

**TOWN OF FORESTBURGH**

**JOINT MEETING PLANNING BOARD  
AND COMPREHENSIVE PLAN SPECIAL BOARD**

**March 28, 2017**

Meeting called to order at 7:00 p.m. by Chairman Richard Robbins at the Town Hall.

Planning Board Members Present: Richard Robbins, Chair  
David Groskin  
Karen Ellsweig  
Susan Hawvermale  
Eugene Raponi  
Vincent Galligan

Absent: Robert Sipos

Attorney Present: Jacqueline Ricciani

Recording Secretary: Nicole Lawrence

Comprehensive Plan Special Board Members Present

Katherine Barnhart, Chair  
Justin Evans  
Vincent Galligan  
Jonathan Gunther  
Gillian Kaiser  
Anthony Kane  
Richard Robbins  
Jim Steinberg  
Dana Taylor

Absent: Sheldon Pasternack

**Public Hearing, Republic Lake Joseph subdivision:**

Glenn Smith introduces himself as the engineer representing Republic Lake Joseph and Ben Nemhadhi. He restates the details of requested subdivision and addresses concerns Richard Robbins had expressed in prior meetings. For the first matter, regarding the dam, Glenn provides a letter from the D.E.C. that states the dam was completed to satisfaction and all records were turned over to Lake Joseph H.O.A., who are responsible for maintenance and annual care. Republic Lake Joseph holds no involvement with the dam. The second matter, regarding the P.U.D. established in 1982, was met with information stating that the prior owner took the property out of the P.U.D. and put it back into the RR1 zone in 2007. Both local

laws (establishing the P.U.D. and taking the property out of the P.U.D) were provided by Glenn Smith. All future development on this property will be subject to RR1 zoning.

Richard Robbins opens the public hearing for any members of the public who would like to be heard for comments or questions on this subdivision. There are no comments and the Planning Board has received no written comments.

Richard Robbins moves to close the public hearing. Karen Ellsweig seconds the motion.

**Vote:** all in favor.

### **Public Hearing, Comprehensive Plan:**

Katherine Barnhart reads a letter from Peter Schumann, congratulating the Comprehensive Planning Board on their work and encouraging the town to make every effort to supplement tax fees by collecting money owed by the state and allowing appropriate enterprises to come to Forestburgh. Katherine Barnhart goes on to convey a message from Sheldon Pasternack, who was unable to attend the public hearing because of surgery. He wanted to thank the committee members and to urge the Town Board and all citizens to work to implement the recommendations of the committee.

#### Comments:

Steven Budofsky expresses appreciation for the time and effort that went into completing the Comprehensive Plan. Gifford Shriver also expresses gratitude and asks if it is possible to set aside additional areas for potential development, as tax increases are an ongoing concern. She suggests there may be a way to steer new applicants in the right direction instead of taking each case on as an individual battle. Katherine Barnhart imparts there was much discussion regarding taxation while working on the plan and that a significant portion of the land in Forestburgh is tax-exempt. She acknowledges taxes are a real problem and that the town must find a balance that will preserve the beauty and special qualities of Forestburgh. She points out that the town does not receive tax money from businesses, only taxes on appreciated land value. She acknowledges we need the money owed by the state. Gifford Shriver adds that if someone comes in and improves the land, it will add value to that property. She asks that the town consider this in the future. David Groskin adds that there is secondary funding when businesses develop because more people are drawn to the area and will spend money at gas stations and stores. Katherine Barnhart explains that there will soon be a committee appointed to redo the zoning. Gifford Shriver asks what the relationship is between the comprehensive plan and zoning. Katherine Barnhart explains that the comprehensive plan is the basis for zoning; the comprehensive plan is general, whereas zoning is specific. Justin Evans says that Lost Lake is a good example of the town trying to establish that balance of keeping Forestburgh forested (serene) while increasing the tax base. Gillian Kaiser recommends that Gifford Shriver consider being on the zoning committee that will be established because active participation of the residents is very helpful.

Jim Steinberg moves to close the public hearing. Gillian Kaiser seconds the motion.

**Vote:** all in favor.

## **Comprehensive Plan Special Board Approval of Minutes**

Katherine Barnhart asks everyone on the special board if there are any additions or corrections to the minutes. There are none. Katherine Barnhart announces that the minutes from previous meeting have been approved as submitted.

## **Comprehensive Plan revisions – updates – corrections**

Richard Robbins points out 2 errors. The first is on page 6 in the first paragraph, when they retyped the zoning portion. It states that the zoning districts remain unchanged; however, Richard discovered there was a local law expanding one of the business districts on the top of St. Joseph's road, by the addition of a single lot. The other error is in the 4<sup>th</sup> paragraph. The word "decreased" should be "increased". Katherine Barnhart asks Richard to come up with language for the corrections he noted and send it to her and Gillian Kaiser. He states he will send it to everyone on the board.

Katherine Barnhart states they have also made a slight addition to what Gillian Kaiser has in the language in the traffic section. Page 19, paragraph 2, the last sentence: they are adding County Route 102.

## **Planning Board Approval of Minutes**

Vinny Galligan makes the motion to approve minutes. Richard Robbins seconds the motion. Susan Hawvermale wishes to raise a question about the last paragraph in the minutes. Richard Robbins states that a motion to approve minutes as written is one that addresses the accuracy of the minutes and is not a new discussion of the topic and that that would be more appropriately addressed at the end of the meeting. Susan agrees to address her question at the end of the meeting.

Vote: all in favor

Karen Ellsweig and Susan Hawvermale abstain, as they were not present at the February meeting.

## **Public Comment on Agenda Items**

There are no comments.

## **Town Board Lead Agency Designation for Comprehensive Plan**

Richard Robbins explains that the Town Board has designated itself as lead agency for the enactment of the Comprehensive Plan under SEQR. The adoption, any amending or updating of the plan is a type 1 action and the Planning Board has the opportunity to make any comments on the designation. The Planning Board members are all in favor of designation and Richard will report this to the Town Board.

## **Republic Lake Joseph Subdivision**

Richard Robbins confirms The Planning Board has received all required documentation from Glenn Smith and that he has answered their questions. Richard reads the county Planning Board's letter describing its review of the proposed subdivision under general municipality law 239 N and M. Nicole

Lawrence provides a copy to Glenn Smith. The county voices no objection, subject to the Planning Board's approval. Chairperson Richard Robbins informed the applicant and the public that he and Planning Board member Susan Hawvermale are homeowners and members of the Merriewold Club, a membership corporation, which owns property adjacent to the project. Neither of them own property that adjoins the project site. The applicant had no objection to Richard or Susan deliberating and voting on the application.

Nicole Lawrence reads a letter from the D.E.C. stating they have reviewed the SEQR notice and have no objection to the Planning Board assuming lead agency. The letter outlines requirements that must be met.

Richard Robbins reads the most recent comments supplied by Tim Gottlieb, the town engineer, stating that all of his initial concerns have been addressed.

The Planning Board members go through the EAF, answering the series of 11 questions. All agree the proposed action will not impose any negative impacts on the community or environment. Susan Hawvermale moves to issue a negative declaration. Karen Ellsweig seconds the motion.

Vote: All are in favor. There is no further discussion. A negative declaration is issued.

Richard asks if there are any additional concerns or comments regarding the application.

Jacy Ricciani advises that the board consider any conditions they want to attach to the approval. She recommends a standard condition that any outstanding fees be paid by the applicant. Richard suggests that the board approve the subdivision subject to the confirmation that all outstanding fees are paid. All concurred and there is no further discussion by board members.

Susan Hawvermale makes the motion to approve the subdivision with the condition that all fees be met, including the escrows. Karen Ellsweig seconds the motion.

**VOTE BY ROLL CALL:**

Susan Hawvermale	Aye	Karen Ellsweig	Aye
Vincent Galligan	Aye	David Groskin	Aye
Richard Robbins	Aye	Eugene Raponi	Aye

Jacy Ricciani will complete the resolution, circulate to the entire board, have Richard Robbins sign it, and have Nicole Lawrence get a copy to Glenn Smith to countersign. Fully executed resolution will be filed.

**Status update of Tent Days**

Richard Robbins introduces Andrew Unterberg, who is in the audience and has recently purchased the property on 80 Tannery Road. Mr. Unterberg informs the board he needs to conduct some geological testing and thus his application will likely be complete in June.

**Planning Board Member Comments on Comprehensive Plan**

Richard Robbins invites the Planning Board members to make comments or state concerns for the Town Board or Comprehensive Plan Special Board. Susan Hawvermale reiterates what Gifford Shriver said

regarding a balance and hopes the board will consider some preferable economic developments projects. She is aware of three zones where businesses can be located. Although she would prefer that Forestburgh never changes, she also doesn't want the taxes to continually increase and hopes that something can be achieved – looking to the future – so that the comprehensive plan does not need to be revised five years from now. Richard Robbins then asks if there is anything specifically regarding the goals that have been set forth or the recommendations that have been stated in the plan that need to be altered. Karen Ellsweig compliments the accuracy of the noise ordinance. She also compliments a point on page 38 that she feels is tremendously important: to “consider whether the current part-time status of our single licensed building inspector is sufficient to meet the town's ability to assure appropriate inspection and code enforcement.” Richard Robbins reaffirms Karen's point that there is a tremendous amount of responsibility on the code enforcer and that they will be sure to reiterate this to the Town Board. Richard asks if there are any further comments or issues with the plan. David Groskin says that tourism is mentioned in the plan and he asks where there is tourism. Richard Robbins says the nesting of the bald eagles brings in tourists and notes other areas. David Groskin acknowledges that a lot of work went into the Comprehensive Plan but calls it an optimistic skewing of what happens in reality. From what he has witnessed first-hand, he does not feel the board is welcoming to newcomers and this prevents tourism. If the town wants tourism, he says they cannot be a board that says no.

Jim Steinberg asks David Groskin why he is sitting on the Planning Board, as he recalls a letter of resignation from David at the last Town Board meeting. David states he has not resigned. Karen Ellsweig and Susan Hawvermale tell Jim there was no such letter but Jim insists there was. Justin Evans states that the comments are devolving from David's point, which is a valid point, because he himself was talking to a well-known appraiser recently who said the land in the Town of Thompson is worth more than the land in the Town of Forestburgh because the view is that Forestburgh is not a development-friendly community. He feels it is an important comment for the board to hear. Gillian Kaiser says the goal is to open the door to businesses but with restrictions so that they follow in suit with the feel of the town. The objective is to bring in the additional tax base with smart growth, not just a business district where any type of business can come in. She feels they are working towards a happy medium that won't change the perception of the town. Karen explains that Gillian is bringing attention to a distinction between “future growth” and “smart growth”, which needs to be expressed in the Comprehensive Plan. Gillian says that most of her wording is in the document but it is piecemealed. Karen's suggestion is to use wording specifically in the introduction to the Comprehensive Plan, so that anyone reading the plan would understand right up front the town is looking for ‘smart growth’

### **Planning Board Member Comments on items not on the agenda**

Susan Hawvermale defers to David Groskin on the point she wished to make earlier.

David Groskin explains that his understanding, based on a confidential legal memorandum distributed to members of the Planning Board by Jacqueline Ricciani, is that his position on the Forestburgh Planning Board is contingent on his domicile. Jacqueline Ricciani explains the difference between a residence and domicile, reminding all members of their obligations under the Public Officers Law. David feels that he is in the same position as Chairperson Richard Robbins and that if David's position is examined, the position of all members should be examined. Richard Robbins asserts that he and member David Groskin are not in the same position. David announces he would like to stay on and serve on the board as long as he owns property in Forestburgh, unless the Town Board is specifically asking him to leave. Eugene Raponi suggests that the matter be brought up to the Town Board but Karen Ellsweig, Susan Hawvermale and Vincent Galligan are of the opinion that the choice is David's whether he will remain on the Planning

Board and serve out his term, which ends December 31<sup>st</sup>, 2017. Jacy states that Public Officers Law has two criteria: you have to be over the age of 18 and you have to be a resident of the municipality. Karen Ellsweig draws attention to the fact that the Public Officers Law does not define “resident” and that it is only interpreted in the case law to mean “domicile”. The actual word “domicile” is not mentioned in the Public Officers Law. Jacy says this is correct and offers to provide more analysis from the case law. David explains that at the last meeting he was merely informing everyone he had moved and that he has never suggested any desire to resign, to which Nicole Lawrence bears witness.

After much discussion as to whether or not David Groskin qualifies to continue to serve on the board, the general consensus is that neither the town lawyer nor Planning Board can make that determination.

There is also a discussion regarding the handling and distribution of minutes. It is agreed, by all members, there are to be no edits to the secretary’s draft prior to distribution to all members, minutes are to be sent to all members in draft form and not posted on the website until approved.

There are no other Planning Board member comments on items not on the agenda.

Motion to adjourn at 8:25 made by David Groskin, seconded by Karen Ellsweig.

Vote: all in favor