

## Planning Board Minutes October 26, 2004

BOSTON PLANNING BOARD OCTOBER 26, 2004

PRESENT: Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

Michael Pohl, Secretary

Margaret Andrzejewski

Richard Hody

Jeff Mendola

EXCUSED: J. David Early

David Bernas

ALSO Kelly Vacco Town Attorney

PRESENT: Dennis Kramer Code Enforcement Officer

Brien Hopkins Councilman ? Town Board Liaison

Ronald Bough Foit-Albert Associates, Engineer

Muffett Mauche George Foit-Albert Associates, Environmental Engineer

Joseph DeMarco Applicant/5647 Herman Hill Road

Dana Darling Applicant/Darling Subdivision

Lori Mulhisen Darling Subdivision

Michael Mulhisen Darling Subdivision

Dan Westcott Darling Subdivision

Chairman Hacker called the meeting to order at 7:30 PM.

#### MINUTES

Mrs. Hacker asked if there were any corrections or additions to the minutes of October 12, 2004.

Mr. Hody: Page 2, second sentence "problem" should follow the word accident; change last word could to "should?"; third sentence "two years should be changed to "three years?."

With those changes Mr. Hody made a motion to accept the minutes, seconded by Mrs. Andrzejewski. All in favor.

#### CORRESPONDENCE

Secretary Pohl reported the following:

- Letter dated October 13, 2004 to Patricia Hacker, Planning Board Chairman, from Michael and Lori Mulhisen stating their concerns with the proposed Darling Subdivision;
- Notice of Decision, dated October 7, 2004, from the Zoning Board of Appeals Public Hearing for the Joseph DeMarco application to construct a commercial building at 5647 Herman Hill Road;
- Received Town Board minutes of October 6, 2004;
- Received notification of Stormwater Management Program Seminar

Other correspondence to be read at point in agenda.

#### LIAISON ? COUNCILMAN HOPKINS

Mr. Hopkins: Only that the Town Board referred the site plan for the Hodgson Agency, which is on your agenda tonight.

#### MUFFETT MAUCHE GEORGE - SEQR REVIEW & UPDATE

Mrs. George: I'll give a synopsis of where the Town is specific to the Darling Subdivision.

Mrs. George: Mr. Darling is seeking from you now an approval for the site plan, is that correct?

Mrs. Hacker: Initial, phase I, rezoning.

Mrs. George: Initial phase I, and at that point it is the Town Board, who, under the SEQR regulations, initiates the SEQR process. What you had done a couple of weeks ago at the public information meeting had nothing necessarily to do with the SEQR process. SEQR process is something that happens as part of the action of the subdivision being proposed to the Town. The Town will likely take Lead Agency status on this project. There should be a coordinated review of all the agencies that are involved: the New York State D.E.C., the Army Corps of Engineers, Office of Parks & Recreation, Historic Preservation; any of the agencies that have a vested interest in this project either through permitting, or other jurisdictions concerned. The Planning Board is not this division of the Town that undertakes the SEQR process. Right now we know that the proposed Darling Subdivision it is a Type 1 Action. Part 1 of the SEQR form has been filled out and submitted to your Board. Actually it should have gone to the Town Board, so that the Town Board will have the full EAF. They can then initiate a coordinated review. Assuming that the other permitting or involved agencies do not want to take Lead Agency Status, we move forward. Part 1 of the SEQR Long Form has been filled out, as far as I can tell, for the entire project for the purposes of the environmental review, the subdivision cannot be segmented into different phases. The Town Board can go forward with notices in the Environmental Notice Bulletin for public meeting if necessary. It's required

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Muffett Mauche George, con?t.

by law. Some of the issues that came up at the public meeting, the wetlands, for example, the erosion, all of those environmental issues are accessed under the SEQR review.

As a Lead Agency, the Town can?t let any of those issues go away without having their impacts either negated or changed. If it?s a negative impact the plan might have to be changed, or tweaked somehow, or the permitting agency may not allow certain things to happen at all. All of those things happen in conjunction with the development of the site plan, for the entire subdivision. The public meeting that happened four weeks ago was just for the Planning Boards site plan approval. It can then go back to the Town Board and then the SEQR process then can continue.

Mrs. Hacker: At this point we are where we should be with it. It is out of the Planning Board?s hands.

Mrs. George: Yes, the Town Board needs to initiate a coordinated review with the involved agencies.

Mrs. Hacker: And that will happen after we refer it to the Town Board.

Mrs. Vacco: As the rezone process goes forward.

Mr. Pohl: It doesn?t get started until the rezoning?

Mrs. Vacco: That's when they are going to approach the Town Board as the next juncture, when they're applying for rezone, so at that point in time if it is determined that they are rezoning it, they will start that SEQR process.

Mrs. George: The SEQR process would happen with or without the rezoning. If rezoning was not required for this project or if your zoning ordinances allowed for this subdivision to happen without rezoning, this project would still go through SEQR process. It's just a matter of what Town level gives the reviews initially.

Mrs. Hacker asked for questions or comments from the members.

Mr. Hody asked for clarification for what happens in Phase I and Phase II.

Mrs. George: The SEQR form is filled out for the entire project. The entire project will be taken through the SEQR process. The project can be constructed in any number phases. The project sponsor, Dana Darling, can't approach the project by trying to push this first phase through SEQR, and then the second phase later. This could bring the project under certain thresholds of SEQR by allowing it to sneak through without having to have certain reviews. The State doesn't allow "segmentation." Phase I and the Phase II of this subdivision combined are considered to be the entire action for SEQR. Both phases will go through the review, and that is when all the environmental issues are addressed. When the Town approaches the county for example, lead agency status will be determined, depending on the complexity of the issues. Most likely, I'm guessing, they will throw it back to the Town.

Mrs. Hacker asked for any further questions or comments from the Board. She thanked Mrs. George for her attendance this evening.

Mrs. George: Are there any other questions.

Mrs. Hacker: Planning Board discussions are not generally open to public input.

Mrs. Vacco suggested that they be allowed to speak briefly as long as Mrs. George is present.

Mr. Westcott asked how to get on the Planning Board agenda.

Mrs. Hacker: You need to write a letter requesting so.

Mrs. Mulhisen: I did write a letter, and it was indicated in my letter that I wanted my concerns voiced. It was sent on October 13, 2004.

Mrs. Hacker: It was stamped that it was received on October 19, 2004 at 3:45 PM.

Discussion followed as to the receipt of the letter.

Secretary Faulring: I worked on Thursday, October 14, 2004 the letter was not in the Planning Board mailbox. This is part-time job, I did not work again until Tuesday, October 19, 2004 at which time I received the letter and stamped it received.

Mrs. Hacker: Do you have any questions that can be discussed briefly?

Mrs. Mulhisen deferred her time to Mr. Westcott.

Mrs. Hacker: I will ask that this evening, you abide to some kind of time limit, say two minutes.

Mr. Westcott: I agree that this is clearly a Type I action, as it's called out in Part 617; and also you're obligated to fill out the long form, the long EAF. Part 1 has been submitted. When will the determination on whether it's a positive declaration or a negative declaration be made in this process? I'm a little confused as to who does it and when it's done.

Mrs. George: Before that happens the Town Board will have to circulate the long form with all the involved agencies. The involved agencies have thirty (30) days to respond as to whether they want to take Lead Agency Status. Usually, at that time, the involved agencies concerns are flushed in a return letter, saying "no we don't want Lead Agency status but our issues are..." whatever.

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Muffett Mauche George, con't.

Some responses have already started to come back, to Darling's engineer, because they had requested certain input from these agencies in order to prepare the long form, so we are a little bit ahead of that.

Until Lead Agency status is established, the Town Board can't take any action on the project. And until a conceptual design is established, the impacts from subdivisions can't be accessed.

Mr. Westcott: When will it be identified that 18-Mile Creek is a critical environmental area as identified in 1992, so I would think that you would pass the threshold of making a positive declaration that this should be on the trajectory for an environmental impact statement. When is all that going to be taken into consideration, so then we can then proceed with scoping and get a reason? SEQR has lots of action forcing provisions, where you want to mitigate environmental impacts, and I encourage the Board to get on, to make this a very involved process where the community can be involved with this project and mitigate these environmental impacts.

Mrs. George: It's my understanding the Planning Board action here is to get preliminary site plan approval. Once that happens the action goes back to the Town Board and they can consider the action under SEQR. At that time we will initiate a coordinated review and within thirty (30) days the Town should have Lead Agency status. Scoping won't start until all those agencies are involved, notified formally, through formal correspondence. That won't even begin to happen for at least 30 days. That will be done through the Town Board.

Mr. Westcott: I sense that you agree with my assessment that it's destined to be an Environmental Impact statement?

Mrs. George: It has a lot of environmental concerns, certainly.

Mrs. Hacker once again asked for questions from the Board and thanked Muffett Mauche George for being here tonight.

Mrs. George: The Planning Board is not initiating the SEQR process, nor are they making a decision on the SEQR declaration. The Town Board does, as I understand the law to be written. The process will happen and there is no way around all the environmental concerns as well as those of the public. SEQR puts its arm around all the environmental regulations and makes sure that no action is approved until these things are addressed. No one is going to go and put their subdivision together and not let it go through the proper hands of the DEC or the Corps of Engineers, so that these folks who are in permitting status have a chance to say "well, we'll need a buffer here. You can't do that, or you're in the floodplain." All those types of issues are captured during the process.

Mr. Mendola: So if it comes back to the Planning Board after the Town Board, will it come back and say "this is the new plan" or will it say "it is approved but we need to see this, this, and this"?

Mrs. George: You're approving a preliminary plan, so it's like a conceptual design. That's the concept that is being taken through the SEQR review "things will change on the preliminary design, based on agencies comments and permit requirements.

Mr. Mendola: But when we get it back it will be specific?

Mrs. George: Yes, for example it would say "you have State regulated wetlands on this property" or "you need a hundred-foot buffer" or "there should be deed restrictions on this lot because?" SEQR regulations encompass all those things and the conceptual design that you're probably approving, will certainly look somewhat different by the time the process is over. Environmental impacts need to be mitigated. First of all they need to be avoided, that's the point of the whole SEQR regulation. If they can't be avoided they need to be mitigated. There are several thresholds within the regulation that mandate those types of issues to be addressed through redesign.

Mr. Pohl: Will we be copied on the correspondence for the SEQR?

Mrs. Hacker: We will request that from the Town Board.

Mr. Pohl: Can Mrs. George also be copied on it so that she can help shepherd it through?

Mrs. Hacker: Absolutely, we will ask that to be done.

#### DISTRIBUTION OF TOWN BOARD REFERRALS

Mr. Pohl read the memo dated October 21, 2004 to the Planning Board from Town Clerk Shenk regarding referral and request for review of the site plan for 7336 Boston State Road, for Hodgson Agency, Inc.

Mr. Mendola: Before we have to look at this, will we get the application that we normally get with lot coverage, zoning, property ownership.

Mrs. Hacker: What do we know about that?

Secretary Faulring: I will have to ask the Town Clerk, he's the one that initiated this review with the Town Board. This is all I was given.

Mrs. Hacker: We will ask and try to have it forwarded before the next meeting. And, please send letters to the Engineers and Mr. Brox asking for their review in writing.

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#### CODE ENFORCEMENT OFFICER KRAMER

Mrs. Kramer: I've been in the process of reviewing the plans for the Southtowns Rural Preservation project. I don't believe that has to come back here; according to minutes of a couple years ago everything was approved or disapproved here, and as a result of court actions pending they were awarded to go ahead with the project. Once I get that completed, there are some changes that need to be made by their engineer; I will go to the Town Board for approval. I just wanted you to be aware of the fact that if you see the building permit is issued, that I wasn't avoiding coming to you. There are some new members here that weren't here when this project was before you.

Mr. Kramer: I know Mr. DeMarco isn't on the agenda, but can you help me out with what Mr. DeMarco needs in order for me to issue a building permit?

Mrs. Hacker: We have the Notice of Decision from the Public Hearing, the stipulation of cleaning up around the building ? to what extent is that going to be done?

Mrs. Hacker read the Notice of Decision from the Zoning Board of Appeals dated October 7, 2004. My question is to what degree is this property going to be cleaned up? I believe that this Board's recommendation was that if the variance was granted that there would need to be some green space or trees shown.

Secretary Faulring read from the minutes of August 24, 2004.

Discussion followed.

Mr. Kramer: I guess that's the issue. How tough of a stance do you want to take in being in compliance of Section 97; in that presently this lot is all parking, there is no green space. Do we need to create a green space?

Mrs. Hacker: In the past, it's been this Board's feeling that we don't to create just paving.

Discussion followed.

Mr. Kramer: Tell us what Mr. DeMarco needs to have, for this to move forward. He comes to my office, we go through Section 97 and there are items that don't pertain to this project.

Mrs. Hacker: The height, the lighting and the picture of the building definitely pertain. The green space pertains. Is the signage going to change in any way?

Mr. DeMarco: No.

Mr. Mendola: Go through Section 97, mark "not relevant" on those items that aren't relevant.

Mr. Hody: Mike indicated parking and proposed parking.

Mrs. Hacker: All that and parking is very specific in the Code, as to number of spaces, number of employees, drainage?.

Mr. Kramer: How detailed on drainage do you want? This is what we're up against, it's an addition on a building. It's not like a new build. That grade is not going to change by putting an addition on this building. Do you want him to go and shoot elevations; is he going to be required to put in a new D.I.? Where are we headed, that's what we need to know?

Mr. Bough: What is being removed from the property that this new addition will replace.

Mr. DeMarco: Three sheds, sitting on stone. The entire lot is stone.

Mr. Bough: How big is this addition?

Mr. DeMarco: 40' x 60'.

Mr. Bough: I see 2000 square feet of impervious roof that is replacing 2000 square feet of, probably, pervious soil. So therefore there is a differential in runoff. That is probably something we would like to look at.

Mr. DeMarco: When Mr. Kuhn built, he put in a storm and drainage there. I also have a swale around it, so that is where the runoff is going now.

Mr. Bough: It's not so much as where it's going, the critical issue that we'd like to look at is now that this impervious roof area is replacing this semi or mostly pervious stone, there is a development of more water runoff. We need to know that this is accounted for.

Mr. Kramer: We can take care of the drainage into the swale area. My question is do you need the elevations on the existing parcel as far as showing all detail, some of that naturally runs toward the street; the roof is going to drain into the drainage ditch that's already there.

Mr. Bough: Right, but if there's an 8" pipe, hypothetically in there now that generally gets a little bit full during some medium rain storm; right now that roof area will add more water. So to answer your question, yes. We would like to see the pattern of runoff where the different aspects of the property for drainage. In any case we'd like to look at where it's going and, yes, unfortunately that's going to require elevations so that we can see where these patterns of runoff are. Another thing that we want to look at is the type of roof being put up. What is the composite of that roof, what materials, so that we can see what possibly might be coming off of that and going into the environment.

Mr. Kramer: It's a metal roof.

Mr. Bough: So there's rainwater coming off of that.

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Code Enforcement Officer Kramer

Mr. Hody: And the Code does say that on site management of surface drainage shall be planned so that there shall be no greater runoff during and following construction than prior to commencement of construction.

Mrs. Hacker recapped the information that is needed from Mr. DeMarco and advised him that it is needed by October 29, 2004 in order for him to be on the agenda for November 9, 2004:

- Lighting
- Picture of the Building
- Height so noted
- Drainage issues
- Elevations
- Roof Materials
- Address the Code line by line, that's how we will go through it

Mrs. Hacker: Mr. Kramer, anything else for us? Any update on C.V.S.?

Mr. Kramer: They started setting steel, that's really the only update I have.

Mrs. Hacker: Is anyone aware of the variance for the signage?

Secretary Faulring: The variance was approved. I will get you the Notice of Decision.

#### RICHARD BROX ? PLANNING CONSULTANT CONTRACT RENEWAL

Discussion followed.

The members were all in agreement that Mr. Brox's assistance, help and reviews do help the Board with their decision-making. However, there was a concern with his professionalism towards Board members and applicants.

Mrs. Hacker: I will speak with him about that concern.

Mr. Hody made a motion to recommend renewal of Mr. Brox's contract, with the proposed change.

Mrs. Hacker seconded the motion. All were in favor.

Mrs. Hacker: Is there any further business for this Board?

Being none, Mr. Stringfellow made a motion to adjourn at 8:13 PM., seconded by Mr. Hody. All in favor.

Respectfully submitted,

Michael Pohl

Secretary

MJP:tjf