

TOWN OF FORESTBURGH PLANNING BOARD
MINUTES
November 26, 2019

Following a workshop, the meeting was called to order at 7:06pm by Chairman Richard Robbins at the Town Hall.

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

Absent: Robert Sipos

Town Attorney: Jacqueline Ricciani

Town Engineer: Timothy Gottlieb

Recording Secretary: Billie Jean McGinnis

Approval of Minutes

Minutes for the October meeting were reviewed.

Motion to Approve the minutes made by S. Hawvermale, seconded by K. Barnhart.

Vote: All in favor.

Public Comment on Agenda Items

There are no comments from the public.

Review of Planning Board Application

Chairman Robbins identified a few items on our application to discuss.

It is not necessary for so many copies of our application to be provided for distribution. It's unreasonably burdensome to the applicant. Chairman Robbins proposes to reduce the number to 10. All Board members agree. Chairman Robbins explained that additional copies of applications will be required for minor subdivisions, major subdivisions and conservation subdivisions.

There is inconsistency between SEQR, Type 2 and Article 3 applications. Some types of applications are exempt from a Short Form Environmental Assessment Form (SEAF.) Chairman Robbins proposes to amend our application to remove the requirement that the applicant submit SEQR short form. The application will be amended to clearly indicate when an EAF is required. All Board members agree.

Chairman Robbins explained that the language on escrows is confusing. The language could be interpreted that the engineer and attorney amounts are separate amounts totaling \$2000 instead of just \$1000. All Board members agree to amend the language.

T. Gottlieb suggested that the pages Highway and Fire Departments pages of the application be removed. Those pages could be removed from the application itself and completed and distributed by the clerk when determined by the Board.

Hartwood Properties

Chairman Robbins has recused himself from this application. He left the room and did not participate in the discussion.

Applications were submitted by Garigliano Law Offices, LLP on behalf of Hartwood LLC, Hartwood Preserve South, LLC, and Hartwood Preserve West, LLC. Walter Garigliano Esq. presented on behalf of the Hartwood properties.

Lot Improvement #1

An application was presented by Mr. Garigliano on behalf of Hartwood Preserve South LLC and Hartwood Preserve West, LLC to divide a portion of tax lot 34.-1-13.1. Mr. Garigliano explained that this land dates back to the Minisink Patent. Carpenter Road was built through a large parcel of land. The purpose of this application is to allow a transfer of 62.95 acres from Hartwood Preserve South to Hartwood Preserve West. The goal is that the parcels west of Carpenter Road will be owned by Hartwood Preserve West. There are no development plans.

S. Hawvermale has concerns regarding ownership. This is owned by two owners. We need assurances that each parcel will be under one owner. Mr. Garigliano explained that the Board may include a condition to the approval where maps are not filed unless the deed is also filed.

J. Ricciani explained that our code is problematic with regards to this issue because of the ownership. Mr. Garigliano has suggested a way to get around it yet still remain in line with the intentions of the code. As suggested, we can put a condition that the map and deeds be filed contemporaneously. Until the definition is addressed in the code, this is a good work-around.

S. Hawvermale cannot see making the applicant follow a two-step process by creating a minor subdivision just to get to the same result. If the Board has authority to allow flexibility with regard to the code, the application should be approved with the condition suggested.

V. Galligan added that the way the Code was written doesn't allow this application to "fit". Flexibility within the code allows the Board to approve the application with the condition. If the Board can go that route, we should.

K. Barnhart is not comfortable with the flexibility within the Code. We have a Code and we're supposed to follow the code. J. Ricciani suggests that when the Zoning Committee presents their changes to the Town, this issue on subdivisions be addressed.

J. Ricciani read the definition of Lot Improvement as noted in the Town Code. This application will have common ownership after the transfer, just not before. That was the intent of the definition, it's just not the way it was written in the Code.

A. Cardoso asked if it's the legal opinion that the Board is allowed to waive the requirement of creating a minor subdivision? J. Ricciani stated no and cautions the Board not to invoke the waiver requirement without reviewing the criteria first. Mr. Garigliano stated that our Code is sloppily drafted. After having done this hundreds of times, it's clear they intend on common ownership after a change is made. J. Ricciani agrees that the applicant's interpretation of the provision is the correct one. There will be common ownership after the transfer.

A. Cardoso noted that there are criteria to consider before making a decision about a lot line adjustment, such as potential for future development. J. Ricciani explained that if there is future development planned, that does not disqualify the application. It's just something to consider. Mr. Garigliano has no knowledge of any future development plan.

Motion made by K. Barnhart to approve this application with the condition to file the deeds contemporaneously with the maps based on the attorney's opinion of the definition of the lot improvement. Seconded by S. Hawvermale.

Roll Call Vote

A. Devlin	Aye	K. Barnhart	Aye
A. Cardoso	Aye	S. Hawvermale	Aye
V. Galligan	Aye		

Lot Improvement #2

An application was presented by Mr. Garigliano on behalf of Hartwood LLC and Hartwood Preserve South LLC seeking to combine two existing lots, Section 31, Block 1, Lot 6.2 and

Section 34, Block 1, Lot 13.1. Following approval of this lot improvement, Lot 6.2 will be transferred to Hartwood Preserve South LLC.

There was a 2.65 acre lot created long before subdivision regulations existed. There's a house, barn and maintenance building on it. The rest of the improvements for Hartwood Preserve are on the former 1080 acre parcel that the Board just approved to make a 1017 acre parcel. The applicant wants to get rid of the 2.65 acre lot so the entire lot will be 1019.85 acre parcel. There were two lots before. If this application is approved there will be one lot.

A.Cardoso asked if there is common ownership. Mr. Garigliano explained that right now there isn't common ownership but that is the intent if approved. The 2.65 acre lot is owned by Hartwood LLC and is the sole member of Hartwood Preserve South LLC. There will not be any parcels owned by Hartwood LLC. The gamekeepers stay at the residence, but it is not a permanent residence. The purpose of removing the lot is to have all property easterly of Carpenter Road, southerly of Hartwood Road and not in the Port Jervis school district into one single lot.

K. Barnhart asked when this all becomes one lot, what is the Hartwood Lodge if there is no permanent residence. Mr. Garigliano explained that the zoning law permits hunting/fishing cabins and that's what this is.

A.Cardoso asked if there are any prior non-conforming uses that would conflict with the Board's decision? J. Ricciani stated that the improvement cannot increase non-conformity.

J. Ricciani doesn't seen a problem with this application. There is a problem with the code. The lot improvement definition is not a conventional definition.

Motion made by V. Galligan to approve this application with the condition to file the deeds contemporaneously with the maps. Seconded by K. Barnhart.

Roll Call Vote

A. Devlin	Aye	K. Barnhart	Aye
A. Cardoso	Aye	S. Hawvermale	Aye
V. Galligan	Aye		

Chairman Robbins returned to the room.

Planning Board Member Comments on Items not on the Agenda

S. Hawvermale reminds the board that the December meeting will be held on December 17th.

Chairman Robbins hasn't heard from Forestburgh Pond and isn't sure they'll be presenting an application in time for the December 17th meeting. The deadline to submit is December 2nd.

J. Ricciani noted that if anyone's term on the Board is expiring, the Board needs to make a recommendation at the December meeting for re-appointment. The appointments will be made at the re-organizational meeting of the Town Board in January.

Motion made by A. Devlin to make a recommendation to the Town Board to re-appoint K. Barnhart in the event her term is expiring. Seconded by A.Cardoso.

Vote: All in favor.

Chairman Robbins indicated that R. Sipos did not attend tonight's meeting due to an emergency. The Board wishes him well.

Public Comment on Items Discussed During this Meeting

There are no public comments.

Adjournment

Motion to adjourn at 8:09pm made by K. Barnhart, seconded by A.Cardoso.

Vote: All in favor.

At 8:10pm, the meeting was re-opened to identify S. Hawvermale as acting Chairperson on the applications presented before the Board tonight by Mr. Garigliano.

Meeting adjourned at 8:11pm.