

## **TOWN OF FORESTBURGH PLANNING BOARD**

### **Minutes**

**March 28, 2023**

After a public hearing, the meeting was called to order at 7:03pm by Chairman Richard Robbins at the Town Hall in Forestburgh.

Members Present:            Alan Devlin  
                                 Susan Hawvermale  
                                 Arthur Leaney-Levenson  
                                 Richard Robbins, Chairman  
                                 Robert Sipos

Absent:                        Katherine Barnhart  
                                 Anthony Cardoso

Town Attorney:            Robert Zitt

Town Engineer:            Tim Gottlieb

Recording Secretary:      Billie Jean McGinnis

Chairman Robbins opened the meeting by introducing the new Town Attorney, Robert Zitt from the firm Feerick Nugent MacCartney PLLC, who attended the meeting virtually.

### **Approval of Minutes**

The minutes from the January, 2023 meeting were reviewed. Grammatical errors were corrected.

Motion made by S. Hawvermale to approve the minutes as amended.

Seconded by A. Leaney-Levenson.

Vote: All in favor.

### **Public Comment on Agenda Items**

There are no comments from the public.

### **The Hartwood Club, Inc.**

A public hearing was held earlier tonight. John Fuller presented on behalf of the applicant. He reiterated the points made during the public hearing. The Hartwood Club had a written response with an updated deed stating their position with the subdivision. It's infrequent that they do a subdivision. The only ones that can build in Hartwood Club are members. There are no present plans to further subdivide. The last subdivision was over a decade ago.

Chairman Robbins indicated that at the last meeting, part 2 of the SEQRA form was reviewed and discussed resulting in a negative declaration. The additional evidence submitted has no bearing on that. The Board is in agreement that the SEQRA process does not need to be reopened.

S. Hawvermale asked if there's any plan to identify a designated building area. Children and grandchildren may want to build there. Mr. Fuller doesn't have any knowledge of that. There's no plan or intention for any significant subdivision. He can't speak specifically to the by-laws. There are a certain number of dwellings and you must be a member to build. There's only been two new homes built in the last several years. Chairman Robbins added that their letter indicated that there's no intent to further subdivide.

R. Sipos added that they haven't had a subdivision in twelve years but what's to stop them from coming back years down the road with other minor subdivisions without going through the process as a major subdivision? Chairman Robbins indicated that the resolution on another project included a condition that if the applicant comes back, the Board may impose the burden of going through a major subdivision application. He suggests the same condition be included for this applicant. T. Gottlieb mentioned a realty subdivision law. If you have 5 lots or more of less than 5 acres in a 3 year period, it becomes a realty subdivision and they'd have to go through the Health Department. Mr. Fuller added that there's also a level of disturbance. If you have accumulate a certain number of acreage, you fall into a different set of criteria. It's really per evaluation by this Board to determine whether someone is segmenting versus developing a master plan. R. Sipos asked if we are setting a standard for what we're allowing? Chairman Robbins indicated that the Subdivision Code determines how, when and under what circumstances and procedures a request will be considered.

S. Hawvermale indicated that some of the documentation was just received yesterday. In the past, paperwork was expected to be submitted 10 days in advance. Chairman Robbins explained that the Board is not obligated to proceed tonight. The Board would like additional time to review the documentation provided.

Mr. Fuller responded that Hartwood's correspondence was in response to the correspondence received from the public. They just received it last week and were quick to get a response done. He asked that the applicant be given any comments so they may respond adequately in time for the Board to review. It's unfair that the applicant received the correspondence last week and worked expeditiously to get a response to it. They need a chance to respond to comments adequately.

Chairman Robbins discussed potential conditions. The same language should be used from the Birchwood resolution with regards to potential for segmentation. In addition, all fees and escrow must be paid, compliance with the maintenance agreement for the easement.

The application has been tabled until the next meeting.

### **Finnegan's Tavern**

Kelsey McCoy and Patrick Santucci presented on their own behalf. Chairman Robbins explained that the Board has reviewed the materials submitted. The applicant was provided with Code sections for review as well as comments received from our engineer and the building inspector.

Mr. Santucci asked about the bathroom. The Liquor Board told them that occupancy of seventy-four and under was suitable for a single, unisex bathroom. What's the occupancy that lines up with a single,

unisex bathroom? Chairman Robbins indicated that the question should be directed to the building inspector. T. Gottlieb added that the Health Department also needs to be contacted.

Mr. Santucci explained that the state website showed an occupancy of forty. They can reduce the seats and tables to keep occupancy at forty otherwise they can add a urinal. They're funding this project out of their own pocket. What suggestions does the Board have to keep the one bathroom? T. Gottlieb indicated that this is not up to the Board. They have to discuss this with their architect, engineers or whomever is helping with their plans. Chairman Robbins further explained that they have to get those answers and those decisions need to be incorporated in the application. Occupancy and use are a concern.

Ms. McCoy asked about desired occupant load and if people have asked that occupancy be lowered. Chairman Robbins explained that the Board hasn't had experience with this. T. Gottlieb responded that this is not an issue for the Board. They need to address those concerns with their architect or engineer.

Ms. McCoy asked about parking. A comment was made that the proposed rear lot was not part of the parcel. That may be removed from the sketch plan. They've discussed that the front, northern side, grassy area could be used for overflow parking. She asked what the requirements are for the lot and if paving is required or if a grass lot is acceptable. T. Gottlieb showed a map. The area they're talking about is owned by the State. If they use it, they'll need a permit from the State. They might want to reconsider this as it's a rental for the State. The State will make them come off the County Road. He suggested they get an engineer to assist them.

Ms. McCoy explained that the owners of the building are planning a wraparound driveway and they can further discuss sharing that with them. T. Gottlieb added that the State will control what they can do with that entrance. S. Hawvermale asked about the location of the State property. T. Gottlieb indicated that it goes to the front door. The cars right now are parking in the State right-of-way.

T. Gottlieb added that they need to consider the existing septic system. It may not be large enough for what they want to do. Ms. McCoy explained that they're not proposing a change in the use of the property because it was a food establishment previously and is still in the pizzeria part of the building. The current building owners were also using it as an event space and were surprised to learn of a potential issue with the septic. T. Gottlieb indicated that he's just raising issues he's aware of. A long time ago it was a food service establishment but that's been long gone. Chairman Robbins explained that they need to demonstrate capacity. If the system is able to deal with the increased load, they're good but it would need to be demonstrated. T. Gottlieb also mentioned that they would need approval from the Health Department.

Mr. McCoy asked about adding a second bathroom and if that would change anything with the septic. T. Gottlieb explained that it's based on occupancy for the restaurant, offices and apartments upstairs. They'll need to deal with the DEC and the Health Department.

Ms. McCoy asked about the next steps. They've submitted the sketch plan and escrow deposit for the engineer's review. Chairman Robbins explained that the escrow for the sketch plan was for the purpose of this meeting. When the invoices are received, the escrow will be reconciled and balance returned. The escrow was intended just for this. A full site plan application and escrow would be required.

Chairman Robbins further explained that the purpose of the sketch plan is to discuss the process and concerns. The applicant will discuss with their engineer and figure out what's needed between the plans and drawings and determinations they'll need to make with regards to their occupancy. If they have specific questions, the engineer will help them with that. The Board will review, grant, grant with conditions or deny an application once it's presented.

R. Sipos added that the Health Department will help and guide them with their handicap accessibility, kitchen etc. They can give a list of their requirements.

**Planning Board Member Comments on Items Not on the Agenda**

There are no comments.

**Public Comment on Items Discussed During this Meeting**

There are no comments from the public.

**Adjournment**

Motion made by S. Hawvermale to adjourn the meeting at 7:34pm. Seconded by A. Leaney-Levenson.  
Vote: All in favor.