

## **Town of Forestburgh Planning Board Meeting**

May 26, 2015

Susan Hawvermale, Chair  
Karen Elsweig, Steven Budofsky, David Groskin, Robert Sipos

The meeting began at 7:01pm with the Pledge of Allegiance led by Town of Forestburgh Supervisor, Bill Sipos.

The new planning board was introduced to the public.

### **COMMUNICATIONS**

Susan Hawvermale stated that there was one letter from the Superintendent of Highways that would be read at the ASTI presentation.

### **APPLICATION**

Susan stated that the current application needs to be updated. The names on the application are of the old board members and need to be changed to the new. She also suggested changes in the proof of mailing. To save applicants money when mailing to owners of neighboring properties, first class mail with a receipt from the post office could be used instead of the expense of return receipt mail. She stated that neighbors constitute property owners within 500 feet of the applicant's property line and include properties across any streets. Susan put this in the form of a motion, seconded by Karen Ellsweig. No discussion. All in favor. None opposed.

### **CURRENT PLANNING BOARD APPLICATIONS**

1. **David Turick (pole barn):** Application is to build a garage structure, a pole barn in the back corner of the property located at 2860 Route 42. He is an avid car collector and would like to be able to store the numerous vehicles on his property to protect his assets. It would have log siding, like the siding that is currently on the building on property now. He will also be providing some landscaping. The pole barn will be have an overhead door to close it off. He is unsure of the height, but would like it to be at least 16 feet to use a 4-post lift that raises the cars up so they can be stacked. The barn would be lower in height than the house with no heat or electric, strictly for storage. Susan stated that an updated EAF is needed, and once this is received, it will be easier for the engineer to determine location on the property and how it's going to look. David will contact Tim Gottlieb, the town engineer, to find out what is needed for the next Planning Board meeting.

2. **Gnome Enterprises (subdivision)**

George Fulton, Fulton Land Surveying, represented the applicant. His client owns 15.52 acres with an existing house, garage, and shed on Route 42. The client proposes to subdivide the house

on a 4 acre parcel and retain 11.52 acres. The well and sewer system are within the parcel with the house. Susan said the signature on the application could not be determined. Richard Robbins, the co-manager for Gnome Enterprises, LLC, stood up and identified himself as the signer. The other board members said they had not received the signature page. Susan questioned George Fulton about the incomplete packets. Ken Klein suggested getting complete packets to the rest of the board members before the next meeting and Susan requested that they be delivered tomorrow. George Holden agreed. Ken further stated the board could not take any action on the application tonight other than to recognize it as a complete application. If recognized as such, the board could schedule a public hearing, forward the 239 review to the county, and declare the board as lead agency for the purposes of SEQRA. George was instructed to bring complete copies of the application to Town Hall by tomorrow, and send another copy to the county planning department with a copy of the EAF. George will comply. Susan made a motion to declare the Planning Board as lead agency to the project and Karen seconded. All in favor. None opposed. A public hearing will be set for the next meeting on 6/23/2015 provided that the 239 has been returned by the county. David brought up a discrepancy as to the correct address of the property which had #2335 Route 42 written on the application, but it doesn't match up to the property. On the packet that George provided, in small letters, it says 2598 State Route 42. Ken stated that there could be two different addresses for a number of reasons. The 2598 number is the description within the deed, which was probably on the tax roll at the time that the foreclosure proceedings commenced. The county database, [www.taxlookup.net/forestburgh](http://www.taxlookup.net/forestburgh), reflects a property address of 2335 State Route 42. That is where George got the number. Ken stated for clarification purposes that George needed to simply contact the 911 folks who issue the street addresses throughout Sullivan County and get verification to make the appropriate changes on all the documentation. George will bring the correct application and drop it off to Town Clerk Joanne Nagoda tomorrow. The Planning Board secretary will put out a public notice for public hearing for the next meeting.

### **3. ASTI (outdoor recreational facility)**

Javid Afzali, an attorney with the law firm of Whiteman, Osterman & Hanna, represented the applicant, ASTI, LLC. ASTI has submitted an application to the board for a special use permit, as well as a site plan review to develop a recreational facility on the former golf course on Tannery Road. He introduced the project team as follows:

- James Sherman, the CEO of ASTI, an instructor in martial arts to law enforcement professionals, special forces, securities, adults, and children since 2007 in New York City.
- Eric Ortense, the owner/operator of Streamline Custom Contracting, a New York City construction company.
- Steve Ralston, a Navy SEAL from 1990-1998. Steve is going to bring his expertise in tactical curriculum performing and training.
- Tom Reilly, Project Engineer, Reilly Associates Engineering
- Christine Himler, Senior Project Manager, Terrestrial Environmental Specialists, Inc. , (TES)

The site is 307 acres on Tannery Road in Forestburgh. ASTI is under contract to purchase the property conditional to approvals from this board. The project was previously used for outdoor recreational purposes and has an existing 18-hole gold course and a clubhouse. ASTI wants to continue to use the property for recreational purposes with high ropes, obstacle training course, targeted shooting range, and a recreational sporting course. ASTI will repurpose the existing clubhouse and provide additional parking and ancillary storage sheds for equipment. No new buildings will be constructed and no large tracks of land will be clear cut for this project. Once complete, the project will benefit families, emergency services, and law enforcement by providing a world class facility that promotes recreational opportunities to benefit the local economy. A video on ASTI was shown to the Planning Board members as well as the audience.

The property is located in an RR1 district, which allows outdoor recreational uses. ASTI has submitted a letter of request to the town code enforcement officer to get a confirmation that in fact the property is RR1 and it does permit outdoor recreational uses by special use permit. ASTI anticipates that the board will designate itself as the lead agency under SEQRA and perform a coordinated review with involved agencies. They have submitted a long form EAF for the board's consideration, Appendix D in the application. Azfali stated that under SEQRA, this project would be a Type 1 categorization because there will be no more than 10 acres of developed. ASTI has done the requisite environmental studies and hopes that the Planning Board would agree that this project calls for a negative declaration for an environmental review. The ASTI consultants have prepared reports and projects assessing vegetation and wildlife impacts, ground water impacts, portable water and waste water impacts, traffic, archeology, and noise studies. The site shows either no adverse environmental impacts or impacts that have been avoided through project design and mitigation. A summary of all of these reports is in Appendix G and gives a narrative as to how ASTI meets or exceeds those requirements. In addition, they have also provided the planning board with Exhibit F, which is an environmental addendum. They have answered Part 2 of the environmental assessment form.

Tom Reilly presented an aerial overview with a 300 scale referencing map. Out of 367 acres, 77 acres are already cleared for fairways which minimizes additional clearing. The shooting range requires very little tree cutting. The driving course will be in an area farthest from the residential neighbors and where storm water could be managed away from natural drainage courses and wetlands.

Christine Himler discussed other permits, acknowledging the Special Use Permit required from the board. In the application, Appendix O is a listing of the permits, first of which is the SPDES permit for earth disturbance. Another will be required for use of the existing septic system. The previous owner of the golf course installed the septic system and ASTI will use that existing system. They analyzed the previous use and believe it is a fair and accurate representation of how many gallons per day the system would have been designed for. A test is needed on the existing septic facilities. They are going to have to do a capacity pumping test to make sure of adequate supply. The Department of Health will issue that permit once all requirements are met. The Highway Department will issue a driveway permit for any kind of maintenance, and also for

some pull-offs within the property to make sure there is adequate room for cars to pass. They talked to the Highway Department Superintendent today and are scheduling an onsite meeting with him next week to establish where those pull-off spots should be. The engineer needs to depict that accurately as part of the application.

The previous project proposed 50 single family homes and over 200 town homes in conjunction with the golf course and those studies were done were for a much more intense use than what ASTI is proposing here. ASTI supplied copies of those previous studies in the application for comparison. There are updates to those reports (with the exception of archeology) from the people who prepared the previous reports, confirming what ASTI is stating. Those previous studies included endangered and threatened species, site hydrology, tests for the well assessment, a traffic impact assessment, and Phase 1 archeological investigation. With regard to the endangered species report that was prepared by environmental specialists, that report is included in the application as Appendix H. TES has updated the threatened and endangered species listings and came across one additional species that was not listed on the original list as determined by the Fish and Wildlife Service. That species is the northern long-eared bat. Recommendations were made to ASTI on how to avoid having any negative impacts to the bat. Their original study determined that there is no habitat for "denning" for the bat, so they are not hibernating on the site, but they could be roosting on the site in the trees. It is recommended that any kind of tree clearing on the 4 acres needed occur between February 1st and March 30th when the bats will already be in hibernation, adding no impact to the population. They also recommend that any kind of proposed outdoor lighting fixtures be shielded downward so as not to effect their flight at night. The only lighting proposed is on the clubhouse and the storage building for security. TES also recommended not to use an algicide in any applications because it can be harmful to the bats.

An in-depth onsite well drilling program and groundwater analysis was performed in comparison to the previous project and again that update is also included in Appendix I in the application. In addition, the hydrogeologist also looked at potential contamination to the ground water from the proposed use and he identified that where there is going to be gas leaking and oil from motorized vehicles where the motocross track is going to be located, there are very deep tills which are very dense and don't really promote a lot of infiltration. The client also indicated they will have a spill response section in the storm water prevention to address any kind of minor spills that might be incidental to the operation of the course.

A traffic impact assessment study was performed for the previous proposed housing development for 50 single homes and 232 townhouses. That study looked at the existing roadway network and was done in compliance with transportation institute engineers' standards, as well as New York State standards to analyze traffic impacts of that project. The study is in Appendix L and also included the large residential project that is currently under construction at Lost Lake.

The potential for lead to effect groundwater is dependent on several factors including local precipitation, soil chemistry, and groundwater pH. The location of the proposed shooting range

will not promote the absorption of lead into the local groundwater flow system. Lead is known to dissolve under acidic conditions. Areas that have high calcium content prevent migration of lead. The bedrock beneath the site is composed of layers of sandstone, soapstone, and shale. Each of these rocks consist of a calcium compound, usually calcium carbonate as well as their individual constitutions. The calcium carbonate dissolves when it is in contact with groundwater, creating a basic pH for the local groundwater which discourages the migration of lead from the soil into the groundwater.

The archeological investigation located Appendix M was prepared in 2009 for evaluation of the site. The study was conducted under the New York Archeological Council and the New York State Historic Preservation Office guidelines. It describes the methodology of the archeological investigation and includes a desktop analysis, a review of historical records, and field record including almost 4000 shovel tests. The study also includes a map to show where the shovel tests were performed. No prehistoric features were found on the site. Six historic features were found near Tannery Road and in a wooded section, Probably part of an old tannery site. The report recommended that if any kind of disturbance were proposed for those six features that an additional study and investigation be performed. It was stated that none of those sites will be disturbed, so no further archeological investigation is needed.

Christine then went through the code required addendum located in Appendix F which summarizes the code section 85.27 for the special use standards. The first requirement is that the project be in harmony with the town's master plan. The Forestburgh Master Plan carves out nine key items:

1. Preservation of the quality of life.
2. Conservation of the town's natural, historic and scenic resources.
3. Water conservation.
4. Proper regulation of development.
5. Adequate municipal services.
6. Safe, quiet, efficient, and uncongested roads.
7. To promote recreation.
8. To maintain an equitable tax base.
9. To ensure public safety.

Christine believes ASTI's plan addresses all of these things.

Steven Szulecki, vice president of the Noise Consultancy, LLC, presented his findings regarding the occupational and environmental noise impact to the community from the shooting range and motocross track. The analysis focused on the 450cc engine size class of motocross bikes that would be the maximum permitted vehicle size for the course. A graphic was prepared and presented to the Board. ASTI will be using 22 caliber ammunition on the shooting range. However, during the week there will be some mixed use with about 85% of 22 caliber ammunition and about 15% high powered ammunition being used. On very limited occasions,

the high powered ammunition might be used on an hourly basis. The study shows compliance well within decibel range for New York State regulation.

Susan asked that Sandi read the letter from the Forestburgh Superintendent of Highways that was received. Superintendent Hogue was in the audience and stated the he approved of the project, noting that "Tannery is a 'highway by use' and varies in width from 20+ feet wide down to 8 feet wide in areas. The town does not own adjoining lands and therefore, widening the road is not an option. Furthermore, Tannery Road is a seasonal highway, primarily dirt, and the town has no intention of upgrades at this time as it would be a financial hardship on the town."

Tom Reilly proposed meeting with the Fire Department to have them assess the site as it is now to assure emergency vehicles could navigate Tannery Road. Minor improvements may be necessary along Tannery Road and ASTI proposed those improvements can be made. Most, but not all of the narrower part of the road is adjoined by the developing property and ASTI proposes to stabilize the road by cleaning up some of the ditches, overhanging and dead trees, especially where there are curves, creating pull-off areas every 200 feet to make it safer for emergency vehicles and opposing traffic. It will still be unpaved.

When asked about what type of people would be using the facility. James Sherman stated it would be people who do the action adventure races, people that want to get out and enjoy recreational activities on the weekends, as well as families. Many would be people coming up Manhattan. Employees of banks, doctors, lawyers, or professional groups could come for leadership training during the week. Law enforcement, police officers, emergency services also would come for training during the week.

When asked what the "clubhouse" onsite would be used for, James Sherman stated it would be for general assembly where everyone comes to start their day and register. There would be instructional safety videos, bathroom and shower facilities. No restaurant is planned, but they might bring a food truck onsite. If they did an event where food and beverages were needed, it would be catered. Transportation to and from the train station, hotels, and the casino is planned.

ASTI met with Sheriff Schiff and different police chiefs in the area to discuss security. ASTI's goal is to have the highest level of standards within New York State law enforcement. If it is legal to store ammunition onsite by New York State, they will. There will be 24/7 security onsite.

The facility will open for 35 weeks starting in the spring, and then close after the leaves fall. Winter activities have been discussed, but at this time there are no plans.

ASTI is involved with the Wounded Warriors Project and veterans and they are making plans to have handicap access to any facility on the grounds including parking access, the clubhouse, etc. At this point, there is nothing carved out for handicapped accessibilities. However, Mr. Reilly stated he can follow up in detail regarding that.

Members can bring guests, however, it will be a very controlled environment. There will be membership applications and identification requirements.

Susan stated if they were to find a gravesite on the property, she would like it preserved and ASTI agreed to comply.

Board member Steve Budofsky asked Steven Szulecki (noise expert) questions regarding the level of noise to the community. Mr. Szulecki answered all questions and then stated that the reason that the regulatory agencies and regulations have been developed is to get away from the subjectivity of nuisance-based common law and all environmental regulation. He stated that he teaches air quality at Rutgers. The programs and origin of air quality regulations prior to EPA and state-passed regulations were all nuisance-based. One person's nuisance is not the same for another person, and this is precisely why there is a regulatory structure in New York State and other jurisdictions with a common law nuisance-based approach.

Ken Klein stated that ASTI had presented a sound study and that the Planning Board has the right to have that study evaluated by a professional working for the Planning Board. The expense will be born by the applicant and paid for through their escrow account. From Ken's perspective, there are five issues with this application, three of them are noise, one is the impact on Black Brook, and the other one is the suitability of the county road in terms of ingress and egress. Tim Gottlieb agreed with Ken that the Planning Board needs to have an independent consultant review the noise consultant's report.

Motion made by Susan for the Planning Board to engage, at the applicants expense, an independent professional with the appropriate experience and credentials to review and advise the board with respect to the sound study as done by applicant with regards to any and all studies. Karen seconded. All in favor. None opposed. Susan stated that the Planning Board intends to be the lead agency. Per Tim, ASTI will update or improve application. Tim will try to generate a review by next meeting. Javid asked if the board will meet on the application next month and was told yes. Tim will look into sound consultants and initial expense.

There being no other business, the meeting was adjourned at 10:07 pm.

Respectfully submitted,

Sandi Burke  
Planning Board Secretary