

TOWN OF FORESTBURGH PLANNING BOARD
MINUTES
September 29, 2020

The meeting was called to order at 7:00pm by Chairman Richard Robbins virtually, via Zoom.

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

Town Attorney: Jacqueline Ricciani

Recording Secretary: Billie Jean McGinnis

The Forestburgh Planning Board is conducting this meeting virtually 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, and has been posted at the Forestburgh Town Hall, Forestburgh Firehouse, Forestburgh newsletter, the Sullivan County Democrat.

Public Hearing for Forestburgh Pond

The public hearing was held. Correspondence received was read and entered into the record. Comments from members of the public were received. The public hearing was closed.

Approval of Minutes

Minutes for the August meeting were reviewed. S. Hawvermale identified typographical errors and will provide those to the recording secretary. They will not change the substance of the document.

S. Hawvermale commented that the minutes for the regular meeting were quite lengthy and requested a delay on approving the SEQRA Public Hearing minutes.

Motion made by K. Barnhart to approve the meeting minutes as amended. Seconded by A. Cardoso.

Vote: All in favor.

Motion made by S. Hawvermale to table the approval of the SEQRA Public Hearing minutes until next meeting. Seconded by A. Cardoso.

Vote: All in favor.

Forestburgh Pond

Alan Lord presented the application for Forestburgh Pond on behalf of New York Land & Lakes Development.

Mr. Lord reported that the fire chief looked at the location of the dry hydrant. There is an amended location which is west of the current location. They wanted 30 feet to be able to get a pumper truck off the road. Mr. Lord explained that the access is from Hartwood Road and has great sight distance.

In response to comments from the public hearing. Mr. Lord explained that the drainage from Lot 21 drains onto their own property. It goes under the county road and drains onto their property and eventually through their lake. It's not draining on someone else's property.

Mr. Lord added that the septic systems were all perked and designed. The septic systems meet the health requirements and the water meets the state requirements.

Mr. Lord explained that these lots will be sold as vacant lots. 21 lots out of 500 acres doesn't seem overly excessive. Some of them could remain vacant.

J. Ricciani wanted to point out that the applicant did submit a revision to the protective covenants so the land could only be used for non-commercial recreational activities as well as residences. They also revised the bylaws so the HOA is going to be responsible for maintenance of the common driveways and Stag Forest Road and Woodland Drive. This was something the Board asked them to do.

Chairman Robbins asked if the applicant will make a note on the plans reflecting the recommendations of Keystone that for Lots 17 & 18, which include the portions of the firing range, that when a well is drilled for those properties, lead testing should be done and if lead is detected, depending on levels, a filtration system will be installed? Mr. Lord responded that this note will be added to the plat.

Chairman Robbins asked if this report has been provided to Mr. Kilmer at the DEC? Mr. Lord has provided the report to him and Glenn Smith has also discussed it with him. Their engineer at Keystone has also reached out hoping for a comment in time for tonight's meeting.

Chairman Robbins asked when Mr. Lord envisions owning this property? Mr. Lord explained that their closing has been postponed once already but there is no concrete date right now pending a preliminary approval. They're ready to start as soon as they get some kind of approval from the Town.

Chairman Robbins asked Mr. Lord if preliminary approval is granted and conditioned upon receiving permits from various agencies, do they have any objection about keeping the Planning Board in the loop in terms of actual applications that they submit for permits and the responses received on those applications including conditions or requirements imposed on them. This will make the process a little smoother if more time is needed. Is there any objection about keeping the board informed on that kind of matter? Mr. Lord responded that he has no objection. The Town Engineer will also be involved in some of those approvals. He'd like to keep the communication going.

S. Hawvermale asked for clarification of last month's minutes. "Mr. Lord confirmed that Stag Forest Road will end at Lot 6 and the road across Lots C and D will be a right-of-way and maintenance will not be the responsibility of the homeowners." Does Mr. Lord mean the homeowners' association or current home owners. Mr. Lord stated that maintenance will be the responsibility of the property owner's association, not the responsibility of the neighboring people. S. Hawvermale confirmed that beyond lot 6, going up to the Langusch property, the homeowners' association will maintain that road? Mr. Lord said no, they don't go past there. They have no right to go onto lots C & D. S. Hawvermale said the minutes are murky and need clarification. She wants to be sure the minutes reflect that maintenance will not be responsibility of the homeowner's association past lot 6. Mr. Lord agreed.

S. Hawvermale asked what happens if the owners of Lot 6 don't want to supply water to Lot 8. Mr. Lord says they won't have a choice. It will be in their deed for Lot 6 to supply water to Lot 8.

K. Barnhart is not clear why S. Hawvermale is confused about the minutes. S. Hawvermale stated that it should read homeowners association.

J. Ricciani stated that the HOA is responsible for maintaining Stage Forest Road and Woodland Road until the turnaround on the map, beyond that, they don't have any authority. Reference to homeowners is ambiguous. In case the question comes up the POA has created annual dues or assessment for the lots that will be using those right of ways. They will be charged more than the other lots to keep it fair.

A. Cardoso had a question for the engineer regarding the age of traffic study. Comment from the public during the hearing is that the traffic report is from 2017. G. Smith doesn't see much of a difference and doesn't see an issue with it.

A. Cardoso asked if there is something about restricting shooting ranges in the covenants? Mr. Lord revised the covenant to be use for residential to keep from allowing a shooting club. It's difficult to tell a homeowner of 150 acres that they cannot go out and shoot a gun. It was tough

to figure out wording. The property is limited to residential, non-commercial use. That was the intention to address that concern.

K. Barnhart asked about the dam and where we are with the DEC, whether it's major repairs or maintenance. Mr. Lord responded that he submitted a plan but it's still being worked on. There's a leak and it's coming through the stone. They need to install an impervious material in front of the stone wall to keep water from leaking through. They've recommended a coffer dam or lowering the water level of the lake. It's not a major repair but it's going to take some time. They'll probably do a material swap from Woodland Drive and bring it down to pack in front of the stone wall. G. Smith mentioned that there's some thought of draining the lake level, but a coffer dam makes sense.

R. Sipos asked how long would material last in front of the dam once it's repaired. Mr. Lord doesn't know the answer to that. He thinks they did the other side of the dam back in 2012 or 2013. It looks new. R. Sipos asked if there's a way to find out the estimated lifespan. G. Smith said they'll probably use a type of mortar which lasts forever. He's been involved with some other similar dam repairs and they last quite a while.

A. Cardoso asked about the lowering of the lake level and how long would the lake be low? And naturally refilled? Is that being planned? Mr. Lord doesn't have that answer. That's what the engineer put out, that he'd need to build a coffer dam or lower the lake. It's going to be a matter of how long it takes to lower the lake. He thinks it depends on precipitation and how long it would take the lake to build back up.

Chairman Robbins asked G. Smith to explain a coffer dam. In front of the dam, you basically build a berm or dam with sandbags, clay, dirt etc. and pump the water out of that area so you have a dry space to work in. You do your repair and remove the coffer. Mr. Lord said his engineer suggested possibly using a jersey barrier. It's not very deep there, maybe 6 feet.

A. Devlin, just an observation, anything to limit lowering the water level of the dam would be beneficial. He thinks once you lower the lake level, your public opposition is going to increase rapidly. Building a coffer dam is going to be better than lowering the water level.

G. Smith also added that the DEC will be involved with that permitting process and will have a lot to say about it.

V. Galligan commented that that we've gone through a lot of due diligence. He's been going through the notes of the projects. He's trying to garner if there are unanswered questions from the public. He seems to think everything has been addressed. Are there any other questions that the public has asked that we haven't gotten an answer to? There are obviously differences

of opinions. Mr. Lord thinks he has addressed everything. Some of the questions are redundant. There's nothing outstanding in his mind that he hasn't tried to address.

V. Galligan is under the premise that we've gotten a little pushback about the fact that the media source isn't perfect however we've heard from the public a little more at each meeting. Does the Board think we've had enough access to everyone getting their questions asked and answered?

K. Barnhart asked if we could change the hearing process. If questions are raised if there could be a direct answer to that issue being raised. It may be more satisfactory for those raising the issue and it would save a lot of time and be more clearly responsive to people who are concerned about the development.

A. Cardoso asked if the concern is about the way we're doing the hearing? He raised the concern earlier and it was turned down. K Barnhart is questioning the structure of the hearing, and it may be a matter of law. We have people ask questions, but we may not respond. They're really not there to ask questions, they can only make comments. So there is a gap between their issue and our response. I think the feeling is that we're not directly answering the issue being raised.

A. Cardoso added that, while Mr. Lord doesn't have an obligation to respond, he typically does respond to the comments. We have addressed a lot of the concerns. The main concern left conceptually is that the locals do not want houses built there. He doesn't think the applicant can offer anything more at this point. The nature of subdivisions is that this is a 500 acre property. The fact that they're doing 21 lots is far below the buildable yield. The developer is ultimately able to develop their land as long as it's within the code. We have some say but at the end of the day, we can't say thanks, but we don't want you to build. We've done our best with making it consistent with the comprehensive plan. The technical concerns that can be addressed, have been addressed. There's a tension there. The developer is allowed to build more. The ones that can't be addressed are the "just don't build it at all."

Chairman Robbins added that the buildable yield of 548 acres is 178 under the zoning code in this district. A maximum buildout of 178 homes is within our code.

K. Barnhart is not talking about the substance, but more of procedure. There's a gap in the procedure of the public hearing where questions cannot be asked only comments made. It would be fruitful if we could respond at the time that the question is being asked. People feel like they are not directly responded to when the questions are asked.

Chairman Robbins stated that the legal requirement in the processing of the application is that they must make a decision within 62 days of the close of the public hearing. He's sensitive to

the concerns about the technical inadequacy of the Zoom meetings to facilitate and enable a better interchange. It is a process and is not the same as being in person. He's not opposed to scheduling our next meeting at the firehouse where we would then have a period for comments from the public on agenda items. When we have live meetings that is the first item on the agenda. Historically we've been a little loose at following specific rules of procedure in terms of interchange that we've had to follow in this virtual setup. It also depends on whether the fire department would have us.

After discussion, the Board members are in favor of holding a meeting in person, possibly at the Forestburgh Firehouse, preferably outside or in an area as well-ventilated as possible. Chairman Robbins explained that there are risks associated with gatherings and COVID requirements and he's not sure what current regulations are. We should be able to address and deal with these items. The Board collectively discussed tabling this application tonight in hopes of being able to do a live meeting as opposed to a virtual.

J. Ricciani asked if there is wifi available at the firehouse. A. Devlin responded that there is wifi.

Motion made by A. Cardoso to table this application at this time. Seconded by S. Hawvermale
Vote: All in Favor.

Planning Board Member Comments on Items not on the Agenda

S. Hawvermale asked why The Antlers Hunting and Fishing Club was removed from the agenda. Chairman Robbins stated that counsel withdrew the application. He's hopeful that his client's concern can be addressed without needing Planning Board process. J. Ricciani added that the applicant's attorney feels they don't need to come before the board. Before she renders an opinion, she wants to check with the office of Real Property in the County. S. Hawvermale asked if this project will be before the board again. Chairman Robbins does not have an answer to that. There are legal issues that are being discussed.

Public Comment on Agenda Items & Items Discussed During this Meeting

There are no comments from the public.

Adjournment

Motion to adjourn at 8:20pm made by S. Hawvermale seconded by A. Cardoso.
Vote: All in favor.