

TOWN OF FORESTBURGH PLANNING BOARD
MINUTES
May 26, 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

Approval of Minutes

Minutes for the January meeting were reviewed. There have not been any meetings for February, March or April.

Motion to Approve the minutes made by S. Hawvermale, seconded by K. Barnhart
Vote: All in favor.

Forestburgh Pond

Chairman Robbins started off the meeting with disclosure that both he and S. Hawvermale are both members of the Merriewold Club which borders this property. Neither individual are presently officers or members of the Board of Governors and they do not see any concern for conflict in respect to this application.

Alan Lord presented the application for Forestburgh Pond on behalf of New York Land & Lakes Development. Bob Lesperence, managing partner for New York Land & Lakes Development was also in attendance. There are 21 parcels. There will be a homeowner's association that will own about 15 acres including the lake, dam and cabin.

A.Lord explained that they have spent a great deal of time working with Glenn Smith on the items presented at our last meeting. There are a few remaining items. They need to get the width of the electric right of way requiring them to trace some older deeds back to the originals. The clerk's office has been closed due to the coronavirus, so the surveyors are still trying to get that information.

Calculations have been added to the map as requested. All 21 lots meet the Town requirements for road frontage. They added a 100' greenbelt around the lake which would restrict cutting trees over 6" in diameter allowing the property to maintain a wooded look.

The County has determined that the driveways all appear to be approvable. There are some slight modifications that need to be made such as tree clearing. The state will work with the lot owner at the time of construction.

Chairman Robbins mentioned a concern regarding the common driveway maintenance language. It indicates that the owners of Lots 17, 18 & 19 agree to maintain the right of way at their sole expense. He asked how that expense is getting distributed across the three homeowners. Is it split evenly or based on the respective amount of footage used of the road? A. Lord explained that they will pay for the construction, but the homeowners will be responsible for the maintenance only. Chairman Robbins suggested they clarify that the maintenance costs will be split equally so it's clear for the buyers that they're responsible for one third of the expense.

Chairman Robbins also stated that the bylaws permit leasing of a homeowner's property. He asked if that could enable leasing to a hunting club like the Stag Forest group that currently rents from Cavallaci and would that give their members access to the shooting range. Is it part of the plan to lease the large lots back to them or intent to lease to hunting clubs? A. Lord explained that neighbors will be given the first option of purchasing the lots, the hunting club included. But they have no plans. Nothing more has been set up.

Chairman Robbins indicated that the shooting range is not referenced on the map. Has that been evaluated for possible lead contamination? A. Lord explained that it's not an official range, just a clearing where they go to shoot. There are no buildings or equipment. There wouldn't be much to indicate on the map other than the clearing. An assessment has not been done.

S. Hawvermale noted a discrepancy. The common driveway maintenance language references Woodland Drive but the maps reference Woodland Road. A. Lord indicates that this is an oversight. Woodland Drive is correct and the maps will be changed.

S. Hawvermale is concerned about the discrepancies in parcel history information. Notes show differing amounts leaving approximately 2 acres left over. A. Lord explained that there is no land left over. This information is from a current survey. Old survey maps show different amounts.

S. Hawvermale asked what the difference is in the old EAF versus the updated one. A. Lord stated there are two questions, septic and traffic. G. Smith used a different formula to calculate the amount of septic usage. The current EAF was corrected to match that number. Also, the amount of traffic increase is insignificant. J. Ricciani confirmed that the question asked if there would be significant increase in traffic. G. Smith's opinion was that it would not create a significant increase in traffic. The change was made in accordance with his comment.

S. Hawvermale stated that the EAF refers to archeological sites and an inventory. Are there structures, other than the stone walls, that this refers to? J. Ricciani confirmed that the first EAF included a letter from Parks, Recreation and Historic Preservation stating that there are no archeological or historic resources impacted by this project. This won't be a concern when the Board gets to the environmental review portion of this project.

S. Hawvermale has concerns about retaining the stone walls. They should remain intact and not be moved to accommodate driveways. A. Lord added deed restriction language to the protective covenants that stone walls, trees of a certain size etc. cannot be removed.

A. Cardoso asked if Lot 8 has an existing home or if this is a proposed home. A. Lord explained that there is an existing cabin that the hunting lodge uses as their headquarters. There are two cabins on the property. The cabin near the dam will become part of the homeowner's association. The cabin on Lot 8 will become the private residence for Lot 8. S. Hawvermale indicates that this is not clear on the documentation provided and needs to be clarified. A. Lord explained that the association document only refers to the cabin that will be part of the homeowner's association. It doesn't refer to the cabin on Lot 8 at all. The cabin on Lot 8 will become the private residence for Lot 8. It will be sold and not become a HOA property.

A. Cardoso asked if the current residents will be required to join the HOA. A. Lord responded that the current residents that have deeded lake access may continue to use the lake without joining the HOA. We cannot require them to join the homeowner's association. J. Ricciani added that the applicant provided the proposed deed with a specific exception for those five interior lots reflecting that they will still have the same deeded rights to use the lake.

A. Cardoso asked about dock construction. Is there a permit process? A. Lord explained that there is no permit process in place. A permit may be required from the DEC. The residents will be made aware that they may need DEC permits for that.

A. Cardoso asked if there are any improvements planned for the cabin. A. Lord explained that the septic doesn't meet current regulations. Water and sewer will be removed but no other construction has been planned. The building will remain as part of the HOA and they can choose how they want to use it.

A. Cardoso mentioned that many of the wooded buffers have septic or leech fields crossing into them which defeats the purpose of the wooded buffer. We have the 75' setbacks to preserve that corridor, similar to how it looks now. You can't have trees in the leech fields that area will need to be cleared. You'll be able to see the houses which defeats the purpose. A. Lord explained that most are the reserve areas and wouldn't be cleared unless their septic failed. You're required to have a 50% reserve area. K. Barnhart asked if is there a covenant that forbids trees from being cut within 75' of the road? Wouldn't that preclude someone from putting a septic in that area? A. Lord explained that driveways and septic are an exception to the covenants. This is still a concern for A. Cardoso because it still looks like there will be quite a bit of clearing.

A. Cardoso asked about the improvements to Stag Forest Road. A. Lord explained that the road will be a gravel road expanded to 20' wide to meet fire code. Chairman Robbins added that the maps and application have been forwarded to the Highway Superintendent and Fire Department. Based on an initial review, the Highway Superintendent thinks the road needs to be 30'. This is still under review. K. Barnhart asked if the road needed to be expanded further if it would take away land from the homeowners on Stag Forest Road. A. Lord explained that they're not going to build onto anyone's land. It will be built onto their land.

A. Cardoso asked if there has been any thoughts on limiting gun ranges. He anticipates a potential problem with gun ranges on the larger parcels. A. Lord will discuss this with B. Lesperence about adding this deed restriction to the covenants.

R. Sipos asked about a fill pipe for the fire department on Hartwood Club Road. A. Lord will review this further because he doesn't remember seeing it. On other projects, a made donation was made to the Fire Department to have a dry hydrant installed so it's completed to their requirements. He will look into this and, if needed, include an easement to make sure they have access to it. A. Devlin added that there was access that is in disrepair. It's still there but isn't sure how active it is. He suggested speaking to the Fire Department before making any changes.

K. Barnhart asked where Woodland Drive ends. A. Lord explained that the road ends at the T turnaround/backup spot on Lot 19. Lots 20 & 21 have a shared driveway because the County would not allow two driveways and thought this option would give better site distance. It will be shared up to the house site on Lot 21.

K. Barnhart added that areas have been chosen where homes and septic could be built. But is it possible for a homeowner to place it elsewhere and be closer to the lake? A. Lord answered yes.

A. Devlin asked about a potential delay in establishing the homeowners association and common areas falling into disrepair within that time. Will a HOA be operational to be able to

provide maintenance to the dam and cabin? A. Lord stated that association land will be deeded to the association prior to sale of the first lot. They will have a Board of Directors consisting of Alan Lord, Bob Lesperence and another partner for the first year. They will have a budget and money for maintenance.

K. Barnhart commented that Board of Directors will be controlled by the company until 95% of the lots are sold. A. Lord confirmed.

V. Galligan had similar questions about provisions of septic and water in the cabin. He'd like it noted that water and septic will be removed.

V. Galligan asked about the dam. It's a drawing card of the entire project. The dam is a concern knowing that it is a costly repair item and could be a major blow to the project. What provisions have been made to address this the list of repairs? He's seen a flood disaster before due to a dam and it destroyed the project. A. Lord states work will need to be done to the dam. The engineer needs to do more work with that. They need plans from the DEC and since they are working remotely due to the pandemic, they cannot get them. There's more information to come, but yes, it will need work. V. Galligan asked who's responsible for the dam? The dam is completely under the guide of the HOA.

J. Ricciani stated that in the protective covenants, #7, the new owners is specifically responsible for the approval of buildings, well and septic, you might want to also add that they may also need to do additional clearing for the driveways.

J. Ricciani asked about the reports from the State and County where they recommended that trees and brush to be cut down and banks be cut back to improve site distance. Is this something that you will take care of or leave it to the homeowner? A. Lord stated it will be the homeowner's responsibility.

J. Ricciani has a concern about homeowner's access to Stag Forest Road. For Lot B, it appears that they have to travel over Lot 7 to get to Stag Forest Road. She isn't sure how some other lots will access Stag Forest Road. Something needs to be put in place to make sure that homeowners are able to get to Stag Forest Road if it doesn't touch their property. A. Lord states that some language was added. They will review this and make it more clear.

J. Ricciani also asked about an access road near the dam that needs to be removed. A. Lord explained that a four-wheeler trail was made and dirt was thrown into the emergency spillway. The DEC says this needs to be removed. The common area will be accessed from Hartwood Road.

J. Ricciani asked about a wellhouse on Lot 6 that provides water to the cabin on Lot 8. A. Lord states they are currently using that as a source for water. They are trying to get more information about the line so they can do an easement.

A. Cardoso added that given the addition of new houses in that area, maybe the Fire Department should be contacted to see if there are any improvements that can be done to make fill pipe useable again.

Chairman Robbins added that most of their questions have been addressed. At this point we can determine that this application is sufficiently complete and you can move forward with the SEQR process.

The environmental review is the next step in the process. Because this is a unlisted action, you're not required to do a coordinated review. Because this is a rather large project and there's interest from the community, she recommends a coordinated review. Declare lead agency.

Chairman Robbins entertained a motion to declare the Planning Board as lead agency.

Motion made by S. Hawvermale, seconded by R. Sipos.

Vote: All in Favor

Chairman Robbins states that given the circumstances, size, interest and significant environmental concerns, the Board should consider proceeding with a coordinated review.

Motion made by K. Barnhart, seconded by S. Hawvermale.

Vote: All in Favor.

Chairman Robbins asked A. Lord to send notice to the involved and interested J. Ricciani recommended the following agencies: Department of Health, DEC, NYS DOT, Sullivan County Public Works, Town Highway Dept, Fire Company, and Army Corp of Engineers. A. Lord will prepare and serve the notices and provide evidence of delivery.

Chairman Robbins advised A. Lord that an additional supplement to the escrow is needed. We are requesting an additional \$2,000 in order to proceed.

Scheduling of June Meeting

The next meeting would fall on June 24th but would leave us in a situation where 30 days' notice of designation of lead agency would not allow us to proceed. He proposes that our next meeting be held on June 30th. There are no conflicts by Board members.

Planning Board Member Comments on Items not on the Agenda

K. Barnhart asked that the discussion held off the record, prior to our recording, regarding correspondence received be made on the record. Chairman Robbins acknowledges that correspondence has been received and will be included in the public record of the public hearing. The authors of those letters are in attendance of this meeting.

Public Comment on Agenda Items & Items Discussed During this Meeting

David Licht has been in Forestburgh for 5 years. They came here because they love the beauty and pristine environment. The idea of having 21 neighbors with possible 21 docks on the lake is frightening. There are other factors such as septic being uphill of their water system. He's afraid that any amount of treatment is going to cause degradation to the quality of water. The lake is a small lake and up until now they've had a wonderful time with it. To know that there's going to be more people on the lake is a little much to bear. Also, some factors in terms of the roadways, he'd like to know if the gravel roadway after the T turn will be maintained by the HOA? What kind of road is it going to be from 42 up to the T? Currently that road is a horrible mess and was even a horrible mess when it was renovated a year ago. He's afraid that wildlife will be scared away by 21 developed homesites. They see many animals and it would be heartbreaking not to witness nature as they have. A.Lord responded although was not required to. As far as the docks, there will not be 21 docks because not all properties front on the lake. The HOA will only improve the road to the turnaround. They will not improve the road beyond that as their lots do not access it. There's no reason for them to improve it. Mr. Licht asked about the septic. A.Lord states they meet the setback requirements of the Health Dept. They are in excess of the required 200 feet.

Jen Langusch owns Lot E on Stag Forest Road. She feels like this plan doesn't meet the art requirements of a beautiful subdivision. The lots are too narrow. The integrity of the existing land is such that houses were not visible to each other providing privacy and seclusion. The lake is technically a pond. She feels having the homes on one side of the pond were to provide a sense of wilderness. She doesn't feel that any of the residents will have any feeling of wilderness. She feels strongly that there is an art to approving a subdivision plan. 21 may not seem like a large number for the amount of land but these are very small lots especially when you consider buffer zones. She shares the same concerns as the board with regard to the septic. She feels the changes to Stag Forest Road, will cause difficulty to access the homes during the improvements. There was mention of small changes to the gradient of the road. The road was repaired a year ago and the rains have washed away the gravel. This doesn't seem like an acceptable plan to add additional housing with access to the road without resurfacing the road. She bought this property because she has deeded access to the pond and should not be required to join the HOA. Deeded access to the pond gives her some say in this subdivision. Having people on the pond makes you feel like someone is looking into your living room. Most people fish in front of her house. Going from 5 lots to 21 lots with potentially 100 people on the pond. She's not enthused about having 100 people looking into her kitchen and living room. It doesn't provide her joy. Other concerns will come out, but this is a severe impact to the

residents that are already there. It completely surrounds their properties. She'll immediately have 4 neighbors adjoining her property. There will be significant noise disturbance. She also has concerns about wildlife and water. They have real and drastic concerns for this subdivision. As taxpaying residents, they want to see Forestburgh grow in the right way but having 21 lots of land surrounding their homes is very concerning.

Chairman Robbins thanked the public for their input. The Board will consider their concerns in the processing of this application.

Adjournment

Motion to adjourn at 8:36pm made by K. Barnhart, seconded by R. Sipos.

Vote: All in favor.