

July 15, 2015

A MEETING OF THE PLANNING BOARD of the Town of Ossining was held in the John Paul Rodrigues Ossining Operations Center, 101 Route 9A, Ossining, New York, on the 15th day of July 2015. There were present the following members of the Planning Board:

Ingrid Richards, Chair
Greg McWilliams, Vice Chair
Dennis Kirby
Gareth Hougham
Jim Bossinas

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

William Butler Subdivision, 2 Hillcrest Dr., Briarcliff, 3-Lot Subdivision

Mr. Jim Vanoli, P.E. was in attendance representing the applicant. Plans dated July 10, 2014 with latest revision dated May 8, 2015 were on file. A letter from Thomas C. Merritts Land Surveyors, P.C. dated February 12, 2015 regarding existing parcels on Hillcrest Drive, was included with Mr. Vanoli's plans. He gave a brief description of the project to the audience and the Board. The applicant proposes to subdivide the property into three lots. The existing home will remain and two new lots will be created. He further stated that certain memo items (from February of this year) have been addressed. The purpose of the letter from Thomas C. Merritts regarding the properties that border the paper street was to demonstrate that by deed none of the homeowners have deeded rights to the paper street.

Mr. Stolman submitted and reviewed a new memo dated July 15, 2015. The issue of ownership of Hillcrest Drive still needs to be established. A determination needs to be made as to whether the applicant must seek frontage variances for proposed lots 2 and 3. The drawings should bear a zoning conformance table which provides the required zoning requirements for the R-30 district. Mr. Vanoli agreed to submit a title search to provide more information on the ownership of Hillcrest Drive and will address other items as discussed.

In response to questions raised by audience members, Mr. Vanoli explained that the proposed lots have frontage on NYS Route 100 which is an improved highway. The access of the project is not intended to come out that way. It is intended to come out on Hillcrest Drive. It is noted that there are other homes on the other side of Hillcrest Drive that do not have zoning frontage as required. Mrs. Richards urged Mr. Vanoli to provide the zoning conformance chart as required. Mr. Bossinas asked Mr. Vanoli if there are any non-conforming setbacks. Mr. Vanoli said no, only road frontage. After further discussion, Mr. Stolman recommended they go to the Zoning Board of Appeals for a determination of usable frontage.

Mr. Ciarcia said the title search, as requested with regard to the road, will cover one of the comments regarding rights to the center line of the right-of-way. There is an issue with lot number 2 in terms of the slope of the driveway grading which should be adjusted to accommodate a better driveway grade. The applicant is extending the sewer main along North State Road to provide sewer to these lots. Mr. Ciarcia suggested the possibility of providing easements over the properties or extending the sewer to provide service to this portion of the neighborhood. Mr. Vanoli said that would be reasonable if this were a major subdivision of 30 or 40 lots, but they are only creating 2 additional lots.

Mr. Bossinas asked for clarification of the section of the code where the variance is required. Mr. Vanoli said there is a requirement of suitable frontage on a dedicated road which should be 50 feet wide. They do not have the 50 feet in this case. The road is only 40 feet wide. The road has been brought up to certain standards for emergency access etc. but it is not a legal 50 foot right-of-way. Mr. McWilliams said the use of that ownership is an important item because that will determine if there are restrictions that can or can't be overcome. Mrs. Richards recommended they provide the title search and the zoning table in order for the Planning Board to provide further analysis. Mr. Vanoli agreed.

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Artis Senior Living, 553 North State Road, Zoning Amendment and Site Plan Amendment

Mrs. Richards asked Mr. Stolman to read and review report provided by Mr. Stephen W. Coleman, Environmental Consulting LLC, dated July 7, 2015. Mr. Stolman reported that Mr. Coleman went out to the site with Mr. David Sessions for the Applicant and delineated the wetland primarily on Ms. Sharratt's property and found it is not large enough to be regulated by Chapter 105. However, Mr. Coleman believes that the intermittent water course is regulated and there's discussion and maps included in the memo. Mr. Stolman read through the Recommended Wetland Mitigation Measures, on page 3 of the memo.

Dr. Hougham pointed out that he is familiar with the property. The delineation of the wetland as inflected shows the source water channel, it shows the watercourse leaving the wetland but not going in which gives the impression that it is seepage or groundwater. Dr. Hougham stated that the watercourse is connected to an adjacent pond on another property.

Comprehensive Plan & Proposed Law Changes

Comments from Westchester County Planning Board dated July 2, 2015 were on file. Comments from Hocherman Tortorella & Wekstein, LLP dated July 15, 2015 were on file. Mr. Stolman submitted and reviewed Report Regarding Five Local Laws, dated July 15, 2105. Town Environmental Advisory Committee report dated July 15, 2105 was on file. With regard to the Wetlands Chapter, Dr. Hougham reported that since the last meeting the Town EAC has done considerable research into other Westchester Town Laws which show that ¼ acre is still much larger than other towns. His recommendation, along with the EAC, is to eliminate that size threshold and use the definition of the presence of hydric soil or the word "any" wetland.

Mr. Kirby thanked the EAC for putting together the report. As you go forward in time, it appears that the size restriction is disappearing from most of the other communities' local laws. It is a great piece of information and well summarized.

Mr. Bossinas expressed concern with this type of restriction because someone who may be proposing a very, very small project that would have to go through the process and the cost of documenting every wetland on his or her property for something insignificant like a shed. If the Board goes to this next step, there should be some line in the sand that the project has to surpass a certain threshold before implementing significant site requirements. This could then become a financial burden to the average homeowner and kill the project.

Mr. McWilliams agreed but said there are pros and cons. The issue of protecting wetlands is important, but every site should be taken into its own consideration. There could be some situations where there is a hardship, for example, if there's a piece of property and there's a wetland on the adjacent piece of ½ acre, does this mean that the whole site and the adjacent property has to be mapped? That would come up if every lot would have to have wetlands flagged regardless of size. Some of the other Towns mentioned are very rural and some are very dense. Flooding and drainage issues vary from Town to Town. The range of areas shown may or may not be consistent. Most Northern Westchester Towns are keeping with this. Mr. McWilliams said more time to think about this would be appropriate.

Mr. Stolman noted that the Board had this discussion at the last planning board meeting. Mr. Stolman based his findings on work he has done in Nassau, Suffolk, Westchester, Dutchess, Rockland, Orange, Ulster and some work in Connecticut. It is important that the DEC regulates wetlands that are 12.4 acres or larger. The Army Corps of Engineers doesn't regulate every wetland down to a puddle. Mr. Stolman believes it would be a real improvement for the Town to go from ½ acre to ¼ acre. Also, in response to Mr. McWilliams comment, yes, if someone has a wetland on the adjacent property and you want to do build something on your property and your property is within 100 feet of the wetland on the adjacent property, you are going to be governed by this. It would have an effect on other properties.

Mr. Ciarcia said building departments do not always require new surveys for every project. Mr. Kirby asked what would be asked of the average homeowner if this were in place. Mr. Stolman said you would have to flag wetlands on other properties as well as the property in question. Mr. McWilliams noted that you couldn't force neighbors to flag their property.

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Mr. Ciarcia explained that as you lower the threshold you must carefully identify what really constitutes a wetland. With a larger wetland you can determine where the edge is, but requiring small pockets to be mapped may lead to undue burden on the average homeowner who would like to build a deck or a small addition. Mr. Kirby asked if there are some wetlands in Ossining that are more important and valuable than others. Mr. Stolman said in general, we look for a wetlands specialist to do a functional analysis of the wetlands. Some have a very high value and some have been trashed up and don't have the same high functional value.

Mrs. Richards noted that overall it is the Town Board's role to approve changes to the zoning laws. The Planning Board is writing a recommendation memo with comments and thoughts. She opened the meeting for comments from the audience.

Mrs. Masserman, 10 Morningside Court, asked if a variance can be granted from the wetlands chapter. She urged that the Town of Ossining make it zero, or at least try not to be one of the highest. She is concerned about what this is doing to the environment. Her concerns are for the future. There are already areas of Ossining that have flooding and wetland issues. She asked the Board to err on the side of caution with this. Mr. Stolman said the zoning board would not be able to grant variances on this because it is a separate chapter in the Town Code. It's not in the Zoning Section.

Ms. Sharratt, 84 Morningside Drive and EAC Member said she has a wetland on her property behind the proposed Artis facility property. According to Ms. Sharratt, this was very roughly estimated at 7,500 square feet and the map provided with this study done by Mr. Coleman is inaccurate, no delineation was done. She urged that the wetland on her property is part of a stream and should be protected. It has value. It is not just a puddle. If the Board is asking for ¼ acre, something like the wetland on her property would not be protected. Ms. Sharrett expressed concern that ¼ acre is too large and this size threshold is part of past wetland practices. She urged that her wetland be protected as well as any other wetland on other properties in Ossining. In her opinion, if it is connected to a stream, it makes it a larger area just by the fact that it is connected to all these other things. It makes it important. Ms. Sharratt invited the Planning Board Members attend an Environmental Leaders Workshop at Teatown. Her understanding is that when you have little wetlands that are connected, it makes that a larger whole.

Mrs. Richards asked the Board if a lower number is something that can be considered. Mr. Kirby said he is troubled by this and would like more time to consider it. Mr. McWilliams agreed that more time is necessary. Mrs. Richards said there are ways to lower it, or maybe consider an appropriate definition. Dr. Hougham reiterated the fact of the importance of using the words "any size" when it comes to watercourse or other types of wetlands. Mrs. Richards agreed to more time before submitting the memo to the Town Board and she suggested the EAC present their recommendations to the Town Board directly. Mr. Stolman reminded the Planning Board to review Comprehensive Plan updates for discussion at the next meeting.

Minutes

A motion was made by Mr. McWilliams, seconded by Mr. Kirby and unanimously passed to approve draft minutes of Planning Board meeting held June 24, 2015.

Adjournment

There being no further business to come before the Planning Board of the Town of Ossining, Mr. Bossinas made a motion, seconded by Mr. Kirby that the meeting be adjourned to August 5, 2015.

Time noted 8:55 p.m.

Respectfully submitted,

Sandra Anelli

Sandra Anelli, Secretary
Town of Ossining Planning Board

Approved: August 5, 2015