

Town of New Paltz Planning Board

Monday, January 27, 2020

Final Meeting Minutes

Call to order by Chair Adele Ruger at 7:01pm

Attendees: Stana Weisburd, Adele Ruger, Lyle Nolan, Amanda Gotto, Amy Cohen remote from Florida, Jane Schanberg remote from Chicago.

Absent: Matt DiDonna

Also Attending: PB Attorney Richard Golden, PB Engineer Andy Willingham

**Meeting Minutes**

Chair Ruger asked for a motion to accept the January 13 minutes.

**Motion 1 by Lyle Nolan. Motion 2 by Jane Schanberg. All present in favor. Motion carried.**

**Public Comments**

No public comments

**Workshop**

Chair Ruger noted that tonight is a workshop with PB Attorney Richard Golden on the ENCB's proposal to the Town Board on CEA (Critical Environmental Areas) and how it will affect the Planning Board and how it will affect the Applicant, and anything else Rick (Golden) wants to enlighten them with.

PB Attorney Richard Golden noted that the Town Board presently has a proposal to adopt whole or part 6 critical areas, and the PB has asked for him to discuss some of the implications of this as the Town Board would like this Board's recommendations and comments, so that's what he is doing tonight, not to argue one position or another but he is just trying to bring up issues that he thinks is information relevant to the Town Board's decision making on this as well as the Board's recommendations or comments. Attorney Golden also noted that he wanted the Board to be clear that this is neither adopting or not adopting or adopting some but not adopting all of the critical environmental areas and noted this is not an issue of environmental protection vs. no environmental protection, adding that the Board's applications, other than those that are Type II, require the Board by NY SEQRA to do analysis and make a determination of significance, and after that determination, the Board will determine if there any impacts, address them, and if any of them are significant then figure a way then they can be mitigated, however, this will not stop whether you adopt this CEA or not.

Attorney Golden noted that the ENCB (Environmental Conservation Board) put together a proposal that they believe are the areas involved are critical and why they should be designated as a CEA as well as the critical for each of those areas when there is a project located in each of those CEAs.

Attorney Golden stated there are 4 essential issues that the Board (as well as the Town Board) should consider when providing recommendations or comments:

Size: Attorney Golden noted that Ulster County has identified 5 CEAs in 4 Municipalities but the size of those are not the size of those proposed by the ENCB as much larger scope and an issue for the Board to determine. Attorney Golden also noted the DEC requirement when considering projects to look at areas outside the CEA for similar characteristics and if they will have an impact on the CEAs, he referred to as a penumbra, a hazy area outside the CEAs that should receive the same or similar review by the Board.

Unique or Exceptional: Consider if the whole size of the area or a small element has an exceptional or unique quality.

Consistent with Comprehensive Plan: Currently the Town's comprehensive plan has a balance of talking about environmental issues, open space issues, farmland issues, and commercial issues, especially with commercial growth consistent with the comprehensive plan, that needs to be addressed and not overlooked.

Practical Implications of Adopting the CEAs: Review aspect of practical implications of every project within the designated CEA has to go through the ENCB, another layer of review for each application as well as studies will need to be done, addressing the **Conservation Principles for this area** (as noted on the final draft of the ENCB proposal for each critical environmental area) by the Board and applicant, who will have to provide a study that they've addressed those principles, that the Board would then address with or without consultants. (Attorney Golden used the Wallkill River and Kleine Kill Corridor as an example during this discussion.)

Attorney Golden went back to go over one thing he missed under the Unique or Exceptional essential issue: Addressing the **Conservation Principles for this area** as well here to see if they need protection.

Continuing with the Practical Implications of Adopting the CEAs, Attorney Golden noted that delineating the process, and increased cost to the applicant to go through the additional testing to make the principals have been satisfied, and additional Board consultants if needed will delay the process.

Amanda Gotto commented on the delay of the application with the additional work to be done. Attorney Golden agreed that there would be additional cost and delay for the applicant as this work is to be done before submitting to the Board, noting the purpose for a critical environmental area is to heighten review, and the DEC says that when a project comes for a review within a CEA, it raises a red flag (their language), as it's supposed to be by putting a heightened review on the project.

Chair Ruger asked if other areas outside Ulster County had done this with a percentage of their acreage designed as a CEA. Attorney Golden stated he did not know if other parts across the state have done it as he has not done a survey other than in Ulster or Orange (counties). Chair Ruger commented the Board does a rigorous review of SEQRA on the projects before them, and asked shouldn't it be enough? Attorney Golden noted that is what the Board will have to determine. Attorney Golden noted that they should look at all the conservation principles and address only those applicable in order to avoid any challenge by an objector in their (the Board) decision making, just make sure you do it all, for each one of those, and the hard look ones you will look for their proof. Amanda Gotto commented about SEQRA review of Part 1 and Part 2. Chair Ruger commented she felt it may deter someone from building in New Paltz because of the additional cost if in a CEA. Lyle Nolan commented using Shawangunk Ridge CEA as an example, that some of the conservation principles may be impossible to meet, concluding that they'd never to be able to build anything. Amanda Gotto suggested that they look at the conservation principles for each CEA so if they already have them in some other way, do they need to cover them again or just pull out the ones they aren't covering only. Jane Schanberg noted that she felt it is an implementation issue, as to how they would do it if the Town Board goes through with this. Town Board member, liaison to the PB, David Brownstein asked for an example of how Part 2 SEQRA already handles environmental issues, and what you do now and what you will have to do now. Attorney Golden compared a large subdivision or large site plan as it done today by the Board, taking into account all the issues identified in the EAF and noted that it does not address maintaining broad habitat corridors of >1000 ft. wherever possible or takes into account projecting large intact habitat areas as that is not a requirement to protect them in SEQRA, but is a requirement of CEAs. ENCB Chair Ingrid Haeckel noted that when the core principles were added in she didn't see that as being the core definition as they were added to give a sense of what you would be looking for to minimize impact in the areas, which Amanda Gotto verified were just guidelines for them to think about during a review. Attorney Golden noted that the in order to have a CEA you have to meet the defined, relevant criteria as classified as:

- a benefit to human health
- a natural setting
- agricultural, social, cultural, historic, archaeological, recreational or educational values
- an inherent ecological geological or hydrological sensitivity to change that may be adversely affected by any change

Attorney Golden noted he felt the Conservation principles noted in the draft are helpful to assist the Board in reviewing projects. TB Member Brownstein noted that he felt that the 6 areas are huge areas and those principles for each deals with them all not just maybe 4. Amanda Gotto noted that the applicant will need to address this at the beginning. Jane Schanberg noted that the merits are importance and there are variations in the areas that should be taken in consideration. Attorney Golden noted again that Type II SEQRA action would not be subject to this review, only those that are Type 1 or Unlisted and a determination of significance would be subject to it, even a 2 lot subdivision the Board would have to deal with the issues, and the Board's review will change.

Attorney Golden noted that he felt that the Conservation Principles should be noted in the local law (when it's drafted) so that when there's a defined CEA it lets the applicant know and they know what they're supposed to be doing, they'll know that by reading the code. PB Engineer Andy Willingham agreed, using Plutarch area as an example, that if they find it exceptional, as a reviewer, he would have to look at specific things, not just a general review, as it is unique. Amanda Gotto noted she felt the **Justification and Significance** portion was helpful as well (in the draft). Stana Weisburd noted she felt it was adding a level of protection as they do live in a particularly special area.

Chair Ruger stated she wasn't sure where they should go from here but noted that the Town Board is having a public hearing on this on February 7<sup>th</sup>, noting that Jane will be writing something up for the Town Board from the PB but won't be able to look at it until the next meeting (February 10<sup>th</sup>) but asked TB Member Brownstein if the public hearing would stay open, which he stated he imagined it would as it's a big issue that affects a lot of people. Amy Cohen asked TB Member Brownstein if the Town has notified all the property owners within the 50% zone about the public hearing. TB Member Brownstein stated they just announced the public hearing on the issue itself and stated he didn't believe they are required to notify individual people or homeowners of that, proposed law is on the town

website, adding that he didn't want to rush through something that affects so many people. Jane Schanberg commented if after the public hearing if the Town Board will be consulting with the PB again or anyone else or just move to make their decision. TB Member Brownstein responded he can't tell you what the other members of the Town Board will do or not do around it, but noted he did approach Adele and that the folks really impacted by this, in the work the PB does, and certainly landowners who have an interest who want to do projects on their land, the TB would like to hear from you, and noted he is grateful for the opportunity for people to talk and understand the impact of this as he is aware of the strict process that is already done.

Chair Ruger suggested that the Board send things into Pat, and Jane has volunteered to write something up for this Board to review at the next meeting and go over to see what it is the PB wants to present to the TB, but it won't be before the first public hearing. TB Member Brownstein noted he would let the Town Board know this.

Lyle Nolan noted he'd like to discuss how to develop the list of areas but wondered if there was any that you felt there were unique things and if there was a fallback plan when something is not covered; he would like to see the scope narrowed, as to what is a real value.

ENCB Chair Haeckel thanked the PB for the time spent on this and noted that this is not about protection but about these areas formally and that the exceptional unique qualities of these areas (CEA) are part of the PB's review.

After a short discussion on the Town Code changing, Chair Ruger noted that this was a good overview for them tonight and stated that for next time, write your comments to Pat as to what you feel about CEAs, maybe with specific suggestions. Chair Ruger thanked Attorney Golden and ENCB Chair Haeckel for their help and comments.

### **2019 Wetlands Report**

Amanda Gotto reviewed her draft memo with the Board.

Chair Ruger asked for comments. With no further comments, Attorney Golden advised the Board to accept the report and send to the Town Board.

**Motion 1 by Stana Weisburd to accept the report and to send officially to Town Board from our Board.**

**Motion 2 by Lyle Nolan. All present in favor. Motion carried.**

**Motion 1 by Adele Ruger to adjourn**

**Motion 2 by Stana Weisburd. All present in favor. Motion carried.**

***Meeting adjourned at 8:29pm.***