



Town Of Amenia

4988 Route 22, PO BOX 126, AMENIA, NY 12501
TEL: 845-373-8860, x106 FAX: 845-373-9147

PLANNING BOARD MEETING THURSDAY, DECEMBER 2, 2010

PRESENT: Chairman Bill Flood
Tony Robustelli
Nina Peek
Peter Clair

Michael Hayes, Attorney
Michael Soyka, Consultant

ABSENT: James Walsh
Norm Fontaine
George Fenn

MOTION TO OPEN THE PLANNING BOARD MEETING FOR DECEMBER 2, 2010 was made by Tony Robustelli, seconded by Peter Clair

DiGrazia Timber Harvest

Site Plan

**9 Cascade Road
Amenia, NY**

The Planning Board received a letter from consultant, Doug Ramey which Chairman Flood read to the Board. Mr. Ramey did not have any major concerns. His recommendations are as follows:

- The contractor notifies him by phone at the start of the project and again 3 days prior to completing the project.
- Mr. Ramey will make inspections during the logging operation, final inspection and project completion, make any recommendations at that time and follow up with their completion.
- The Board will be provided with a final report stating that the project is complete and can be signed off.

Escrow has been paid.

Mr. Kowan presented the Chairman with a Full Environmental Assessment Form. Because the project is over 10 acres this is considered a Type 1 action. Ms. Peek asked about the approximate 30 acres of forested area presently if after completion will be less. Mr. Kowan stated no as it is a selective timber harvest.

MOTION TO ACCEPT THE FULL ENVIRONMENTAL ASSESSMENT FORM AND ADOPT A NEGATIVE DECLARATION was made by Tony Robustelli, seconded by Peter Clair

ALL IN FAVOR - MOTION CARRIED

MOTION TO APPROVE THE SITE PLAN WITH RECOMMENDATIONS MADE BY DOUG RAMEY was made by Tony Robustelli, seconded by Nina Peek

ALL IN FAVOR - MOTION CARRIED

PUBLIC HEARING

**Continued: Lippincott/Cawley Limited Development Tower Hill Road
2-Lot Subdivision Town of Amenia**

MOTION TO OPEN THE CONTINUED PUBLIC HEARING was made by Tony Robustelli, seconded by Nina Peek

Chairman Flood stated this was for discussion purposes only. Michael Hayes stated there are two things before the Board:

1. Michael Soyka's memo of November 17, 2010 covering his technical comments.
2. If the Planning Board concludes that Mr. Soyka's technical comments have been satisfied, this does not automatically mean the Board is required to grant a waiver. If the Board decides to grant a waiver, there may be conditions attached to that waiver.

Mike Soyka went over his November 17, 2010 memo. (See Attached Letter)

1. Discuss the driveway portions of over 12%. Recommend: pave portions over 12%.
2. The Fire Department has accepted the driveway in the current condition. Recommend: Because of weather conditions those steep sections be paved. The driveway maintenance agreement - has been taken care of.
3. A question of 5,000 square feet of disturbance that occurred within the SPO district, how much was there for the original road vs. how much additional disturbance is there to create the driveway. No answer tonight. Defer to Dan Wheeler with mark ups on the drawings – this is an open issue. Will the special use permit be a deterrent to the project or is more of a formality? More work was done on the driveway July 19, 2007 when under the new zoning, a Site Plan approval was required. The Site Plan was submitted in 2009. General Note 6 on Drawing S-2 was revised.
4. Copies of letters from the Highway Superintendent of July 31, 2006 and November 10, 2010 will be provided by Mr. Wheeler Monday/Tuesday of next week.
5. Looking at the profile, it appears the driveway slopes toward the road not away from the road. Mr. Lippincott has improved the main road drainage and this is reflected on the new drawings.
6. Mr. Wheeler is requesting relief of Chapter 105, Appendix C, part 1.2. Relief is granted.
7. Chapter 105, Appendix C, part 1.8 –Title blocks have been changed.

8. Last is the compliance for storm water permit GP-0-10-001. The Town is not a MS-4 community; therefore, DEC has the authority to approve the Erosion Control Plan or Stormwater Pollution Prevention Plan for all projects that require a Notice of Intent. Documents submitted state that 3.5 acres was disturbed with the driveway as well as the current house setting. An Erosion Control Plan is needed, as a minimum. If there are more than 5 acres of disturbance then a full SWPPP would be required. Mr. Wheeler must submit a Notice of Intent and Erosion Control Plan to DEC as well as to the Building Department and to Mr. Soyka's office.

Michael Hayes asked about the slope at the foot of the driveway. Mr. Wheeler stated that was in the plans Mr. Soyka had not yet seen.

Dan Wheeler spoke to the Board regarding the paving of those areas in excess of 12%:

1. The driveway has been in existence for over one freeze/thaw cycle.
2. The purpose of paving the driveway, is to prevent sediment from coming down and blocking or clogging any of the Town's drainage facilities for the road. This test has been passed with the heavy rain experienced in the last few months.

Mr. Wheeler brought out new drawings for the map of the driveway, showing the slopes that were over 12%. Mr. Lippincott asked if the drive would need to be paved past the point where his daughter would build. Michael Hayes stated it would be the Board's call. Chairman Flood said there were other projects before the Board with the steep slopes issue and Michael Hayes told the Board a precedent would apply only for similar circumstances: a 2 lot sub-division on 100 acres with a conservation easement and no further development vs. 20-1 ½ acre lots on 100 acres. The Board may grant a waiver with conditions.

Mr. Wheeler then read a memo from Shawn Pratt, Attorney for Mr. Lippincott dated November 17, 2010. (See Attached Memo)

Chairman Flood had a concern of sliding down the driveway. Mr. Soyka said the side of the road would still be gravel. Mr. Lippincott stated they have placed boulders on the side of the road on the steepest part of the slope. Tony Robustelli asked what happens if one of the parties moves. Mr. Hayes stated the shared drive agreement goes with the land even if the land is sold. Ms. Peek asked short of paving what can the applicant do that is not cost prohibitive. Mr. Soyka said oil and stone is less than paving however it is still expensive and must be maintained every year.

A site visit was set up for Sunday 12/05/10 at 11 a.m. with Mr. Lippincott. Those members of the Board not present will be notified.

MOTION TO CONTINUE THE LIPPINCOTT/CAWLEY PUBLIC HEARING FOR THE JANUARY 6, 2011 MEETING was made by Chairman Flood, seconded by Nina Peek

VOTE TAKEN - MOTION CARRIED

OTHER MATTERS:

Mary Ann Johnson is submitting a proposal to the Town Board to apply to become the Town's consultant.

Chairman Flood spoke with Mike Dignacco – Silo is working on the MOU for the Wastewater Treatment Plant.

MOTION TO APPROVE THE MINUTES OF NOVEMBER 4, 2010 was made by Chairman Flood, seconded by Peter Clair

VOTE TAKEN - MOTION CARRIED

MOTION TO CLOSE THE PLANNING BOARD MEETING was made by Tony Robustelli, seconded by Nina Peek

VOTE TAKEN - MOTION CARRIED

Respectfully submitted,

Susan M. Metcalfe
Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Amenia Planning Board from a meeting held on December 2, 2010 and are not to be construed as the final official minutes until so approved.

 X Approved as read 01/06/11

 Approved with: deletions, corrections, and additions



**ROHDE, SOYKA
& ANDREWS**
Consulting Engineers, P.C.

received
11/18/10 CB

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E-Mail Address: msoyka@rsaengrs.com

To: P.B. M. Hayes

Wilfred A. Rohde, P.E • Michael W. Soyka, P.E • John V. Andrews, Jr., P.E.

FILE COPY

Memorandum

To:	Planning Board Town of Amenia	Attn:	Bill Flood Chairman
From:	Michael W. Soyka, P.E.	Subject:	Review Comments
Date:	November 17, 2010	Project:	Lippincott Subdivision

The following material was reviewed:

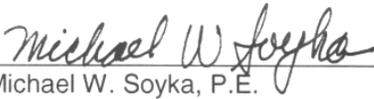
- Drawings C-1, S-1, S-2 and S-3, each dated 11/10/10
- Land Use Application
- Subdivision Preliminary Plat Plan Application dated 10/22/10
- Subdivision Final Plat Plan Application dated 10/22/10
- Special Permit and Site Plan Application Project Description
- Authorization of Agent dated 10/22/10
- Authorization of Agent dated 11/6/10
- Authorization of Agent dated 11/7/10
- Short Environmental Assessment Form dated 10/20/10
- Shared Driveway Easement and Maintenance Agreement last revised on 7/21/10
- Wassaic Fire Company, Inc. letter of July 23, 2010

The following is offered for consideration by the Board:

1. § 105-21.F.(12)(a). § 105-22 (L). Grades along any portion of the driveway shall not be less than 1% or more than 12%. All driveways with grades in excess of 10% shall be provided with appropriate drainage swales, diversion ditches and/or water bars to prevent excess erosion of the driveway and shall be subject to review by the appropriate fire department.
 - Except for a 60-foot ± section of driveway, the grade exceeds 12% for the first 1360 feet ± of driveway, with a maximum grade of 20.3%.
 - It is recommended that the project sponsor pave those portions of the driveway that exceed 12%. That would be approximately 1,500 feet of driveway.
 - The fire department has accepted the driveway in its current unpaved condition.
2. § 105-22(l). § 121-22(B)(9). The proposed common driveway easement and maintenance agreement for the shared driveway does not include special provisions to assure that all turnouts are kept clear at all times, particularly during the winter. The Attorneys may wish to revisit this.

3. § 121-14.1.D(2)(b). Within the SPO District, Site Plan approval shall be required for the following uses and activities including residential uses that are otherwise allowed without site plan review by the Use Table in § 121-10:
 - (2) Within any one year period, in any location that is visible from a publicly accessible place when there are no leaves on the trees:
 - (b) Clear-cutting of more than 5,000 square feet of vegetation on any parcel.
 - Clear-cutting of more than 5,000 square feet of vegetation occurred in the Scenic Ridge Zone for the installation of the driveway in the pole portion of the lots.
 - The location of the proposed structures and the continuation of the shared driveway for Lot 1 should be shown for Site Plan approval.
 - Mr. Wheeler indicates that the driveway has been in existence for several years. When was the driveway construction started to place the driveway in its current condition? If the work was done after July 19, 2007, Site Plan approval is required.
 - General Note 6 on Drawing S-2 should be revised to read "If there is any proposed disturbance within the SPO (Scenic Protective Overlay) District an amended site plan approval from the Planning Board will be required.
4. § 121-43.A. New driveway entrances (including the conversion of farm roads into residential or commercial driveway entrances) shall require permission from the Town Superintendent of Highways for town roads.
 - Provide copies of the July 31, 2006 and November 10, 2010 driveway approvals by the Highway Superintendent.
5. § 105-22.L(5). Driveways shall slope from the road at a grade of not greater the 2% for a minimum distance of 20 feet measured from the edge of pavement.
 - Per the driveway profile, the driveway appears to slope towards the road within this 20-foot section, not away from it.
6. Chapter 105, Appendix C, part I.2. The corners of the parcel shall also be located on the ground and marked by monuments as approved by the Planning Board, and shall be referenced and shown on the plat. The Planning Board may modify the requirement for a field survey of the entire plat.
 - Mr. Wheeler is requesting relief from this requirement. It is recommended that relief be granted.
7. Chapter 105, Appendix C, part I.8. Provide the proposed subdivision name.
 - Change all title blocks to read *Lippincott Limited Development Subdivision*. As submitted, the name *Lippincott* is missing from each of the titles.

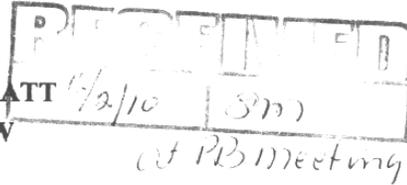
8. I attach pertinent pages 5 and 7 from GP-0-10-001. The project, when taken in its totality, that is, the soil disturbance for the driveway construction, as well as the disturbance for the build out of the two lots has disturbed more than 1 acre of land:
- Note that Lots 1 and 2 are part of a larger common plan of development and even if the disturbance on any one lot is less than one (1) acre, the total disturbance is greater than one (1) acre and an erosion control plan and Notice of Intent are the minimal requirements.
 - The Special Permit and Site Plan Application Project Description states that the construction of the driveway disturbed approximately 3.5 acres. That leaves less than 1.5 acres of disturbance remaining for the two (2) building lots before a full fledged Storm Water Pollution Prevention Plan (SWPPP) is required. Demonstrate that less than five (5) acres of total disturbance will occur so that a full SWPPP with post construction maintenance will not be required.
 - Submit the appropriate plan to the NYSDEC with a Notice of Intent and provide a copy of the NYSDEC submission to the Town of Amenia and the Town Engineer.


Michael W. Soyka, P.E.

cc: Planning Board members via email
Michael Hayes, Esq. via email
D. F. Wheeler, P.E. via email
10-352-38

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MEMO

November 17, 2010

Town of Amenia Planning Board
Attn: Bill Flood, Chairman
36B Mechanic Street
PO Box 126
Amenia, New York 12501

Re: Lippincott Subdivision Application

This memo is being delivered to my client's engineer, Mr. Dan Wheeler to be read into the record at the Public Hearing.

In support of my clients, Alfred Lippincott, Aura Lippincott and William Cawley, Jr.'s application, we request waiver of any paving requirements for the following reasons:

1. The existing farm road has historically been the means of access to the entire parcel. The driveway follows substantially the same path as the historic farm path on the property.
2. Alfred Lippincott's home was constructed on the property with an access through perhaps some of the steepest terrain on the parcel. The home was constructed in the last year with many deliveries of construction materials by heavy trucks and machinery with no problems or adverse effects on neighboring properties or the Town road.
3. Our application is special and distinct from potential other applications due to the fact that my clients are a father and daughter purchasing a property together and hoping to both build residences. It is not a developer. It is increasingly hard for families to afford to reside in the Town and we hope that the Planning Board will keep this factor in mind when making their determination.
4. We had record rain falls and storms in the past year which put all driveways and roads to the test. There have never been any reported problems with drainage from the driveway to the Town road or neighboring properties.
5. The Fire Department and Building Inspector have both approved the driveway as it currently exists with no additional requirements for paving.

6. The owners have very specifically agreed in a Driveway Maintenance Agreement to be recorded, to perpetually maintain the driveway and all associated improvements including drainage structures. It has been revised today to also provide that all turnouts are to be kept clear at all times, particularly winter. It is specifically agreed that the Town will never have to shoulder any financial responsibility in this regard. This agreement has been reviewed by the Planning Board attorney. It will “run with the land” and be binding on all current and future owners of this property.
7. In the event a paving requirement was left as a condition of this approval it would render this parcel virtually useless as it is outside the financial means of my client and probably most applicants. It takes away all of the value that this parcel may have.
8. Our engineer has discussed with the Town Engineer and the Town Attorney why paving is not the best answer to address the concerns that the Planning Board members might have.

In conclusion, for all of the above reasons, we request a waiver of the paving requirement and urge the Planning Board to approve the current application. After considering all of the points above, the Planning Board will have shown that the waiver in this particular case was a carefully considered and well supported decision.