

Town of New Paltz Planning Board
Final Minutes
August 13, 2018

Meeting agenda 8/13/2018 PB meeting:

6:45 pm - Free Conceptual with John Joseph, Shoprite Plaza, PB Members only

Meeting Minutes for Approval

July 9, 2018

Public Comments

Public Hearing

None

Application Reviews

PB 2006-26: Vaccaro/Birches Subdivision – 90 day extension request until 11/12/2018

PB 2014-04: Mohonk Preserve Site Plan – Change

PB 18-171: 304 Rt. 32N New Paltz Canine Education Center Site Plan Changes Only

PB 2013-15: Trans Hudson/CVS Site Plan - ENCB memo review

Administrative Discussion

NY Planning Federation Conference – Wed. Oct 24 in Hyde Park (50.00 pre or 65.00 at door, 4 hours required education hours, 9-2:30)

Call to order 7:05 pm by Chair Adele Ruger.

Attendees: Lyle Nolan, Tom Powers, Stana Weisburd, Amy Cohen, Adele Ruger, Matt DiDonna,

Absent: Amanda Gotto

Also attending: Planning Board Engineer Rebecca Minas, and Planning Board Attorney Richard Golden.

Chair Ruger asked for a motion to approve the minutes from July 9, 2018.

Motion 1 by Stana Weisburd to approve the minutes from July 9, 2018.

Motion 2 by Matt DiDonna.

All present in favor. Minutes accepted.

Public Comments

Eric Cline, from Rt.32North, came forward and asked about the proposed Dog Training Facility, adding that he lives across the street on Rt 32. He said he wanted to get more info on the dog training facility. Chair Ruger replied that the application is on tonight's agenda.

No Public Hearing.

Application Reviews

PB 2006-26: Vaccaro/Birches Subdivision – 90 day extension request until 11/12/2018

Chair Ruger asked for a motion the 90 day extension request for the Vaccaro/Birches Subdivision until November 12, 2018.

Motion 1 by Lyle Nolan to extend the Vaccaro subdivision until November 12, 2018.

Motion 2 by Stana Weisburd. All present in favor. Motion approved.

PB 2014-04: Mohonk Preserve Site Plan – Change

Building Inspector Stacy Delarede stated she's before the PB because the construction plans for Mohonk Preserve are different than the approved plan (from the Planning Board). Showing the PB the plan, Stacy explained that on the approved plan her concern was the maximum (building) height on the plan is 9'6, and the actual proposed height is 13' (on the construction plan). The buildings are architecturally different than what was pictured and felt she'd come before the PB to talk about it because the buildings are so different. The square footage is larger because of the ADA requirements that changed the architectural look of the buildings which is why Stacy was before the PB. Stacy stated that normally a small change would be handled as a field change but wanted input from the PB. Questioned why the pitch was higher at 13' feet, Stacy replied that in order for the overhangs that are proposed, they had to raise the pitch. PB Attorney Golden stated that normally this is done by the Building Inspector in the field but they wanted to see if the PB had no problem with characterizing as a field change which is up to the PB or if a site plan change would be required by the PB. Stacy stated that it's the only change to the plans for Phase 1. No further discussion from the PB.

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Motion 1 by Lyle Nolan to treat as a field change only. Motion 2 by Matt DiDonna. All present in favor. Approved.

PB 18-171: 304 Rt. 32N New Paltz Canine Education Center Site Plan Changes Only

Chair Ruger introduced Valerie Erwin who was before the PB for her canine education center on Rt. 32N Site Plan. Valerie read the narrative memo to the PB members that was included in her application. Valerie stated that she is not proposing a kennel for boarding or a kennel that dogs would stay overnight but for dogs to come for day training with owner participating in the training, and then would practice with their dog at home building a natural canine human relationship. Under the current Town code, Valerie said she is allowed, but does not want to have paying kennels, but does have three kennels for the housing and care of Veterans and military personnel in deployment. Valerie added she has secondary use for rescue dogs and rehabilitation to make the dogs more adoptable but has no plan to expand any overnight staying of dogs. PB Chair Ruger stated that the PB wasn't there to talk about the use but the site plan but PB Attorney Rick Golden stated that the use is important including Building Inspector Stacy Delarede agreeing for R1 district. Stacy stated that Valerie is considering her service is a school but code does not allow **for profit** schools in R1 district, but going through her service plan, Stacy stated she deemed it a **nonprofit**, and permitted in this district so it is a change of use, further adding that there is no outside site plan changes other than for the fence where she is changing them out. Since Valerie is putting up fences, a simplified site plan couldn't be used.

Chair Ruger asked that the ZBA has an application before them for the fences, which Valerie stated yes.

Chair Ruger stated that the application does not have to go to the UC Planning Board, which Attorney Golden confirmed. Lyle Nolan asked why not. Attorney Golden stated it is an exception (for sending to UCPB for referral under General Municipal Law Article 12B, Section 239-m) for change of use, not required unless different than what he is hearing, PB will not require additional parking over and above what's required by code, and no lighting illumination is being proposed different than what is there now. Lyle Nolan asked to speak, stating he doesn't consider this a legitimate business in residential neighborhood, and doesn't consider dog training an educational facility in terms of the law, and zoning permits only 4 dogs maximum on your property in your care, and feels they need to go for a zoning change or exception. Stacy stated she wasn't following the zoning change in terms of the law.

Stacy Delarede read the Town Code definition 140-4C{62} KENNEL

Any place at which there are kept four or more dogs more than four months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding of which a fee is charged or paid.

Lyle Nolan stated that's the word, "care". Amy Cohen commented that she (Valerie) said she's only going to have 3 dogs sleeping over at a time and everybody else is just a day boarder.

Matt DiDonna asked if it's a Not for profit?

Valerie stated she is registered as a corporation, to the benefit to the community, and the corporation has to benefit the community and any monies made with the seminars will be donated, adding that anything for conservation efforts that is collected, that money gets donated.

Matt DiDonna stated he has the same concerns as it's a residential neighborhood, and his other concern is 250 feet of an 8 foot fence. Valerie commented that it wouldn't be like a typical dog day care where they come and are running around outside but would not be outside unattended, and will not be in the building unattended. Chair Ruger asked what kind of fencing would be put in. Valerie replied it was an 8 foot deer fence and referred to the photos provided when asked by Stana Weisburd. Lyle Nolan reminded the PB members that the PB has voted against chickens and this is a dog kennel in a residential area. Valerie Erwin stated it is not a kennel but a school. Lyle Nolan commented again that it is not an educational facility educating dogs, and it is not a school, daycare. It's a kennel. Valerie Erwin stated it is a canine education center.

Attorney Golden commented that the Building Inspector has the jurisdiction on determining how the code gets interpreted; stating this is not an educational use, it is not a school use, which is not permissible under that use. If you look at all terms and the context in the code it is very clear this is for humans being educated, and schools, parochial school, schools for profit, it is clearly talking about normal educational facilities not training of dogs or other animals. Argument can be made that the care aspect spoken about might argue for the definition of a

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kennel, but the Building Inspector says it is a philanthropic use because of the particular uses, and the Planning Board is bound by what the Building Inspector is saying.

Lyle Nolan disagreed stating philanthropic doesn't make a difference but Attorney Golden stated that even if philanthropic is not defined in the code, and if the Building Inspector says it is, based on the particular uses of this enterprise, as a benefit corporation, that determination, right or wrong, is what binds the use to what the Planning Board has to do. People grieved by that determination, neighbors, anyone in the Town, or anyone on the Board, can challenge that and file with the ZBA who will uphold that determination or overrule it. Until that happens, the Board is bound by the Building Inspector's determination. Attorney Golden also added this application is incorporated as a specific provision under corporation business law; they are a benefit corporation, looking out for the basic public good when operating, but can be changed at any time by the applicant by changing the certificate with Secretary of State. Attorney Golden advised that the PB, at a minimum, require that if the applicant changes that certificate with the state, from a benefit corporation, the applicant must file that with Building Inspector to make a new determination if it's not philanthropic then it's not permissible in that zone.

Valerie added that she would like to bring all this home to New Paltz that is done in Texas, Europe, Upstate New York and around the country because that's her primary project for these causes she works with.

Stana Weisburd asked if there will be any noise changes. Valerie commented she isn't aware of how much the daycare children noise is during the daytime but the handlers will be with the dogs outside to control noise and inside there are resting and are not noisy.

Matt DiDonna stated his only concern is where it is but commented that it is a great service but it's in a residential neighborhood.

Attorney Golden advised the PB to determine SEQRA and require the applicant to use the DEC mapper for the EAF which is tied into the DEC database to complete the required EAF.

Motion 1 by Amy Cohen to make the application an unlisted action. Motion 2 by Matt DiDonna. All present in favor. Approved.

Motion 1 by Lyle Nolan to have a public hearing for the neighbors. Motion 2 by Matt DiDonna. 4 in favor (Adele Ruger), 1 against. Approved.

Motion 1 by Amy Cohen to have the public hearing for September 24 at 7:00 pm. Motion 2 by Stana Weisburd. All in favor. Approved.

Attorney Golden advised the PB for philanthropic use you need to comply with that section of the code that applies to the site plan. The site plan given does not comply with the code but the PB has to waive those aspects of site plan to the extent it is not reflected in the plan given.

Motion 1 by Amy Cohen to waive the site plan elements not required since the site plan is not changing. Motion 2 Stana Weisburd.

Lyle Nolan stated that it seems like you can't waive site plan review without doing a site plan. Attorney Golden stated that certain aspects of the site plan application can be waived. Matt DiDonna asked that a new site plan be submitted. Lyle Nolan stated that we should listen to the neighbors and show the nearby residences. Matt DiDonna stated there are some things that can be waived. Attorney Golden stated the PB should decide what should be waived.

Rebecca Minas read the list of what is required on the site plan:

A, B, C, D, E, F, G, H, I, J. Discussion on what elements are required and not applicable. Elements waived were K, Bicycle plan.

Lyle Nolan stated that applicant cannot submit a site plan with another engineer's stamp on it.

Attorney Golden said you cannot use another engineer's signed plan and advised applicant to cross off their signature.

PB agreed that waived (site plan elements) are K-Topography, Bicycle Plan and professional engineer (requirement).

Motion 1 by Amy Cohen to waive the site plan elements. Motion 2 Stana Weisburd. All in favor. Approved.

Motion 1 by Adele Ruger to set the escrow amount at \$2000.00 with a replenishment level of \$1000.00.

Motion 2 by Stana Weisburd. All in favor. Approved.

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PB 2013-15: Trans Hudson/CVS Site Plan

Chair Ruger stated that the PB will be reviewing the latest ENCB comments (dated July 30, 2018). Chair Ruger invited ENCB Chair Ingrid Haeckel to review the memo, which she read in its entirety. Chair Ruger thanked Ingrid, stating it was a lot of work. Chair Ruger asked the PB for comments.

Lyle Nolan commented that in regard to the porous pavement comments with the buffer along the thruway stating that the tree line may die in 5 years. Chair Ruger commented that she felt the 3 foot drop in elevation (and fill) eliminating 840 truckloads is reasonable. Stana Weisburd asked about a tree inventory. Chair Ruger stated a tree inventory is expensive. Parking was discussed with Attorney Golden recommending the PB ask the applicant to increase the buffer. Amy Cohen stated to move the front parking to the back, with bigger parking in the back. Chair Ruger stated she'd like to see all parking in the back. Amy Cohen stated she'd like to see more buffer on the thruway, feeling that 3 feet may be unattractive. Chair Ruger stated she'd like to see 3 more feet of buffer.

Rebecca Minas commented to close on the elevation comments that elevating 3 feet won't impact much other than additional soil testing and is feasible. Stana Weisburd stated she's like to use more native trees in the landscaping. Chair Ruger stated that they have some issues and agreed a productive discussion with the applicant's engineers and whomever from the PB meet; 2 engineers, 1-2 PB members, both Attorneys, to work out alternatives.

Chair Ruger asked the PB to send their concerns to Pat of what's they'd like to see. Then bring those concerns to the discussion. Applicant Attorney Charles Bazydlo stated they would like this work session to include the consultants and PB members. Chair Ruger, Amy Cohen and Matt DiDonna to attend as PB members.

Chair Ruger stated they would work through the list, compromise any changes with applicant, then bring back to a full PB to review the results. Pat will setup the meeting date and time.

Motion 1 by Chair Ruger to adjourn. Motion 2 by Matt DiDonna. Meeting Adjourned at 9:05pm. Minutes submitted by Patricia Atkins