

TOWN OF FORESTBURGH PLANNING BOARD
PUBLIC HEARING
Forestburgh Pond
September 29, 2020

The public hearing was called to order at 7:03pm 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

Chairman Robbins identified correspondence received since our last meeting. The county has already submitted its general municipal 239 review. In response to concerns voiced at last month's meeting, relocating the driveway for 100 feet North was done on behalf of the applicant. It has been posted online. Chairman Robbins shared a screen to show the location. The driveway was relocated because sight distance concerns were raised at the last meeting.

Also provided to us is the Department of Transportation data reflecting traffic flow on adjacent highways between 1 and 1,500 vehicles per day. That's the Department of Transportation's lowest category of traffic flow that they report.

We've also received a preliminary dam repair plan, which has also been posted online.

We have received from the applicant the results of the further testing that was done at the firing lane site. The entire report consists of about 190 pages. Chairman Robbins read aloud the conclusions of the soil investigation. The full report is posted online. "Based on the results of the soils investigation presented above the following conclusions are presented.

"As stated above in Section 4.4, a review of the soil analytical results did not identify the presence of TCLP Lead above its applicable USEPA Maximum Concentration for Toxicity Characteristic limit of 5 mg/kg in any of the samples. Although, the NYSDEC's Total Lead Unrestricted Use Soil Cleanup Objective (SCO) value of 63 mg/kg was exceeded from the 0-2

inch intervals in samples 25C at 314 mg/kg, 25R at 169 mg/kg, 50L at 141 mg/kg, 75R at 91.7 mg/kg and 100L at 93.3 mg/kg, such exceedances were not detected in the 12-16 inch intervals in any of these samples and all concentrations remained well below the applicable Restricted Use Residential SCO of 400 mg/kg in each of the samples.

“Such concentrations are drastically improved from the preliminary screening (Previous ESA dated June 23, 2020) where site constraints were suspected of causing arbitrarily high Total Lead and TCLP lead concentrations due to likely collection of lead ammunition fragments at the base of exposed bedrock surfaces using hand trowel equipment. As such, it is Keystone’s opinion that use of hydraulically powered Geoprobe macrocore equipment during re-sampling has provided more complete and accurate information which indicate a lack of any lead contamination above the applicable NYSDEC Restricted Use SCOs. Based on this information, the business environmental risk associated with the Property’s historic use as a firing range is considered only limited and may not warrant further action (including remediation or installation of the previously proposed monitoring well) depending on the Client’s level of risk tolerance and confirmation from the NYSDEC as the regulatory agency. These conclusions should supersede any conclusions defined in the Previous ESA report.

“#5 As identified above in Section 4.5, the business environmental risk associated with the Property’s historic use as a firing range is considered only limited and may not warrant further action depending on the Client’s level of risk tolerance. This includes remediation, monitoring or installation of the previously proposed monitoring well, since Total Lead was not detected above the most conservative Unrestricted SCO in any of the 12-16 inch samples. However, Keystone does recommend that the residential supply wells proposed nearest to the firing lane be sampled for Total Lead prior to any human consumption. If lead is detected above associated quality standards, then the NYSDEC should be notified as the regulatory agency and at a minimum, a lead filtration system should be installed and a monitoring program be instituted in order to protect human health, as applicable. To ensure such actions occur, a note should be added to the project plans requiring such actions, as applicable. Also, Keystone recommends that this report be provided to Mr. Michael Kilmer of the NYSDEC’s Region 3 Department of Remediation Office at 21 South Putt Corners Road, New Paltz, NY 12561 for review and comment, as a representative of the regulatory agency. Mr. Kilmer can also be reached via phone at (845) 633-5463 and email at michael.kilmer@dec.ny.gov.”

After receiving this report, the Town’s Engineer, Glenn Smith provided his analysis. Chairman Robbins read aloud his report dated September 28, 2020 in its entirety. This has also been posted to the website.

Chairman Robbins reported that we have also received correspondence from David Licht dated September 29, 2020 which was received at 3pm today. This correspondence has been posted online for reference.

Motion made by S. Hawvermale to open the public hearing. Seconded by K. Barnhart.
Vote: All in favor.

Chairman Robbins opened the floor for public comment.

Chuck Vassallo asked about the technical difficulties he is experiencing. He had been in the waiting room for quite a while. He wrote to the Town Supervisor because he was concerned that something was amiss. Chairman Robbins explained that he was reading correspondence aloud and when he finished, he saw that people were in the waiting room. The correspondence read aloud has been posted online. Mr. Vassallo indicated that he waited awhile and was concerned and didn't want to be squelched because these issues concern a number of us.

Victor Grund commented on Mary Ellen Toomey's correspondence. He's in agreement. He's concerned because they measured lead very close to the shooting range but in the report it talks about drainage down toward the southeast corner of Lot 21. His concern is that they have property adjacent to Lot 21 and there is a very low wet spot there and it seems to be a catch-all for any runoff from up near the shooting range. How far does lead travel? We understand the levels at the lane but what are the levels at our property and other properties? He's in support of Ms. Toomey's comments.

Mary Ellen Toomey called in to comment. She's on Hartwood Road and doesn't have internet access. Where this impacts people the most, people don't have access to Zoom. They have satellite and cannot use Zoom. At last public hearing, she was able to appear but used up her 4G allotment for the month. She says it's very important for the people that are mostly impacted by this development that we find some other means to meet whether we ask the firehouse to open up their room where they can be socially distanced. It seems very inappropriate to conduct these public hearings in this manner and not allow people to participate fully by appearing. Ms. Toomey wants to talk in more detail about the study that was received by the Department of Transportation regarding Route 42 and the traffic. It's her understanding the last report was done in 2017. She has other questions about that report. Does the report include future impact as far as more traffic and more cars on the road especially at that intersection, at the blinking light which we know to be a very dangerous intersection?

Jen Langusch thanked the Board for their diligence in hearing the opinion of the public. She went on to say that there's a lot of concerns by nearby residents of this development. While this process has been good at addressing more logistical concerns and minor questions, she

thinks the overwhelming things that haven't been addressed are that this has a significant impact in terms of the volume of lots we're talking about approving for subdivision and the broader impact of that on the disturbance and noise and impact to the community. Consider the number of people that have voiced their concerns. All of those things remain a concern for all of the people in the area. The Board has done a very good job of listening to the community. She thinks that overall when you look at 21 new households being added to a town of, according to the last census data, only 375 households, you're talking about adding 21 new households and that's a 6% increase, all concentrated in what is essentially 1.5% of the land in Forestburgh. It is heavy development for a small intersection. She thinks that should be considered in the opinions of the Board moving forward of whether to approve or disapprove this plan. She thanked the Board for being patient with the members of the public. She asked that the Board consider the number of people, whether it's Licht, Langusch, Gillian, Toomey, Katzman or Grund, who have all raised pretty vehement objections to this plan. She really would like those voices to be considered in this final adjudication.

David Licht is wondering how his questions will be answered that were submitted today. He has additional points. For the new residents, how will they be handling garbage disposal and what will the impact of garbage disposal trucks be on the community. Mr. Licht added another point that it's well known that any amount of lead ingested can cause all kinds of nervous disorders. We hear all kinds of statistics that Mr. Lord's company has given us, but the fact that any community that has even the most minor amounts of lead are finding that their children and adults are having neurological problems. It's not a problem on his side of the lake but it is surely on the other side where the shooting range is.

Tuck Milligan is in agreement with all that has been said. He's married into the neighborhood, married to Mary Ellen Toomey. As such, he's a co-trustee of the Sabina Toomey living trust which is adjacent to Lot 21 and the property in general. The process seems like this is a very impactful development. The process of the Planning Board seems to be moving very swiftly and the information provided has been very little. He's sure it's available online but even today's available reports give very little time to review and absorb it. Another problem is the limitation to public access to these meetings. It seems very difficult to conduct a full understanding of the residents of Forestburgh without really involving lots of people in the population. It really has to do with information and getting it out and making this process a little more transparent than it's looking from his perspective.

Motion made by K. Barnhart to close the public hearing. Seconded by S. Hawvermale.

A. Cardoso commented that multiple people have indicated a concern about access to the meeting. If it's possible, the Board should arrange something with the fire department or at the pavilion so we could keep the public hearing open to allow anyone that doesn't have internet

access to show up at that meeting. I'm hearing that commentary, so it is something to discuss. Maybe we can vote on it.

Chairman Robbins asked if anyone had any further discussion or comments on the motion to close the public hearing.

Vote:

K. Barnhart	Aye	A. Cardoso	Nay	A. Devlin	Aye
V. Galligan	Aye	S. Hawvermale	Aye	R. Sipos	Aye

The public hearing was closed at 7:28pm.