

TOWN OF FORESTBURGH PLANNING BOARD
SEQRA PUBLIC HEARING
Forestburgh Pond
July 28, 2020

The public hearing was called to order at 7:05pm by Chairman Richard Robbins, virtually via Zoom.

Members Present: Katherine Barnhart
 Anthony Cardoso
 Alan Devlin
 Vincent Galligan
 Susan Hawvermale
 Richard Robbins, Chairman
 Robert Sipos

Attorney Present: Jacqueline Ricciani

Recording Secretary: Billie Jean McGinnis

This meeting is being held via video conferencing and tele-conferencing pursuant to the terms of Governor Cuomo's 2020 Executive Orders 202.1 and 202.15. Notice has been provided to the public, including zoom log in information, written posting at the Town Hall, Forestburgh Firehouse and electronically on the forestburgh.net website, the Forestburgh Newsletter, in the newspaper and posted physically on the property.

Chairman Robbins opened the public hearing. "So this is the public hearing on the Forestburgh Application. We have received to date, or first I want to note that notice has been given for this public hearing via certified mail to all neighbors. The applicant has provided me with receipts indicating that. It has been published in the newspaper and the applicant has provided us with written confirmation from the newspaper for publication. Two signs have been posted on the property that we, not only have seen but, photographic evidence of that was provided by the applicant. We have received written correspondence during the course of this application, and right up until today, from Mr. and Mrs. Licht, Ms. Langusch, Mr. Gillan, Mrs. Toomey. We've also received correspondence from the Division of Planning in Sullivan County, the General Municipal Law 239 review with attachments from the New York State Department of Transportation and Sullivan County Department of Public works."

Motion made by K. Barnhart to enter these documents into the record of the public hearing, seconded by S. Hawvermale.

Vote: All in favor.

J. Ricciani suggested that the written comments received from the Lichts and Ms. Toomey be read into the record so that the other members of the public can hear those comments. Chairman Robbins read aloud the letter from Mr. & Mrs. Licht dated July 28, 2020 as well as the email from Mary Ellen Toomey dated July 26, 2020. Correspondence has been posted online for reference.

Chairman Robbins asked for additional public comment.

David Licht asked if there's been any testing from the DEC or EPA regarding the matters concerning water and lead. Chairman Robbins stated that this is a time for comment, not questions and answers. His questions will be addressed by the Board or the applicant during another portion of this meeting.

Marvin Rappaport asked if there is a prohibition on further subdivision of the larger parcels, the 160+ acre and 170+ acre. He recalled at the last public meeting he attended that there was either a covenant or something that said there would be one residence per lot. Is that also applied to the much larger lots? Chairman Robbins stated that this has been addressed in the application and he will hear about this in the next part of the meeting.

Jim Galligan has the same question as Mr. Rappaport and looks forward to hearing the answer.

Victor Grund stated that Mr. Rappaport brought up the issue with the larger parcels. There's not been a lot of discussion about that. The minutes from last meeting indicated the possibility of renting the property to hunters and so forth. His issue is not with the hunters but with the shooting range. He lives near the shooting range and some weekends it's very annoying. There seems to be no regulations by the town. This is not an applicant issue. He thinks it's a town issue. As we move forward, he hopes the town will come to grips with this whole issue of a shooting range; eliminating it or controlling it in some better fashion.

Chairman Robbins stated that it would appear that given the fact that the DEC has indicated to us that it intends to comment specifically in regard to the lead contamination of the shooting range. Because of COVID and the fact that everybody is working from home, they have not yet been able to complete their response. We've also learned from the applicant today that they've arranged for additional testing to be conducted at the shooting range with a hydraulic probe that will hopefully get samples from below the surface without mixing surface material into it. As a result of this incompleteness of the record, it would seem prudent for us to hold this public hearing open for another 30 days so that we can receive that information and perhaps other public comments. There's also the issue with respect to the dam, which is a significant environmental issue. Other than the fact that it's in poor condition, it may well be the subject

of comment from the DEC. Chairman Robbins asked if the applicant agrees to keep the hearing open for another 30 days. Mr. Lord agrees that holding the public hearing open for another 30 days would be prudent.

Motion made by S. Hawvermale to close the public hearing portion of this meeting but not in its totality. Seconded by K. Barnhart.

Vote: All in favor.

The public hearing was continued on August 25th at 7pm by Chairman Robbins, virtually via Zoom.

Chairman Robbins opened the public hearing “This is the August regular meeting as well as the continuation of the State Environmental Review Act Public Hearing for Forestburgh Pond. We’re doing this virtually, pursuant to the authority of Governor Cuomo’s 2020 Executive Orders 202.1 and 202.15. Notice has been given and provided to the public, including Zoom login information, via written posting at the Town Hall, the Forestburgh Firehouse, the Forestburgh Newsletter and the Sullivan County Democrat. This meeting is being recorded. Minutes and a transcript will be prepared.”

Chairman Robbins read aloud a letter from Victor Grund dated July 29, 2020 and a letter from Richard Katzman dated August 5, 2020. Correspondence has been posted online for reference.

The Board has been provided with a letter from Keystone Associates to Mr. Lord dated August 6th, which is also on file and posted online, referring to the dam. It’s very technical. Engineer, Glenn Smith, in his letter dated August 14th, which has also been distributed and posted online, responds and concludes that “these are reasonable measures used on many old active dams in this area. I’ve been monitoring several dams in Sullivan County with these same procedures for almost 20 years, generally finding little or no changes to the structures from inspection to inspection. In summary, the 8/6/20 Keystone report appears reasonable and I would agree that their recommendations should be implemented.”

Another report, which also has been distributed and posted online, is from Christina Pacella of the DEC. It’s long. Chairman Robbins read aloud parts of the text as it pertains to the two significant issues that have been raised, the environmental remediation and the dam. It goes beyond this. Much of it is boiler plate text with citations to statutes.

“An environmental investigation report titled “Firing lane Investigation Report” prepared by Keystone Associates and dated June 23, 2020, was included in the submitted project documents. The report summarized the findings of a limited soils investigation conducted at the subject property. According to the report, the property had historically operated as a firing

range dating back to the 1930's. Soil samples were collected and analyzed to investigate the extent of potential lead contamination associated with historic firing lane operations.

Shooting ranges frequently exhibit potentially hazardous levels of lead in the soil and should be considered as part of planning the proposed development. If lead contaminated soils will be disturbed or treated, additional approvals may be required. Please see the attached document, "Shooting Range Guidance," for technical information regarding lead-impacted soils. Additional approvals may be required by the New York State Department of Health (NYSDOH). For additional information, please contact Glenn Illing, NYSDOH. "

In respect to the dams, "The Forestburgh Pond Dam, DEC Dam ID # NY12761, hazard code A, is located onsite. The requirement of a permit pursuant to 6 NYCRR Part 608.3 does not apply to the following: The construction, reconstruction, repair, breach or removal of a dam that has a height less than 15 feet, and a maximum impoundment capacity of less than three million gallons. This dam's maximum impoundment capacity exceeds the above-referenced threshold. Therefore, any work performed on the dam that is not deemed "ordinary maintenance" as defined in 6 NYCRR Part 608.1 would require a Dam Safety Permit under Article 15 of the Environmental Conservation Law (ECL). The project narrative includes repairs to this dam as part of the proposed project. For technical information regarding this dam, please contact Warren Shaw, NYSDEC Dam Safety."

Refer to the Shooting Range Guidance document posted online, from which, Chairman Robbins read a portion. "Regulatory Classification of lead shot and/or lead--Under the RCRA, which stands for Resource Conservation and Recovery Act, hazardous waste regulations, shooting ranges can remove lead and place the treated soil back on the range, even if the soil being placed back on the range fails TCLP. This activity is considered range maintenance, rather than hazardous waste treatment or remediation as long as the range will continue to operate, even if the range is currently inactive. When the range closes, lead left on the range becomes RCRA hazardous waste, and the range owner or operator would be required to clean up."

Recording Secretary, B. McGinnis, read aloud a letter from Mary Ellen Toomey dated August 24, 2020. Correspondence has been posted online for reference.

Chairman Robbins asked if any members of the public have any contribution to this public hearing.

Mary Ellen Toomey thanked the Board for reading aloud her letter. She wanted to know if any other reports have come back—traffic impact, lead reports, any environmental reports available for the public? Chairman Robbins responded that before she was admitted into the virtual meeting, he read aloud into the record, correspondence received including the report from the DEC which specifically addressed the lead and dam. It is and has been posted online

and is available for her to see. With regards to the traffic analysis, he's going to let Mr. Lord respond to that during the regular part of the meeting if he chooses.

Motion made by S. Hawvermale to close the public hearing on the SEQRA portion of this application. Seconded by A. Cardoso.

Vote: All in favor.

The public hearing was closed at 7:18pm.