



TOWN OF AMENIA

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ZONING BOARD OF APPEALS MEETING MONDAY, MAY 19, 2014 7:00 P.M.

Present: Chairman Leo Blackman
Paula Pelosi
Terry Metcalfe
David Menegat
Kevin Cassone
David Everett, Attorney

MOTION TO OPEN THE ZONING BOARD OF APPEALS MEETING was made by Chairman Blackman, seconded by Terry Metcalfe

VOTE TAKEN – MOTION CARRIED

Silo Ridge

Workforce Housing

Mike Dignacco, Millbrook Ventures and Juan Torres representing Silo Ridge addressed the ZBA. The applicant wants to put workforce housing on site to be located near the Maintenance Building on the property and wanted to know if the Board would be in favor of granting an area variance needed before they proceed. Chairman Blackman asked how the 16 units were calculated. Mike Dignacco stated it was based on 10% of Phase I. Mr. Blackman then asked what the total number of employees would be when fully operational. Mr. Dignacco stated 121 full time employees and 79 seasonal – 200 total. Mr. Blackman went on to state that workforce housing and employee housing were described somewhat different in the Zoning Code. Since there is a restrictive covenant for the employee housing since it is to become workforce housing if in the future there is no need for employee housing. In that case it must meet the qualifications for workforce housing. The Code is very clear that workforce housing will be indistinguishable from the housing on the rest of the property, integrated in terms of the location and appearance. This is physically separate and located behind the Maintenance Building, more like a dormitory than houses. Mr. Dignacco stated the workers living there will be working in the Maintenance Building area and the applicant's intent is to make it look like a farm stead. It is a good location, however separate from the project as a whole. Chairman Blackman felt this was problematic in terms of the intent of workforce housing. The Zoning would suggest another townhouse unit on the green that had workers in it. The Code stated that employee housing (for workers at the development) could be substituted, but with this restrictive covenant the housing might yet revert

to workforce use (for firemen, teachers etc.). As a completely separate enclave, it doesn't appear appropriate to that use. The percentage is less a problem for him than the intent of the requirements for a TND or RDO. Kevin Cassone stated it depends on what the definition of "integrated" is. It is integrated into the whole project. Mr. Cassone felt the workforce housing was as connected as it has to be to these luxury units. David Everett stated the Zoning Code is inconsistent on that issue. He read Section 121-42 C(1) however another Section states "The applicant may instead of building workforce housing on site substitute one or more of the following alternative measures – construct the workforce housing units in another location". Mike Dignacco added this employee housing is on a separate lot.

This is a new part of the project Mr. Blackman noted. Mr. Everett added in the Section of the Code where "the units have to be integrated", it also states the Planning Board may waive that requirement where the applicant proposes to build workforce housing units off site in locations identified as appropriate for such housing in the Comprehensive Plan. He was not sure if the Comprehensive Plan addresses this particular location. If it does allow the area for Workforce Housing, the Planning Board has the ability to grant that. Mr. Blackman said the Comprehensive Plan recommends that new housing be built within the hamlets, so building it along Route 22 separate from everything else seems out of line with that. If a person is a resident of Amenia they should feel like a part of the community they live in. Housing located behind a Maintenance Building between two landfills adjacent to chemical storage is less than ideal compared to the housing which will exist in the rest of the project. Mr. Cassone felt that the code was vague and how can the applicant sell million dollar units and the next door neighbor is the maintenance man who cuts the lawn. Many of the people buying into the project came from humble beginnings and are now able to move up. This would not work. Mr. Blackman felt the issue was what does the zoning say (even if it makes it complicated for Silo Ridge, or creates an as it is an odd condition)? Terry Metcalfe asked if that parcel was a separate parcel from the original? It is separate by easement and owned by a different entity as well. Mr. Metcalfe asked from that point of view it meets the criteria of being off site? Mr. Everett stated yes. Mr. Blackman added that it would still not meet the intent of the Comprehensive Plan as it is not located where you would put multifamily housing. Mr. Cassone felt that the Plan was referring to the hamlet of Amenia and Wassaic not a hamlet of Silo Ridge. Mr. Blackman continued if you are reading the Zoning Code that the intent of the Resort Overlay was to group new development in a way that is similar to a hamlet. Silo is not a hamlet as the ZBA lost to the Planning Board in terms of the gate house and other issues. The point of this is to get from new development something that the Town wants which is housing that allows people, who might be emergency workers, firemen or teachers who feel priced out of the community to live here. The easement means what it built now could come back to the town as Workforce Housing.

Tom Werner (audience) asked if they were going to subdivide the portion where this was proposed and do they meet the building requirements? Mike Dignacco stated the property was defined by an easement. Mr. Everett interjected what happens if they move the lot line adjustment to include the workforce housing so that it was on the Silo Ridge site. Would that change the Board's view at all or remain the same. Mr. Blackman felt that personally it is not just the issue of the lot it is the fact that this housing is separate from all the other housing.

Mr. Werner asked there was a section that this could be sold. Mr. Blackman explained that the workforce housing can be rented or owned. Mr. Werner felt if you don't subdivide into one acre parcels how can they be sold? Mr. Blackman said if they were built as a multifamily building or townhouses they are physically joined but separately owned, and that structure could be set up for the proposed housing as well. Kevin Cassone added they are not single family homes; it is one large multifamily building.

Hypothetically, Mr. Everett asked if they moved the workforce housing closer to the Estate Homes would that be more integrated. Mr. Blackman stated that if it were located on a road where there were houses or on the green that is what he felt workforce housing should be. He continued ten percent of the homes are supposed to be available the people who are members of the community who could not afford to live there otherwise. This is the intent of the Zoning.

Ms. Pelosi suggested putting workforce housing on the ends of the units. Mr. Everett asked the applicant's representatives if they thought moving the building closer into the site would be feasible. Juan Torres stated based on where everything is located, the golf and steep slopes they would need to take away units from what the actual plan calls for. When you look at how the site is built there are not many areas due to the constraints on the SPO where this can be located without taking out two condo buildings and put in workforce housing. Mr. Everett asked maybe if you moved it down a little closer to the Estate Homes that maybe it would satisfy Mr. Blackman and the Board. Mr. Cassone asked if the workforce housing was located in the center of the green down the road how would this be able to be separated out. Mr. Blackman replied that a not-for-profit would manage the HOA. It's complicated to manage. He felt it was unfortunate that Silo was given the direction that the waste water treatment plant should satisfy the workforce housing requirement because now this is trying to be squeezed in after all the other decisions have been made. Mr. Everett added that the applicant is looking at a variety of different options. They are (1) building it here, (2) building it off site, or (3) paying an in-lieu-of fee, which the Town Board is trying to figure out what that local law is going to look like-the calculation of the fee, which the Town Board has not yet calculated.

Mr. Dignacco added other projects have had the same problem, whether it is called employee housing or workforce housing it doesn't satisfy the workforce housing condition. His employees will need a place to live, and at his other projects the employees are very happy to live on site. This allows them to just walk out the door to their work knowing their families are safe there. Mr. Everett stated possibly another option would be to seek a variance from the ZBA from the workforce housing units so if they provide X number of units as employee housing on their site the ZBA can look at that and say that is like workforce housing. So maybe the ZBA could consider a variance allowing the applicant to build less workforce housing and then find another place to build or pay the in-lieu-of fee.

Tom Werner asked if this had been discussed with the Housing Committee. Sue Gregory of the Housing Committee addressed the ZBA and stated the Housing Committee has nothing to go on. Mr. Dignacco stated the unit size was pulled out of the Zoning. There are proposed studio, 1 and 2 bedroom units all in one building 6, 6 and 4. Ms. Gregory continued because there are no

dollar amounts and the build out will be 9-10 years it may be easier to do an in-lieu-of payment. A contribution of a dollar amount towards a waste water system was her personal feeling for the best solution. Mike Dignacco found out today (5/19) there should be an answer to a dollar figure a week from this Friday. Chairman Blackman asked Ms. Gregory what the Housing Committee wanted. Ms. Gregory felt a few years ago the in-lieu-of for wastewater made sense, but then everything on the project stopped. If this was a regular development it would be easier, however this is complicated. Mike Dignacco stated that the waste water issue had been pulled back. Ms. Gregory stated when Silo Ridge made their presentation to the Planning Board; the Housing Committee was given a basic understanding of scope.

Chairman Blackman asked the Board how they felt. Terry Metcalfe felt the need for employee housing by the Maintenance Building. Building workforce housing on a separate piece is not integrated and does not meet that criteria of the Comprehensive Plan. Ms. Pelosi felt that what Mr. Metcalfe said sums it up. Tom Werner asked about how to tax these separate houses owned by someone else. Mr. Metcalfe stated it would be more like an apartment building where the owner would pay the taxes. Kevin Cassone felt it came down to the word "integration". In the future if this needs to be separated with its own tax id number and plot plan it can't be integrated into the project. The Comprehensive Plan states that multi-family development, assuming that there are sewers, are intended to be in the hamlets. Dave Everett added maybe to check that, as the Zoning Code allows for multi-family housing in the OC district, which is what this site is. Ms. Pelosi felt that multi-family housing is different from workforce housing. Mr. Everett disagreed this is one large building with multiple families living there. Ms. Pelosi continued asking doesn't workforce housing have to do with affordability? Mr. Everett answered it was both; while it is workforce housing it also needs to comply with the section of the code that allows single family homes or one large multi-family unit. Ms. Pelosi asked if workforce housing was a specific percentage of the project. Mr. Everett replied yes, but the applicant has the option to build it as they want; single family homes, or multi-family units. Dave Menegat agreed with the Board but felt that people buying these homes would not want the workforce housing wedged into the project and felt that if it was done elsewhere on the proposed site that would be ok. Frankie O'Connell asked how far away would it be. It would be placed down by the gates to the old town landfill. Ms. O'Connell felt that was integrated on the property.

Chairman Blackman stated the intent was not to emphasize the class difference. Ms. O'Connell stated there is a class difference. She continued the lawyers have stated the Zoning Laws should be looked at every two years and changed as needed. Mr. Blackman stated in NYC when they build new housing 20-30% must be affordable housing and they all use the same elevator and entrance. Mike Dignacco asked if the applicant would be allowed to buy a building and renovate it in the hamlet? Mr. Everett discussed this with Pedro Torres a while ago and the applicant can buy other housing and it doesn't need to meet the style of the homes on the Silo project. Mr. Dignacco asked if they bought 4 -4 unit buildings then that would be acceptable? Mr. Blackman added you could buy them in four different parts of the hamlet. Mr. Everett stated the Zoning Code gives the right to the Planning Board to waive the integration requirement; he wanted to know what the Board felt about the 20% requirement for the area variance. If the Planning Board waives this integration, what would the Board's position be on that 20% requirement?

Mr. Everett continued the Zoning Code limits the number of square footage that multi-family units can contain in the OC district. Because they are building a maintenance building and the multi-family housing building, they can't meet the 20% requirement. So the applicant is asking for the variance to add 5000 square feet. Chairman Blackman felt that the issue is not the % variance but that the proposed workforce housing does not meet the intent of the Zoning Code. Mr. Metcalfe felt that as designated employee housing it was ok, however if it is designated workforce housing it does not meet the criteria. Kevin Cassone stated workforce housing is what they need to have. Mike Dignacco added the application is to meet the requirements for workforce housing. Leo Blackman felt it was clear what Silo Ridge was asking for is in the letter that was provided dated May 9, 2014. If this were just their employee housing and not something required by the Zoning Code for the RDO then it would be fine, but that is not the case. Terry Metcalfe asked what it would take to meet workforce requirements. Mr. Cassone felt integration. Dave Everett added, "Or if the Planning Board waived the integration requirement". If the Planning Board were to do that they would want to know what the ZBA thoughts were on the underlying variance which is the 20% requirement. Mr. Everett concluded that he felt Mr. Blackman's position was that integration is critical and would not approve the variance even if the Planning Board waived it. Terry Metcalfe felt that with a decision waiving the integration of the workforce housing requirement from the Planning Board, he could support the variance, and Mr. Cassone agreed. Mr. Metcalfe went on, with the physical layout of the site it would be extremely difficult to integrate any type of workforce housing throughout million dollar homes. Dave Menegat interjected if we push to the negative will the ultimate end be worse for these employees than it would be if we gave them the variance for the size. Mr. Dignacco stated that there are 4000 employees all over the world who have nice housing provided on site where they are safe and happy. Dave Menegat and Terry Metcalfe felt the variance for the 20% was OK.

Chairman Blackman noted his concern about the separation of the housing from Silo Ridge. Mr. Everett stated it could be worked out. Mr. Blackman asked if newly constructed on-site housing not on the Town Green but remote from it is still better than renovated or new housing in the hamlets of Wassaic and Amenia for workforce housing? He felt it would be better in the hamlets or in Silo Ridge proper. Ms. Pelosi asked what was wrong with buying properties in the hamlet and renovating? Mr. Everett asked if there were 16 units that would be available to the applicant to purchase in the hamlets? Ms. Gregory stated in Section N – it can be established by separate local law a fee to a dedicated Trust Fund. Before there was a dollar amount and now there is nothing. Mr. Everett interjected the Town Board is working on that dollar amount. Ms. Gregory continued that was not necessarily for a Housing Trust Fund. She also felt that the workforce housing criteria was not being met.

Ms. Pelosi asked Mr. Everett to explain the variance. Chairman Blackman read "New residential development shall not exceed 20% of the total floor space in any development project in the OC District". In a mixed project in the OC district like this, it is supposed to be a smaller per cent of housing and more other use. They are asking to build more housing and less commercial. The variance would allow the applicant to add 5000 square feet to the housing. Mr. Everett stated if the Planning Board waived the requirement it looks like 3 on the Board would be in favor 2 against. The ZBA needs to give feedback to the applicant and the Planning Board to give them an outline of the Board's position.

Mr. Metcalfe asked if they were going to have 200 employees how many would be living in the employee housing? Juan Torres stated there were 121 full time employees and 75 seasonal. Most of them would be living in the surrounding area. Mr. Metcalfe felt since there will only be 16 units; the rest of the full time/seasonal staff would be living on the local economy. Both Mr. Dignacco and Mr. Torres reside in the area. Ms. Pelosi felt there would be need for more housing in the future. Mr. Everett added this is just Phase I, when they build out Phase II and Phase III they will be adding more workforce housing units.

ZBA DIRECTION: The ZBA understands the need for employee housing at Silo Ridge and would not object to employee housing, but does not feel the proposal meets the Zoning criteria for Workforce Housing as it is not integrated into the rest of the community in the way it is mandated by the Code and Comprehensive Plan, whether it is the same lot as Silo Ridge or separate from it. As employee housing the 20% variance would be acceptable.

Mr. Everett asked if the Planning Board would waive the integration requirement how would the ZBA feel. Terry Metcalfe felt if that was what the Planning Board wanted to do then the ZBA voiced their opinion. Mr. Blackman felt if the Planning Board made decisions about zoning variances, then that would be problematic. Mr. Everett added under the law the Planning Board is allowed to waive that. Kevin Cassone felt that it is integrated into the whole project and unless the Zoning Code defines the term, it is left up to conjecture. Terry Metcalfe added as a separate entity it is integrated into itself. Mr. Everett asked the Board if they made the lot line adjustment to include this property in their site (move from Hudson Valley Landfill Corp. to Silo Ridge Ventures) would the ZBA feel it would be integrated into the project and meets the requirements of the integration piece of the workforce housing. Mr. Metcalfe said no. Ms. Gregory cited 121-42 C.1. Mr. Metcalfe felt that does not state where to locate, it states it must be physically integrated into the overall design. Ms. Gregory continued it must look like the market rate units; you should not be able to distinguish one from the other. If the unit is off site, which it is, it does not need to meet that standard, however there are certain criteria that it does need to meet and she did not feel it did. She asked is it going to be employee or workforce housing - as defined by the Housing Board? Mr. Everett said the applicant wants it to qualify for workforce housing.

Mike Dignacco stated there was a provision in the Code that allowed employee housing to satisfy the workforce housing off site whether it is in the hamlet or someplace else. Mr. Everett replied if the applicant wants it as employee housing to qualify for workforce housing you will need the restrictive covenant, which the Chairman discussed in the beginning of the meeting. Chairman Blackman read 121-42O which means that the employee housing must in that case meet the workforce housing requirements, in order to satisfy the workforce housing requirements, in order to satisfy the Comprehensive Plan. This project needs to be designed to the standard of workforce housing because its restrictive covenant states that at some point it may revert from Silo to the Town.

ZBA DIRECTION: The ZBA feels that workforce housing would need to be either better integrated into the larger property, located off site in a way that clearly satisfies the requirements for workforce housing, or accommodated by a payment to the Housing Fund.

Juan Torres asked if that were on another site, other than the variance how would that not meet workforce housing. For instance if it were further up on Route 22, it's in OC zone you would need the variance because of the percentage, how does that not meet workforce housing. Chairman Blackman felt that the OC zoning means that the housing is a small component of something else. He is going to check the wording of the Comprehensive Plan but his memory is they say would like to make the hamlets more alive and functional. If there is more development they would like them in the hamlets not between the hamlets.

Kevin Cassone noted everyone's objection to this project meeting the criteria for workforce housing is that it is not integrated enough. This is a separate lot and there is no integration, so if it is put down the road two miles it can't be integrated. Mr. Everett added if the Planning Board waives the integration requirement, what would the ZBA position would be on the area variance?

Chairman Blackman stated the OC zone is Office/Commercial development with some small accessory housing allowed. It is not intended for building housing as a primary use along Route 22. The Comprehensive Plan states that new development should be in the hamlet and they made the exception in the RDO zone. If the Planning Board waives that requirement, it does not give the benefit that the workforce housing is supposed to provide from Silo Ridge, which is new housing in a place where the Comprehensive Plan would like it to be. The newly proposed location is isolated down along Route 22, between two landfills and near chemical storage. Mike Dignacco added out of 121 full time employees this only satisfies 16. The others will live in and around the hamlets.

Terry Metcalfe asked if the Maintenance Building were larger and a variance was not needed what would the feeling be? Chairman Blackman stated it is still not integrated into the project. Workforce housing is a benefit to the town from Silo Ridge that they would not be providing. Juan Torres stated if they were to build a 50,000 SF commercial then they would be able to build a 10,000 SF residential. Chairman Blackman stated it would eliminate the need for a variance, but not necessarily be workforce housing.

Mr. Everett in summary, from the ZBA, stated the applicant tried to integrate workforce housing into their project which is what the ZBA believes is the intent of the Code as a first step. The applicant is allowed to build the housing off site if the Planning Board waives the integration requirement. Mr. Everett concluded the ZBA would allow the area variance, however concluded it would be a split Board 3-2 to approve the variance for the 20% to build the extra 5000 square feet of multi-family housing. Mr. Everett continued if the Planning Board has the legal authority to waive the integration requirement, then the ZBA is left with only an area variance for the 20%. The applicant has not done this yet, but they could ask for a waiver from the Planning Board. The applicant must do SEQRA on this parcel. They have already received comments from the Town's Consultants regarding the SEQRA review for this parcel.

OLD BUSINESS

MINUTES: April 21, 2014

One minor change to the minutes - Kevin Cassone will provide to the Secretary the two classes he took in order to comply with the Town Board requirements.

MOTION TO APPROVE THE MINUTES OF 04/21/2014 WITH ONE MINOR CHANGE NOTED ABOVE was made by Chairman Blackman, seconded by Terry Metcalfe

VOTE TAKEN – MOTION CARRIED

ZBA Application: Chairman Blackman stated the ZBA Application is being worked on.

Wassaic Project: Chairman Blackman asked if there was a date for the Wassaic Project to come before the Town Board for a zoning change for signs. The Secretary will notify the Town Board that the ZBA would like notification if the Wassaic Project comes before them.

Zoning Amendments – Still being looked at.

New Business - Tamarack

Tamarack is a shooting preserve of approximately 800 acres in the Town of Amenia who want to build 9 small cabins between 500-900 square feet, one being a fitness center, disturbing over 2 acres and putting in a driveway. This will be classed a major project. They are applying for an amended Special Use Permit. They received a SUP in 1991 to allow for this shooting preserve to be located there. These cabins will be an accessory use and only to be used by members of the club. Because this is a Major project requiring an amendment and SUP the law requires a referral to the Zoning Board. It will be just a recommendation, the Board's thoughts and comments, not an approval of the application. Then the ZBA can give its recommendation to the Planning Board. Ms. Pelosi felt that this would really require a need to have a site visit. She continued unless you have actually seen the site you cannot understand it.

MOTION TO CLOSE THE ZBA MEETING was made by Terry Metcalfe, seconded by David Menegat

Respectfully submitted,

Susan M. Metcalfe
ZBA Secretary

