

March 13, 2013

A MEETING OF THE PLANNING BOARD of the Town of Ossining was held in the Ossining Operations Center, 101 Route 9A, Ossining, New York, on the 13th day of March 2013. There were present the following members of the Planning Board:

George Weeks, Chairman  
Gregory McWilliams, Vice Chair  
Deborah Cohen  
David Krieger

Absent: Dennis Kirby

Also Present: Wayne Spector, Town Attorney  
David Stolman AICP, PP, Frederick P. Clark Associates, Inc.  
Daniel Ciarcia, PE, Consulting Town Engineer  
Sandra Anelli, Secretary

### **Jim Zappi, High View Farm, Barnes Road & Morningside Drive 24-Lot Subdivision**

Mr. Jim Zappi, property owner and developer, Zappico Real Estate Development, LLC, was present, accompanied by his son, Mr. Brian Zappi. Application form dated January 15, 2013, full Environmental Assessment Form (EAF) dated January 18, 2013, Conventional Sketch Plan titled High View Farm, 16 Barnes Road, Town of Ossining, prepared by HEC Hudson Engineering & Consulting, P.C. dated January 9, 2013, Property Survey prepared by Thomas C. Merritts, Land Surveyors, P.C., dated June 23, 2009 with latest revision date October 4, 2011, Wetland Map and Wetland report prepared by Paul J. Jaehnig, dated September 22, 2011 were on file. Mr. Jim Zappi presented the plans to the Board and members of the audience.

The project is approximately 31.53 acres in size. It is currently vacant land made up of three tax parcels. The three parcels are located in the R40 Zoning District, between the areas of Tavano Road, Morningside Court, and the New Castle border. Mr. Zappi presented a conventional subdivision plan. Mr. Zappi pointed out the areas of wetland and wetland buffers to audience members. He clarified that any disturbance to these wetland areas and buffer areas will be replaced at 100%. Storm water studies are currently being addressed. Part of the proposal is to provide a storm water prevention plan which will improve, retain, and control storm water conditions on site as well as other areas of flow when it leaves the site. Mr. Zappi asked the public for email addresses and contact information. He passed around a sign-up sheet. He expressed that everyone would be kept up to date and invited to future meetings for input, comments, and to be a part of the development and planning process.

Mr. Zappi clarified that his development plan would not create a thoroughfare from Tavano Road through to Morningside Court. Access is shown at the end of Tavano Road and an emergency access gate may be necessary at Morningside Court which would only be used for emergencies such as fire and police. He said an example of this was done at a development in Briarcliff called Briar Bridge at the corner of Chappaqua Road and Route 9A.

Mr. Zappi brought a color drawing of a cluster subdivision scenario which shows the buildings relocated to a different area of the parcel. The conventional plan was done to show and establish a lot count for the parcel. This proves that the proposed number of building lots meet the requirements of the R40 zone as far as size, setback, and building footprint area, so if they are clustered the lot count could remain the same utilizing the lesser setbacks of the R5 zone which would ultimately allow for preservation of the site's natural buffer areas and trees. Mr. Zappi said he would still maintain R40 setbacks along bordering property lines and use R5 primarily within the development. The project is to be serviced by municipal water and sewer. Mr. Zappi said he is in the process of generating topographical maps, profiles, and grading. He noted that this meeting and these plans are very preliminary.

Due to a large number of attendees, Mr. Spector outlined the duties and business of the Planning Board, which is charged with the responsibility to review and approve applications to subdivide land and for approval of site plans for the development of land. The members of the Board are appointed by the Town Board for various terms. Mr. Weeks has been the Chairman for more than 30 years. The Board has certain legal responsibilities to review plans when an application is made. The process is highly regulated by New York State Law.

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Again, Mr. Spector reminded the audience that this is a very preliminary presentation by the applicant. This particular meeting is not a public hearing. The application is not at the stages of public commentary, it is for the purpose of making a very preliminary application. Also, the law provides very strict provisions for the review of these applications; standards of review, environmental review, drainage issues, traffic flow, and esthetics. These are all issues that this Board is mandated by law to review and look at. In addition, the applicant is required to submit voluminous submissions and reports which will also be reviewed independently by the Town's Consultants. Mr. Spector introduced Mr. David Stolman, Planning Consultant and Mr. Dan Ciarcia, Town Consulting Engineer.

Mr. Stolman reiterated the fact that the Planning Board is an Administrative Board which has to follow to the letter of the law of the Code of the Town of Ossining. The two primary chapters that are going to be used to review this project are the Zoning Chapter and the Chapter on Subdivision Regulations, but also the plans are reviewed with respect to the Tree Protection chapter, the Steep Slopes chapter and Wetland Protection chapter. Overlaying all of this is the State Environmental Quality Review Act, (SEQRA). This will be review of all environmental matters included. The Planning Board, being an administrative board, didn't create the zoning regulations. This was done by the Town Board, so if one was looking for the zoning to be changed on this property; that would be a Town Board matter.

Mr. Spector added that if the applicant was proposing some aspect which does not comply with the Town zoning code with respect to size of lots, or setbacks, the Planning Board doesn't have the authority or power to vary from the Ossining zoning code. That would be a matter that can be taken to the Zoning Board of Appeals, which is a different Board having the authority to issue variances. The Planning Board doesn't issue variances; it can only follow the code and the provisions that are already in place.

In his experience and after sitting in meetings like this for over thirty-five years, Mr. Stolman said there is always someone speaking out in the room who would like for a property not to be developed at all; for it to be left open to become a park. The Planning Board can't do that. There are individual property rights that go along with property and the Board has to follow the proper administrative procedure to take this project through and approve it with conditions, or deny it, but the Board can't say, "You have to keep the property the way it is, we would rather have a park".

Mr. Weeks offered that any questions regarding procedures, Town codes or information can be directed to the Building & Planning Department office, the website, or email at [www.bldgdept@townofossining.com](mailto:www.bldgdept@townofossining.com) or anyone could email him directly at [www.george@dalecemetry.com](mailto:www.george@dalecemetry.com). Also, encouraged residents to provide email information to Mr. Zappi, so everyone can be kept up to date on what is going on.

Mr. Stolman gave an overview of the subdivision approval process. A subdivision approval has two phases, a preliminary approval and a final approval. There must be public hearing at the preliminary approval phase that can be one night or go on for a couple of evenings. There can be a public hearing at the final approval phase, if it gets that far. That hearing is optional depending upon whether the final plat is in substantial conformance with the preliminary plat. Also, if the Planning Board decides as part of the SEQRA process, that there is going to be draft Environmental Impact Statement (EIS), although it is optional, there is a public hearing on the EIS as well. If there is a draft EIS and a public hearing on it, there is also a comment period established and a final EIS written which would respond to all of the comments that were raised with regard to the draft EIS. It is too early in the process to know whether there will be a hearing on the EIS.

One action the Planning Board might take tonight is to declare its intent to be the lead agency with respect to SEQRA. It would then send out a letter to the other involved agencies. Involved agencies are agencies that have an approval or a permit to grant like the Westchester County Department of Health. The Planning Board may declare its intent to be lead agency and say to the other agencies, "we want to run the SEQRA process in our home town, it affects us more than it affects anyone else and we would like to be the lead agency". There is a thirty day clock associated with that. If there is no objection, the Planning Board will automatically become the lead agency and run the SEQRA process.

This does not mean other agencies cannot be involved or be heard, bordering communities Towns and Villages and other State agencies as well, Mr. Spector clarified. The New York State Open Meetings Law applies to this Board as well as all others, which means these meetings are always be open to the public. The difference is in terms of function, but the meetings are always open. Any time a Board meets and has a quorum it is required to be advertised as open to the public and that will always be the practice because that is what the law states. The difference between a public meeting and a public hearing is at the public hearing every person in the room has the opportunity and is welcome to speak. During a regular public meeting, such as this one, the Chairman may entertain a question or two but doesn't have to necessarily.

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Mr. Weeks added that normally at this stage of the application, the Board will refer these plans to both consultants for review. The Town's Engineering Consultant and the Planning Consultant. There are some things missing on the conventional plan Mr. Zappi provided. First, a detailed topography map is needed, so he will need to come back with that. Also, Mr. Weeks said, he normally will take questions from the audience at meetings. There is no problem with that. As this project goes along, there will be things that the applicant can answer as well. At this point, we can't answer anything yet because we don't even know where this is going. This Board is seeing this for the first time tonight. This has not been reviewed yet. It will be reviewed further once he provides us with a topography map. The next meeting is in two weeks. At that time, we will see where we are. As these reviews come in, the Engineer and Planning Consultants will give their opinion to the Board and to Mr. Zappi on what he needs and has to do. That is when we can start entertaining questions. That is basically how we will try to run the meetings.

Mr. Stolman and Mr. Spector reported that there are a number of ways to access the Town Code. It's available through a link on the Town website [www.townofossining.com](http://www.townofossining.com) or through [www.e-code.com](http://www.e-code.com). It is a Planning Board function to determine whether Mr. Zappi will be able to cluster this project or not. One of the first things he needs to do is to come up with a conventional layout. This layout gets a thorough review to make sure that every lot in the conventional layout meets zoning and that everything else is done according to the regulations, and then the environmental impact statement.

Mr. Spector explained the Town's cluster zoning regulations to the audience. A cluster subdivision is a legal mechanism that is permitted by the code which will allow a developer to lessen the actual disturbance to a particular property by creating smaller lots than what would otherwise be allowed in a particular size piece of property by confining those lots to the total number of lots that the developer could get had the developer proposed a conventional subdivision. For example, twenty-four, 40,000 square foot lots are required and if you can place a development that would allow twenty-four houses on that property using the 40,000 square foot lot size, the developer is permitted down to a much smaller lot size confined to a specific area of the site and the balance of the property would be left as a buffer zone or kept undeveloped.

Audience members raised concerns with regard to topography, drainage storm sewers, and sewage. In response, Mr. Ciarcia, Town Engineering Consultant, introduced himself and explained he would be reviewing the different types of utilities and improvements. A newer more rigorous permit process for storm water management and discharge are in place through the State of New York. Also, things like runoff and sanitary sewers will be reviewed extensively to make sure they meet all of the codes. In addition, any infrastructure the developer provides could be configured in such a fashion so that other people can tie in. One of the other things about the hearing process is to learn about issues that the neighbors are very familiar with in the particular area. This allows for improvements to the surrounding areas through the development process.

There were no further comments or questions. Mr. Zappi spoke with audience members outside of the meeting room.

## **Minutes**

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Ms. Cohen made a motion, seconded by Mr. Krieger and unanimously passed to adopt the draft of Planning Board Meeting minutes of January 9, 2013.

## **Adjournment**

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There being no further business to come before the Planning Board of the Town of Ossining, Ms. Cohen made a motion, seconded by Mr. McWilliams that the meeting be adjourned to March 27, 2013.

Time noted 8:45 p.m.

Respectfully submitted,

*Sandra Anelli*

Sandra Anelli, Secretary  
Town of Ossining Planning Board

**APPROVED: April 10, 2013**