutto Lot Line application. Indicates they are adjourning as they have not heard from agency.

D. Koehler – Confirms they have not heard from the DEC.

F. Garito – Motion to adjourn to May 16, 2024. Seconded by P. Poltrack. All in favor. Motion carried.

DISCUSSION

- 1. Rieckermann Lot Line – Lot Line Adjustment**
110 Greenhaven Road
Grid # 6658-00-742061 & 787036
Zone R-45

Christian Rieckermann, Applicant - Received Dan's letter. Consultant has received and is addressing concerns that were suggested.

J. Frustace – Asks applicant to elaborate.

Christian – Also owner of Frog Hollow Development for clarification. Purchased property in 1987 and have developed a lot of the property on the east side. Primary residence is shaded in blue which has a lot line encroachment through a carriage barn detached garage that I had built on that property. That now needs to legally fit on that parcel. Business owns adjoining land. Before the board to go through the process of getting that lot line adjusted to meet setbacks.

Board members discuss location of properties on map.

Christian – Provides explanation of current property lines and proposed. Taking 1.37 acres from 16-acre parcel. Just looking to get my carriage house on my land and be able to sell the property. Asking for a lot of waivers. No changes other than adding raw land.

P. Poltrack – Confirms applicant is adding land to correct, so the constructed buildings meet proper setbacks.

Christian – Back in early 2000, one of the barns collapsed. Was able to rebuild so had to move onto my property. That carriage house has been fully built and has a CO.

D. Koehler – Small housekeeping comments. Most concerning in terms of the process is applications cannot move forward if there are violations. Mentioned comment eight because the survey of map says there is an accessory apartment in the front.

Christian – There is a dwelling in the front by the barns that were always on the property. It's a caretaker cottage that was there when property was purchased.

D. Koehler – The filed map showed that as a section of barn to be removed. It didn't show it as an apartment so we would need information as far as the septic, etc. In the town of Beekman, you can't have two principal uses on one lot. Accessory apartments cannot be detached from the primary so there's an issue there that's going to have to be cleared up somehow.

Christian – Can't foresee making it its own lot. Is there a land use variance?

C. Wallace – You would be taking a nonconforming use and adding to this present lot. You would have to now have a conforming use as a result. It would give you two residences on one lot which is not going to work.

P. Poltrack – Questions trailer in front of principal residence on Pozzuto lot line application. Was that a separate parcel than the principal?

D. Koehler – In its current state, would say no but they were correcting that issue with their subdivision.

P. Poltrack – Suggests that precedent was established in the past and should consider in relation to this application.

D. Koehler – The filed map does not show any caretaker house. Filed in 2004. Cannot say for certainty that is the case. Would have to look back at aerial photos and building permits.

R. Lopane – Next to the 2-story residence, there's a roof overhang/carport and another house up front.

Christian – Provides explanation of structures on property and uses up to this point. Confirms no dwelling in other carriage house by the main house, primarily a garage.

J. Frustace – No tenants?

Christian – There is a caretaker down by the barn in the old original structure. When the house was built in 2000, that structure was there.

D. Koheler – It was listed as a barn on the filed map from 1999.

R. Lopane – No big objection to operation. He would have to apply for a special use permit for the rental on the one house. Because it's nonconforming use, can he go for a variance from the ZBA and then come back for approval? Can claim hardship as pre-existing since it was before the accessory use laws.

D. Koehler – Accessory apartment law has been since before 1999 so someone would have to look at what the rules were. I've asked the building department for any permits they may have. Certificates of Occupancy for residential habitable spaces on the property.

R. Lopane – Recommends path forward to legalize is to go for a variance from the ZBA to allow for the apartment in that house.

C. Wallace - §155-58 is the regulations for non-conforming buildings, lots, and uses so if you want to look up the code and give that to your engineer it is §155-58.

D. Koehler – Accessory apartment is §155-25.

R. Lopane – Would be willing to make positive referral to ZBA.

C. Wallace – Let's find out if this can be done by a simple lot line adjustment. It may have to be done by a subdivision to create a conforming lot, that middle lot.

D. Koehler – Don't think they can get 135,000 sq. ft. there with 213 feet of frontage.

C. Wallace – The blue lot might have to be created as a conforming lot.

R. Lopane – That’s another alternative you could consider, divide it out.

Christian – Would abolish that accessory apartment before I will just consider dividing that property. The property has aesthetically set the way it is because it is an old farm piece of property and the barns are under restoration now with New York state and I’m working with them to preserve the barns. Originally tried to do dwelling as systems were there and it was shut down due to flood zone. Subdivision was done in 2000 and it created that lot out of the land from Frog Hollow Development.

D. Koehler – The map the applicant did sign in 1999, and not shown as a living space, it shows as existing barn section to remain and no septic. Need to try to get to the bottom of the paper trail to understand timeline of when that was converted. Could be legal non-conforming. Need to see when permits and CO’s were issued.

Christian – May have been overlooked or was unoccupied. Think it was there before zoning but can look into more. As far as the drainage easement on the letter. What was meant by that?

D. Koehler – Just the documentation of the drainage easement.

Christian – That was created back when future development was planned for the relief of stormwater management.

D. Koehler – Asks who is responsible for maintaining it. That would be in the easement documents if you could get that to me.

Christian – That would’ve been dedicated to the town as an easement but that application was withdrawn so that easement is now null and void.

D. Koehler – Maybe it was never filed.

Christian – The map was withdrawn too so no map was filed for that section. I do have future plans of developing that property once this lot line is satisfied. Will go in with a plan for a 5-lot subdivision which will be a private road and private community so I am sure this will come back up again in the future. The parcel deeds will be submitted to the town attorney. The consultant has those.

D. Koehler – It’s a code requirement for proof.

C. Wallace – At some point when all the lots are configured, will need meets and bounds for all three.

D. Koehler – It will be two. It’s a transfer of land from one property to the other so still be two at the end.

C. Wallace – But you will need meets and bounds for three.

Christian – Asks about zoning board.

R. Lopane – Was recommending you go to the zoning board if that is a plausible strategy. If we think it is a dead we should let him know right away.

Christian – If it’s a dead end, I would just as soon terminate that structure.

J. Frustace – Both the engineer and attorney think that is the path of least resistance.

Christian – Then that’s the way I will look to go because I can’t really stall this out due to a divorce settlement need to move forward to get this legal for sale. Will act on that immediately.

D. Koehler – If you were to come back for the next month with the plan that says you're abandoning the accessory apartment, number of things we could do tonight. Deem this action Type 2 in accordance SEQRA, consider all the waivers mentioned in the letter, could also consider setting public hearing for next month without the accessory apartment issue. Can make a lot of progress in terms of planning process.

Christian – Have to go most efficient way to resolve.

R. Lopane – Willing to consider waivers as is simply lot line adjustment, no physical change to the property. See no problem. Can go through waivers.

D. Koehler – For record, §130-12E Topography, §130-12F Soils, §130-12H Trees 12" and greater (dbh), §130-18F(12) Topography, §130-20A(2) also Topography, §130-20A(6) Trees 8" and greater in diameter. Number of things mentioned that they could ask for a future additional waiver at the next meeting. That must be formal to consider. Not shown on this particular application right now but will address those 6 waivers. Since no other development on site, would not object to endorsing that.

R. Lopane – Motion to grant waivers. Seconded by P. Poltrack. All in favor. Motion carried.

D. Koehler – In terms of SEQR, simple lot line realignment, which falls under Type 2, so you just deem the action type 2 and conclude the SEQRA process.

R. Lopane – Motion to deem Type 2 SEQRA action. Seconded by P. Poltrack. All in favor. Motion carried.

D. Koehler – Schedule public hearing in anticipation that the accessory apartment will be abolished.

Christian – Questions time frame.

D. Koehler – Can be conditional of the final approval.

Discussion regarding appropriate public hearing date and public hearing notification requirements.

J. Frustace – Asks for motion to schedule public hearing for May 16, 2024.

R. Lopane – So moved. Seconded by P. Poltrack. All in favor. Motion carried.

Chairman steps away momentarily.

EXTENSIONS

- 1. Barton Orchards Farm Market – Site Plan**
64 Beekman-Poughquag Road
Grid # 6758-00-170733
Zone R-45

Peter Barton, Applicant – Approaches podium to comment for the record. John walked by, looked and smiled and said I don't know, every time I see you, I have to urinate.

J. Frustace – Returns and asks if he missed something. Exchanges words with the applicant regarding behavior in previous meetings.

Joe Berger, Project Engineer – Trying to get the archaeological taken care of was the longest thing. Finally got that done. Need to do archaeological study. Once done, present to SHPPO for consideration which took another 3 months. Couldn't come back with final comments until receipt of letter of no impact which was recent. Summarized comments and submitted back for review. Just got comment letter and will address but respectfully requesting 6-month extension to have time to go back for health department final review and concurrence of any changes. Prefer to give more time.

R. Lopane – Questions archaeological being part of the conditional approval.

Joe – Confirms yes it was.

D. Koehler – Whenever there's a storm water pollution prevention plan (SWPPP), in order to get SPDES coverage, state requires SHPPO letter. All runs generally concurrently, but that was an issue that has to be addressed as part of the preparation for the SWPPP.

Joe – Indicates there are phases and takes time.

J. Frustace – Comments answered very nicely. Personally don't have a problem.

D. Koehler – For record, their current approval is conditioned through May 12, 2024 so asking for extension prior to expiration. Six months makes sense. Usually do 90-day intervals so 180 days would put it at November 8, 2024.

Joe – Probably able to do that depending on health department.

D. Koehler – Also still need legal agreement for the access between and a couple other things that take time.

Joe – Don't intend to use it all but don't want to have to come back.

F. Garito – Motion to grant 180-day extension to November 8, 2024. Seconded by R. Lopane. All in favor. Motion carried.

J. Frustace – Motion to adjourn meeting. Seconded by F. Garito. All in favor. Motion carried. Meeting adjourned 8:38pm

Respectfully submitted.

Aletha Bourke
Secretary