



TOWN OF AMENIA

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PLANNING BOARD MEETING THURSDAY, OCTOBER 17, 2013

PRESENT: Nina Peek, Chair
Peter Clair
Nathan Roy
Tony Robustelli
James Walsh
Norm Fontaine
Dave Everett, Attorney

ABSENT: Larry Moore

MOTION TO OPEN THE PLANNING BOARD MEETING FOR OCTOBER 17, 2013 was made by Jim Walsh, seconded by Nathan Roy

VOTE TAKEN - MOTION CARRIED

DeLaTorre/Allen

Site Plan

**344 Smithfield Valley Road
Amenia, NY**

Rhoda Kennedy, architect for the owners of the property at 344 Smithfield Valley Road first came to the Planning Board on May 2, 2013 for an informal work session. Ms. Kennedy was back in front of the Board, tonight in a more formal capacity. Ms. Kennedy explained that the project is proposed to be a phased development. Last May, the Applicant had not figured out what they wanted to do with the property. At that time they knew they would proceed with demolition of existing structures (which required a demolition permit from the Building Department) and a construction of a guest cottage, which (for which they needed permits from the Building Department). The Applicant proposes to live in the to be built guest cottage while developing the details of the site plan for the main house and associated structures on the property. The Applicant is not currently ready to submit a full site plan but wanted to meet with the Planning Board to ask a couple of questions regarding next steps. Ms. Kennedy showed the Board maps drawn by their Landscape Architect. The top drawing reflected existing conditions, i.e., the Hammond dairy barn structures, the main house and a single family home. To the west of Smithfield Valley Road is a flood plain and to the east of Smithfield Valley Road the land slopes up. The bottom drawing represented the proposed condition, noting that there would not be much change to the physical characteristics of the property. The Applicant purchased the property because they liked the way it looked and propose to clean up and enhance some of the natural features, habitats or natural plantings. The entire parcel consists of 266 acres.

There is a Class C, ACOE regulated-stream on the property. As part of the application for the demolition and building permits for the cottage, the Applicant submitted an application to the ACOE and had a visit by an inspector and is also working with a wetland biologist. The boundaries have all been delineated. Ms. Peek asked if the Army Corp issued a Jurisdictional Determination letter. Ms. Kennedy answered-yes. Nathan Roy asked if the structures indicated on the map were existing structures. Ms. Kennedy responded that all on-site structures, with the exception of one structure had been demolished. Dave Everett asked if they were proceeding under a Nationwide Permit under the Army Corp. Ms. Kennedy said yes, but was not sure which one. Mr. Everett advised Ms. Kennedy to inform the Board when they determined, which permit would be required from ACOE Ms. Kennedy agreed to provide all correspondence between anyone working on the project and the Army Corp, as well as the dates when the inspectors were on site.

Ms. Kennedy presented the proposed map, indicating that they have secured a building permit for the guest cottage, and the foundations have been poured. The project proposes a wetland crossing on the property and an application has been submitted to ACOE. The crossing has not been built yet. Also the proposed driveway has not been completely graded. There is a pond on the property and a weir. The weir is falling down. Morris Associates will be preparing flow calculations and will design the repair of the weir, per ACOE.

The Applicant proposes to develop an existing farm road into a proper driveway. The project will provide pull offs as required by the Fire Department, grading and snow removal as required by the Code. Ms. Peek asked what material the paving material would be. Mr. Bump, the contractor for the project stated it would be Item 4.

James Walsh asked what the difference was between a Class C Stream and a Class D Stream. Ms. Kennedy was not quite sure about the classification of the streams; however, she explained that the stream on the project site is considered a Class C Stream regulated by the ACOE, not the DEC. If it were to be classified a CT Stream – Trout, TS is trout spawning, then it may be regulated by DEC. C means it is for recreational use. Mr. Walsh asked if it was a registered trout stream. Ms. Kennedy stated no. Ms. Peek added that the classification system does not necessarily mean that a Class C Stream is always governed by the Army Corp; this just happens to be an Army Corp regulated waterway and is also a Class C stream. Mr. Everett went on to add if it is a protected stream, which is A, B, CT or CTS, a DEC permit is required for any activity within 50 feet of the stream bank. James Walsh asked would the same regulations apply to a stream that is governed by the Army Corp of Engineers. Mr. Everett explained that the Army Corp doesn't have regulated buffers around their streams and wetlands, but they protect the bank and any wetland fringes that may be around the stream. He continued they would still need a permit to impact the stream. The Army Corp has set up a variety of permits for different types of activities; oil and gas, residential, and farming. Each permit has different requirements that need to be met. Mr. Everett then asked Ms. Kennedy if the Applicant proposes to bridge the stream. Ms. Kennedy stated yes and they are keeping the cottage back 50' from the stream even though it is not a requirement. Ms. Kennedy added that the existing farm road dips into a gully with a very small culvert and the Applicant proposes a proper bridge over the stream. Ms. Peek

asked if they were replacing or resizing the culvert. Ms. Kennedy stated they were resizing it. Mr. Bump added the culvert size is being increased and a new culvert is being put into place.

James Walsh asked where the main house is proposed. Ms. Kennedy noted that the existing farm road also comes up the side (pointed out on map) but it is really steep. The Applicant is working with the landscape architect and Morris Associates to study the contours and any rock outcroppings as well as more do surveying to design a road with access to the main house without violating any of the steep slope regulations and keep our disturbance at a minimum. Ms. Kennedy added that they have submitted a basic SWPPP to cover the activities for which they applied for permits, including the demolition of existing structures and has also submitted permit applications to DEC. Dave Everett stated the Planning Board Engineer would need to see the SWPPP as there is a provision in the code that talks about erosion and sediment control with respect to the Site Plan. Ms. Kennedy stated they submitted an erosion and sediment control plan as part of the construction document for the cottage and will provide this to the Town Engineer.

James Walsh asked if the bridge the Applicant is going to install will it be able to handle a fire truck. Ms. Kennedy stated yes. Mr. Walsh asked what capacity? Ms. Kennedy did not know, however, the Applicant has retained a structural engineer to design the bridge. Mr. Bump believed the bridge has a 20 ton rating. Mr. Bump continued the challenge of the driveway is the slope of the last 50-80 feet. The planned house site sits upon a plateau and the last amount of incline needs to be designed to meet all the steep slope and fire requirements within the Town. Mr. Walsh then asked if they had reached out to the Fire Chief yet. Ms. Kennedy stated there was email correspondence between Tom Harvey, from Morris & Associates and Chris Howard, Fire Chief. Ms. Kennedy noted that when the project is a little further along then the Applicant will submit more to the Fire Department for review. Dave Everett asked how wide will the driveway be. Mr. Bump stated 14'-15' wide. Mr. Everett stated the State Fire Code had certain requirements for driveways over a certain length to which the Applicant will need to comply.

Ms. Kennedy stated there will be a main house – two stories, a barn structure which will have indoor recreation and storage with other accessory uses, a pool house and a pool. The location of these structures will be based on careful studies by our landscape architect and surveying by our surveyor and civil engineers to figure out where there are some natural level areas. There is a landform they call “the nose” and they would like to keep the buildings off that to preserve the line of woodland forestry planting where it opens up to the southwestern farm view. The intent is to retain the natural landscape, to prevent the construction of the main house within an open exposed field, but retention of views of the surrounding areas. Within the SPO overlay there are some requirements in terms of limiting the clearing, the applicant will follow all the guidelines that are in the zoning law. Ms. Kennedy stated they do not anticipate any type of variances, exceptions or considerations; all of the regulations for both the aquifer and the SPO seem to go along with the directive of their client.

Ms. Kennedy asked the Board if they were comfortable with the direction the Applicant is headed and how should they proceed. There are certain documents that can be made readily available in anticipation of a more formal submission that will kick off the list for the Site Plan

review. There are certain documents that are not yet available. Ms. Kennedy asked what documents the Applicant would need to produce and when should they come back before the Board.

Nathan Roy asked about the setback for the cottage, was it 50'. Ms. Kennedy stated it was more than that actually. Mr. Roy thought the requirement was for either 100' or 150'. Ms. Kennedy noted that the ACOE only requires a 50' setback from the stream. Mr. Roy asked whether the cottage would have its own septic system. Ms. Kennedy said yes and that there would be another septic system for the main house. Ms. Kennedy stated there is an outline on the site plan showing the location of the septic system for both the cottage and the main house. Dave Everett asked if they had filed an application with DOH for the septic and the well. Ms. Kennedy stated only for the cottage. They will not file with DOH until the Board reviews for the rest of the project. Mr. Everett asked if they could provide the Planning Board and the Town Engineer with the Army Corp and the DOH permit applications. He asked if their plan was to proceed with the construction of the cottage before getting Site Plan Approval. Ms. Kennedy stated yes. Mr. Bump stated he was at this meeting to make sure the Board and the Applicant are all on the same page about which permits have been submitted or applied for and approved thus far and make sure the plan is moving forward for the following three matters:

1. Sometime last spring demolition permits for the all existing buildings on the property were applied for and granted by John Fenton. Mr. Bump continued, of those buildings all have been demolished and inspected by Mr. Fenton with the exception of one building, which will be demolished in the near future.
2. The permit for the building of the cottage there has been some confusion about what that permit covered. The Applicant wants to do is to apply for a building permit for the cottage and also for the driveway from Smithfield Valley Road up to the cottage. Some landscaping work would be required mostly for SWPPP and small site scape work that is planned.
3. The construction of the main house at the top of the hill would start either next summer or fall 2014. The Applicant will take a while to work through the Planning and Zoning process and then SWPPP and BOH approval. We will probably apply for BOH permits, presenting the SWPPP plan for the main house sometime in the spring-2014.

Dave Everett asked how many square feet was the cottage. Ms. Kennedy stated 1200-1300 s.f. Nathan Roy asked what was the condition of the buildings that were taken down and how old were the buildings. Mr. Bump stated they were in very poor condition. Ms. Kennedy added the barns were dangerous and the owner felt they were not safe. Mr. Everett asked if the buildings had been occupied before they were demolished. Ms. Kennedy answered there was a tenant in one of the buildings. Norm Fontaine stated that Julie Mangarillo had talked about the historical nature of the existing buildings and inquired whether that needed to be looked at? Ms. Kennedy stated they have all been demolished with the exception of one building. Mr. Everett said the owner is entitled to demolish buildings on their property before seeking Site Plan approval which is what they did. If they were in a historic district, then they would need approval from SHPO, however they are not in a historical district. Ms. Kennedy stated that it was her determination that the on-site buildings, which have already been demolished, and the one that is planned to be

demolished have no historical value. Ms. Kennedy went on to ask whether the Town had its own historical significance determination noting that she did consult New York State SHPO to see if there were any national historic or landmark sites on this property and there are none.

Mr. Everett stated when the application for the Site Plan Application materials were submitted to John Fenton, a stop work order was issued because the law prevents the Applicant from undertaking any additional work until the Planning Board has granted Site Plan Approval. The question remains: can the Applicant demolish the remaining structure before Site Plan Approval is granted. Ms. Kennedy felt they were coming to the Planning Board for Site Plan Review, and proposes that the actual “existing condition” represents a site without any structures. Ms. Kennedy acknowledged that when they appeared in front of the Board on May 2nd they had a different “existing condition” with all structures shown on the Plan. When Mr. Fenton saw the current proposed “existing condition” he stated his opinion that this does not represent the same “existing condition”, as was previously submitted and demolition activities should not be approved while the Site Plan approval process is underway. Mr. Everett stated that the first time the Applicant came before the Board, they had not submitted an application, it was just preliminary discussion. Ms. Kennedy stated they discussed what the next steps would be in the Site Plan process. Nathan Roy asked if they still had the stop work order in place. Mr. Bump stated he spoke with Mr. Fenton today his words were, “it’s a soft stop work order”. Mr. Bump requested clarity on what they can and cannot do, however when we got word of the stop work order, our workers stopped work. Mr. Bump went on to say they do have a full permit for the construction of the cottage. Ms. Peek asked whether the site comprised one lot and the Applicant replied that it was one tax parcel. Norm Fontaine asked whether the two buildings on one parcel are all part of the same development. Mr. Bump replied yes. James Walsh didn’t see any issue. Mr. Bump continued whenever they have done building in the town, and have done quite a few buildings, if there have been multiple buildings on the property and they were not applied for at the same time, they have completed them in stages. Norm Fontaine added if the Applicant had not said anything to the Board and just demolished the buildings and acquired a building permit for the cottage, it would have been ok. Ms. Kennedy reiterated this is why they came to the Board on May 2nd to try to outline what the Applicant wanted to do and make sure it was ok to proceed with the as of right activity.

Dave Everett stated that Site Plan is required for a house that is over 5,000 s.f. that is why you are here. The cottage is not over 5,000 s.f. and therefore no Site Plan approval would be required for that. However, the proposed main house will exceed 5,000 s.f. and additional accessory structures are proposed. Because this is all one tax parcel, technically, the Applicant cannot build the accessory structure (which is what the cottage would be), without going through Site Plan review for the entire parcel.

Ms. Peek stated also, that large sections of the property are located in the SPO. Mr. Everett agreed and added the other issue is that the Applicant has submitted a Site Plan application to the Board rendering the cottage as an accessory use to the principal building. The Applicant is also going to build other buildings. That is why the Code requires the Board and the Applicant to review all proposed structures under one Site Plan. Mr. Everett felt that John Fenton was looking for feedback from the Board as to whether or not the Board felt it was ok to demolish the last building and continue the building of the cottage. Ms. Kennedy stated that the cottage was

not in the SPO. The main house, as proposed right now, is clipping the edge of the SPO boundary and the proposed septic system and a portion of the driveway is in the SPO. The structures that are proposed to be in the SPO are limited to a corner of two buildings. The Applicant has not submitted the drawings of the buildings, height, trees that surround, visibility. Ms. Peek felt the Board understands that the Applicant wants to get things moving, however, recommended that they submit one full site plan package when everything has been decided, instead of piecemeal. Then the Board's Engineer will do a full review and give you back comments. Mr. Everett added this would go much faster and be more efficient for everyone in terms of time and money.

Mr. Bump agreed however stated that the owners want to live in the cottage and see what they want to do with the property and therefore the construction on the main house would not start until probably the end of next summer. Ms. Kennedy felt they could push the process along where they can make decisions about the house, the location, the design, the elevations, and work with the Landscape Architect to define the clearing area and provide a drawing that shows the boundaries of the clearing.

James Walsh stated two concerns: (1) grade of the driveway and (2) height of the house. Norm Fontaine added the owners don't know what and how they are going to do the project yet, so they really can't submit an application. Mr. Fontaine advised that the Applicant should continue to tear down the building left, build the cottage and let us know when you are ready to proceed. Mr. Bump stated the design process takes a lot of time. The Applicant wants to experience the land by living there. He continued everything is very preliminary in regard to the house site, soils testing, investigating geo-thermal, and a house design that is being considered, however nothing is finalized yet. Ms. Kennedy felt that the Applicant needs to know up front if the Board has any issues with the project. Mr. Bump finalized by saying, it seemed to him that the Board is looking for height of buildings, driveway grade, site line and those types of things. Mr. Everett stated that in addition to the Site Plan review process requirements, the Applicant must demonstrate they will comply with the SPO requirements.

Ms. Mangarillo stated in her memo to the Planning Board that the on-site stream is a DEC stream, not Army Corp. Dave Everett stated he looked the stream up on the DEC Resource Mapper and it is a Class C ACOE regulated stream.

Ms. Peek affirmed that the Applicant requests from the Board tonight a directive for John Fenton that it is OK to continue with the demo of the last on site structure and proceed with the construction of the cottage. Dave Everett interjected legally the cottage is outside of the SPO and under 5000 s.f. so they can do it as of right as a principal residence. However, the Board will need to "forget" that the cottage is actually proposed to be an accessory structure to the Main House, for which a Site Plan application is pending. Any excavation over 5000 s.f. in the SPO will require Site Plan Approval from the Planning Board, so Mr. Everett advised that before any work occurs for the driveway, the Applicant will require Site Plan approval from the Planning Board. Because construction of the cottage (as a single family home), it is considered a Type 2 action that is exempt from environmental review under SEQRA; however, the action for the construction of the Main House, will be considered a major project, required SEQRA review during Site Plan Review. The site is also on a county highway; but, because the main house

proposed to be more than 500 feet from the road it may not need to be referred to Dutchess County Planning. This will be determined during Site Plan review.

Mr. Bump noted that the proposed driveway entrance is going to be in the same location as the existing driveway and the width is 12' outside is 14'. There will be a shared driveway for the cottage and the main house. Ms. Peek reiterated that right now the cottage is considered the only structure on one single family residential lot. However, the Planning Board knows the cottage is actually an accessory structure. So the current request is that the Board sign off on allowing the construction of an accessory structure for a main structure that we know is coming down the road and allow them to build the accessory structure before they get Site Plan Approval. Mr. Everett explained that they are building this cottage now and that is to be considered the principal structure. Ms. Kennedy asked if it would be considered multiple dwellings on the same property, which can be done. Mr. Everett added the Board could consider this an accessory to the principal; however Mr. Fenton would have to make a determination as such. Tony Robustelli asked if the cottage has an existing well and septic. Mr. Bump stated it does not, both will be new.

Mr. Everett noted that the property is located in the Aquifer Overlay District but the section of the Code basically exempts single family homes. However the Applicant will need to address disturbance of steep slopes. The Applicant submitted an Ag Data Statement and this will need to be circulated to the neighbors, when the Site Plan application is officially submitted. Mr. Bump told the Board that 396 Smithfield Valley Road is farmed.

Mr. Everett asked if the farm debris and trash had been cleaned up. Ms. Kennedy stated most all had been cleaned. Ms. Peek asked what was in the dumps. Mr. Bump told her old mechanical equipment. A Phase I ESA was done and nothing was flagged. Ms. Peek asked where the debris was disposed. Mr. Bump was not sure, but would provide that information to the Planning Board during Site Plan review.

Ms. Peek then asked the Board if everyone agrees that the Applicant can proceed with the demolition of the single structure left on site and proceed with the building of the cottage. The Planning Board all agreed that this was OK. Ms. Peek will send John Fenton an email that he should get rid of the stop work order. Ms. Peek continued the next step will be to submit a full site plan application when the Applicant has decided what they want to do. However, Ms. Peek noted that if, in the interim, the Applicant would like to come back to the Board informally for advice that would be fine but advised them not to submit paperwork along the way as it is not efficient for the Applicant or for the Board. Ms. Kennedy asked if they were to follow the guidelines for Major Site Plan Review in the SPO. Ms. Peek said yes.

Nathan Roy asked that they set the cottage back 100' from the stream corridor overlay. Mr. Everett didn't believe it was in a Stream Overlay District.

OTHER MATTERS:

MOTION TO APPROVE THE MINUTES OF SEPTEMBER 19, 2013 was made by James Walsh, seconded by Peter Clair

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 October 17, 2013 and are not to be construed as the final official minutes until so approved.

Approved as read 11/07/2013

Approved with: deletions, corrections and additions

