

August 22, 2012

**PINE PLAINS PLANNING BOARD MINUTES
AUGUST 22, 2012
7:30 PM**

IN ATTENDANCE: Don Bartles, Chair
Sarah Jones
Steve Patterson
John Forelle
Ken Mecciarello
Kate Osofsky
Louisa Grassi, Alternate
Peter Salerno, Alternate

ABSENT: Vikki Soracco
Nancy Proper, Secretary

ALSO PRESENT: Sandra David, Town Board member
Drew Weaver, Codes Enforcement Officer
Warren Replansky, Attorney

Chairman Bartles called the meeting to order at 7:30 pm.

JOHN FORELLE: This is a public hearing for a proposed special use permit for a commercial logging operation. Bartles opened the public hearing at 7:35 pm by reading the legal notice that was posted in the Millerton News. John Forelle recused himself. Bartles asked the public if anyone had any comments. None. An overview of the project was presented. Bartles asked how many truckloads would approximately be anticipated. The logging consultant answered it would be approximately 30-35. Bartles stated he had asked the Highway Superintendent to comment and had not heard back from him. Bartles stated his concern is the piece of Town road and asked Weaver how to handle this and how to get an assurance that the road is repaired if damaged. Bartles asked if the applicant has any legal agreement with the contractor to insure that the road would be repaired if he did do damage. The logging consultant stated that the Highway Superintendent would be the expert on that. He stated he didn't think there was any potential for damage because of the nature of the current access. He stated he would defer to the Highway Superintendent on that issue. Bartles asked if there was a legal agreement between the applicant and the contractor. The logging consultant stated that the seller has to obtain any necessary permits and the buyer is responsible for highway permits. Bartles asked Weaver for his recommendation. Weaver stated the Town could require a performance bond. Bartles stated he thinks there should be a condition that it is subject

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to a permit by the Highway Superintendent and he would determine what the applicant needs to proceed. Bartles stated that would be included in the agreement. Discussion followed. Bartles stated he didn't want it to be a surprise to anyone if he comes in and says we need a performance bond to protect that section of road. Bartles asked for any other comments or questions. Replansky stated that there is a provision that the Highway Superintendent shall have the authority to require repair to roads, bridges and culverts damaged due to logging operations. He stated he would make it a condition that the applicant shall indemnify the Town for any damage caused to the Town's roads, bridges or culverts. Replansky stated that damages are hard to prove. Bartles stated it would be fairly obvious on this portion of road. Replansky stated the applicant should be responsible for bearing the cost of any repair of damages to a Town road, bridge or culvert. Replansky stated if the Highway Superintendent feels the need for a bond, he should be in touch with Replansky. Bartles stated there were some phone calls with questions from the public and since nobody came tonight he assumes the questions were answered to their satisfaction. Bartles asked for any further questions or comments. None. Motion by Jones to close the public hearing; second by Mecciareello. All in favor. Motion passed. Bartles read Part I of the Short Form EAF. The Board completed Part II of the Short Form EAF. Motion by Mecciareello to declare the Town of Pine Plains Planning Board Lead Agency; second by Jones. All in favor. Motion passed. Motion by Patterson to declare this an unlisted action under SEQR; second by Osofsky. All in favor. Motion passed. Motion by Osofsky to authorize the Chair to prepare a Negative Declaration; second by Patterson. All in favor. Motion passed. Motion by Jones to declare the SEQR process complete; second by Patterson. All in favor. Motion passed. Bartles stated that there has been a request made as part of this that we are waiving the no operations within 50 feet of a property line. Bartles explained that the 50 feet would apply in a clear cutting situation but since this is selective cutting within those 50 feet it would be permitted. Motion by Mecciareello to waive the 50-foot buffer; second by Jones. All in favor. Motion passed. Bartles stated that typically Proper would now issue a Notice of Decision and any conditions that the Board chooses to put on the operation would be included. Bartles asked Replansky for wording. Replansky replied that it should be conditioned that the applicant be responsible for reimbursing the Town for any expenses incurred in correcting any damage to any Town road, culvert or bridge caused by the commercial logging operation including the

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transportation of logs. Bartles stated that statement would be included in the notice of decision.

SAVA/PINDT LOT LINE ADJUSTMENT: Bartles stated he called Mr. and Mrs. Sava and Pindt and they are aware that this discussion is taking place at this meeting. Bartles stated the intent of the discussion is for Replansky to present a letter to the Board for their approval with regard to the Board's responsibility in this matter. Replansky stated he received a letter from John Connor, attorney, providing him an order signed by Judge Pagones requiring the boundary line to be amended in accordance with the July 18th agreement of 2012. Connor feels there should be a letter from the Town indicating that no subdivision approval is required for that boundary line. Replansky stated all that is required if the Board agrees is a letter to Connor indicating that the Planning Board has reviewed the order from Judge Pagones dated December 21, 2011 and the boundary line agreement between Jennifer Pindt, John F. Pindt and Judith P. Pindt and Nino P. Sava and Suzanne A. Sava and the Board has determined this does not constitute a residential subdivision requiring approval. Bartles asked if he could do that. Replansky asked if he had no secretary. Bartles stated he could do it but thought that when they talked before Replansky agreed to do it. Replansky stated they want it on Planning Board stationery. Bartles asked Replansky to send him the notes and he would take care of it. Replansky asked if the Board didn't have a secretary. Bartles stated that Proper is out at the moment.

CARVEL: Replansky stated that the developer has notified the legal consultant to the Town Board and him that they prefer to obtain input from the Town Board with regard to the NND application before they move forward with their scoping document. Replansky stated the next step would be that the applicant would prepare a scoping document and they don't want to do that until they receive some input from the Town Board after their initial review of the NND application. Replansky stated the determination as to whether the Town Board is going to move forward in that manner is going to have to be made by the Town Board at the advice of their legal counsel. Replansky stated that it appears the Planning Board will not have anything to do on this application for awhile because there will be a process that will evolve through the Town Board which the attorneys are in the process of discussing. Replansky stated that in the interim there is an agreement that has been prepared by the applicant's attorney for the reimbursement of professional fees and funding of the escrow account. Replansky stated a draft of this agreement was apparently sent to him and

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he can find no record in his office of receiving it but got it within the last week from Van Tuyl. He stated the three attorneys are in the process of reviewing the agreement. He stated it is quite complicated and different from the original escrow agreement that we have and the one we have been working from. Replansky has completed his initial review and has some problems that will probably require some negotiation that may take some time. He stated Rodenhausen reviewed it and didn't have too much problem with it and he will provide the Board with a copy of his comments and a copy of the agreement for the Board's review. Replansky asked the Board to look at it. Replansky stated he sent a copy to Stolzenburg as a large part of it involves the manner in which the SEQR review proceeds and how the Town will be retaining the services of the consultants necessary for the SEQR review process. Replansky stated he needs to know Stolzenburg is in accord with this and it is something she can live with. Replansky stated this agreement, under the best of circumstances, is going to require some additional work and changes. Replansky stated it was prepared by Van Tuyl at a time when Rodenhausen and Fairweather were not on board. Replansky stated another discussion about this will take place tomorrow and it may take awhile before this is flushed out. Replansky stated he suspects we may wind up with some sort of interim escrow agreement to allow for the payment of services for the Town Board's consultants before the complete agreement is finished. Replansky asked the Board to read and review the agreement and provide him with comments, as the Planning Board will have to live with this also. Forelle asked if this is simply an escrow agreement or process and procedure also. Replansky stated it is really the escrow reimbursement and the protocol for that but it is very much tied into the review process because it restricts in many respects what can be charged back to the applicant in terms of consultant time. Replansky stated he is counting on the Board to review and comment on this as quickly as possible. Replansky asked if the Board wanted to schedule a special meeting with himself and Stolzenburg for the purpose of going over this after the Labor Day holiday. Replansky stated he wants Stolzenburg to be a part of this. Bartles stated the September 12th meeting has nothing looming for the agenda. Replansky stated that date is okay for him. It was decided to dedicate a large part of that meeting to this discussion. Jones stated she feels this is extremely important if it is restrictive and that we should not be rushed and should look at it very carefully so that we are not constricted later on. Replansky agreed. Bartles asked if Replansky could get the Board an electronic copy. Replansky stated he would do that tomorrow. Replansky stated he doesn't

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want to get into a situation where we have constant disputes over what we can do and can't do and what's covered and what's not covered. Replansky stated the applicant has some legitimate concerns about duplication of efforts because there is an attorney for the Town Board and one for the Planning Board and a planner for the Town Board and one for the Planning Board. Replansky stated that the applicant expressed concern that they didn't have enough access to the consultants in the past and they have some issues with regard to how quickly the process moved. Replansky stated he would like the Board to have as much freedom as possible to utilize the consultants and to be able to charge back most of those charges to the applicant. Replansky stated he thinks we will work through all this but doesn't think it will be a short-term process. Replansky stated the prior agreement is technically in effect but it is outdated because it is not adaptive to the NND process. Replansky stated there is still a balance in escrow and doesn't see why the Town Board can't use those funds.

STISSING FARMS: John Reilly was present representing the applicant. The applicant would like a partial release of the bond. He updated that they have switched to rentals, there is a rescission of the condo plan, and there is a buy back of the sold units. Replansky needs an update on what is left of covered escrow items. Replansky will contact Jurkowski. Reilly will contact Jurkowski re: reducing escrow account and the landscaping plan. Jurkowski will be invited to the September 12th meeting and this will be tabled for that agenda.

OTHER BUSINESS: Jones made a motion to approve the July 11th minutes; second by Patterson. All in favor. Motion approved.

Meeting adjourned at 8:40 pm.

Transcribed from tape and notes by:

Nancy E. Proper
Secretary

Respectfully submitted by:

Don Bartles, Chairman