

July 13, 2011

**PINE PLAINS PLANNING BOARD MINUTES
JULY 13, 2011**

IN ATTENDANCE: Sarah Jones, Acting Chair
Don Bartles, Jr.
Brian Coons
Vikki Soracco
Kate Osofsky (arrived 7:40 PM)

ABSENT: Bonnie Quaid
Ken Meccariello
John Forelle, Alternate

ALSO PRESENT: Sandra David
Warren Replansky
Drew Weaver
Five members of the public

MALARCHUCK SUBDIVISION PUBLIC HEARING: Acting Chair Jones opened the meeting at 7:30 pm by reading the legal notice for the public hearing and opened the public hearing. Lynden and Wesley Chase were in attendance representing the applicant. Replansky asked if the Board had a decision from the ZBA. Jones replied yes. Bartles stated that the ZBA was conditioning the approval on a note being placed on the plat and he didn't fully understand. Acting Chair Jones stated that it was her understanding that the applicant will be foregoing the right to the additional lot in the future. Bartles asked whether or not the applicant would accept that condition and what the ZBA's authority is in making conditions like that. Replansky stated that the ZBA has the authority to do that. Bartles asked Wesley Chase if his client agreed to that condition. Chase replied yes. Bartles stated the ZBA requested a note on the plat. Lynden Chase stated the resolution in the file has more weight than the note on the map, as that is where anyone in the future would be looking. Acting Chair Jones stated it does need to be on the map and Bartles agreed. Replansky stated it should be on the map as that is the way it will be picked up in the future. Replansky stated that the court has ruled that if a note is on a filed map, property owners are bound by that. No public comment. Bartles made a motion to close the public hearing at 7:35 pm; second by Soracco. All in favor. Motion passed. The Board proceeded to read Part I of the Short Form EAF. The Board completed Part II of the Short Form EAF. Bartles

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made a motion to declare the Pine Plains Planning Board Lead Agency and to declare the project an Unlisted Action; second by Coons. All in favor. Motion passed. Bartles made a motion to empower Acting Chair Jones to issue a Negative Declaration, as it will not result in one or more environmental impacts; second by Soracco. All in favor. Motion passed. Acting Chair Jones stated that there were still outstanding fees. Wesley Chase stated that the Malarchuck family would like the Board to consider waiving the recreation fee, as it is an existing dwelling. Coons made a motion to waive the \$3,000. recreation fee as this is an existing dwelling; second by Bartles. All in favor. Motion passed. Wesley Chase also asked the Board if they would waive the Planning Board application fees. Discussion followed. Acting Chair Jones stated that the Board does not have the authority to do that. Replansky agreed. Soracco asked if this was something that could be considered in the future. Replansky stated the Subdivision Regulations do not permit the Board to do that. Discussion followed. Replansky stated the Planning Board could ask the Town Board to consider making an amendment to the Subdivision Regulations allowing the Planning Board to waive the fee. Bartles made a motion to waive preliminary approval subject to language and fees and give final approval; second by Coons. All in favor. Motion passed. Replansky gave Proper the exact wording to be placed on the plat. Proper advised that she would send the wording to Replansky for final approval and then to Chase so that the map may be prepared.

BILL BARTOLOMEO/WHEELS OF TIME: Bill Bartolomeo was present and gave the Board an overview of what he planned on doing. Acting Chair Jones stated that the applicant wishes to put an addition on his building, which is a current non-conforming use, but a use that is permitted with a special permit. Discussion followed. Acting Chair Jones stated that in looking at the statute for application for special use permit or site plan review in J(2): in the event of proposed extension or extensions of non-conforming use pursuant to 100-20 (B) 1 or 2, she thinks is an error and it should be 100-70 (B) 1 or 2. She stated this is the section that gives the Board the ability to just do the site plan review and waive the requirement of special use application. Replansky stated that the Board can ask Weaver to make a reasonable interpretation of what was intended under the Zoning Law. Replansky stated this should be on the list of things to be corrected. Ating

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Chair Jones asked what difference it makes in terms of whether they go for the Special Use Permit or whether it is waived as you still go to Site Plan Review. Replansky stated that for a Special Use Permit the Board would be looking at the proposed use and determining whether the grant be based upon the criteria for Special Use Permit which is contained in the Zoning Law which is much more onerous than just a Site Plan Review. Replansky stated if there is no controversy it would be okay but otherwise it would be better to opt out. Replansky stated it is the applicant's option. Replansky stated the Site Plan Review is an easier threshold. Replansky stated that the Board can still address environmental impacts during a Site Plan Review of an existing use. Discussion followed on which way to proceed. Replansky stated this will remain a non-conforming use until the applicant gets a Special Use Permit. Bartolomeo stated he just needs more room and the expansion would be a "clean" room for upholstery and final assemblies. Replansky stated the only benefit would be if the applicant tried to sell the property a buyer would be more receptive to buying something that already has a Special Use Permit. Replansky stated the applicant may want to give some consideration to that. Discussion followed. Replansky stated it is not a decision the applicant needs to make tonight and the Board should go ahead with the Site Plan Review. Bartolomeo stated he preferred to do it that way. Acting Chair Jones stated that a public hearing can be set for the next meeting. Acting Chair Jones asked if the Board wanted to set a site visit. Replansky stated that the Board had to have a more formal map. Replansky stated all the site improvements need to be shown on the site map. Replansky stated that the law specifies what is included in a Site Plan Review and the Board has to go through the process of seeing what the applicant has submitted and deciding if it is acceptable. Replansky stated that the Board can waive requirements if they wish. Replansky stated that the Board needs to make sure they have what they need in the file before scheduling a public hearing. The Board advised the applicant that the following had to be shown on the plat: well and septic, parking spaces, dumpster with screening, landscaping, and lighting. They also asked for a construction schedule and Short Form EAF to be completed. Bartles made a motion to waive all requirements other than those specified; second by Coons. All in favor. Motion passed. A public hearing was tentatively set for Wednesday, August 10 at 7:30 subject to submission of site plan. Bartolomeo stated he

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would not be adding any signs but may improve the present sign somewhere down the road. Replansky stated the notice of public hearing cannot be published until the file is complete. Bartles stated this also needs to be submitted to County Planning once the application is complete.

ALDA GRAHAM: The applicant came before the Board with regard to a proposed subdivision. She stated she would like to know if she is able to do a flag lot subdivision. Graham also stated she needs to know what the road frontage would need to be. She stated that once she gets answers to these two questions, she will have the property surveyed. She presented the Board with a map and overlay showing what she proposed to do. Discussion followed. Bartles stated that building a driveway within 25 feet is difficult unless it is perfectly flat. Applicant stated that it is. Bartles stated the applicant should ask the Highway Superintendant to look at this. Graham stated visibility is perfect there. Replansky stated that before the Board allows a flag lot they have to determine that the character of the land precludes typical subdivision development. Graham stated that she feels this is the perfect spot for a flag lot. The Board advised the applicant to be in touch with the Highway Superintendent and have him send a memo to the Board with his findings. Bartles asked if there was any other access to the property that could be created. Applicant stated there is no possibility of one because of the stream. Replansky asked how she was going to cross the stream. Applicant stated with a culvert. Replansky stated she would need a permit from DEC for that. Graham stated she already has one culvert. Replansky stated DEC is not real happy with having more than one so they will have to be contacted. Discussion followed. Applicant to be in touch with the Highway Superintendent and DEC.

TOWN CENTRE AT PINE PLAINS/STISSING FARMS: John Reilly represented the applicant. Acting Chair Jones advised that the applicant was there requesting an amendment to an approved site plan. Acting Chair Jones advised that it is to amend to include market rental and workforce rental. Acting Chair Jones stated that it is her understanding that there is no change to the plan. Reilly stated that he read the Zoning Law extensively and cannot figure out where he falls. Reilly stated the original plan was not approved under the Zoning Law. Reilly stated that he thinks he would be amending a non-conforming use under the old law. Replansky stated it doesn't have permitting under the

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current Zoning law and therefore is a non-conforming use. Reilly stated he is not doing a physical change to a non-conforming use so he is not sure how to proceed. Replansky stated that, assuming there is no physical change to the project, the only thing different would be the condominium aspect would be withdrawn and it would simply be a rental project owned by a single owner or corporation. Replansky stated that there was nothing in the site plan regulations which required it be 55 years or older but it was the concern of the Board of the potential impact on the community of rental units. Replansky stated that is why there was a condition of approval, which the applicant accepted. Reilly stated that the Board was concerned with the impact on the school system and also didn't want affordable or subsidized housing. Replansky stated that what they have is a resolution approving this with the conditions. Replansky stated if the applicant simply wants the Board to remove the restrictions and not change the physical project at all, they would be coming to the Board for an amendment of an existing site plan. Replansky stated it is an issue as to whether this change creates any environmental impacts. Replansky stated he doesn't see a huge amount of impacts with this change and would be asking to amend the original resolution to exclude all of those requirements. Reilly stated he already got in 2008 approval for some minor changes in design. Replansky stated the application would be for an amendment to the original resolution. Reilly stated that he received approval to rent the units in 2010 but not to change the age restrictions. Replansky stated that substantial modifications have to be made through a new resolution. Replansky stated he would want the Town engineer to review the project to make sure all requirements have been met. Replansky stated it should be referred over to the School District to see if they have any issues. Replansky stated he would contact Jurkowski. Replansky stated that a public hearing can be scheduled for the August meeting. Replansky asked Reilly to amend his narrative to ask for the amendment to the original resolution. Bartles asked where the Town is with regard to affordable housing. Replansky stated there is a committee and he noticed the applicant offered to provide 10% affordable housing. Reilly stated he has no problem doing that but the Town Board has not come up with the affordable housing rate yet. Replansky stated affordable housing is a requirement under the new zoning law but the applicant doesn't necessarily fall under that. Reilly stated the Town Board determines the income

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level and they haven't done that yet. Reilly stated he has offered to meet with the Affordable Housing Taskforce twice. Replansky stated the applicant should ask also for an extension of the build out period. Discussion followed. Replansky advised that he would work with Proper on the wording of the legal notice.

Soracco made a motion to approve the April 13, 2011 minutes; second by Osofsky. All in favor. Motion passed.

Soracco made a motion to approve the May 11, 2011 minutes; second by Bartles. All in favor. Motion passed.

Acting Chair Jones advised that she would not be in attendance at the August and someone else would have to chair the meeting. Brian Coons stated he would be the acting chair.

Coons mentioned that Stewart's installed propane tanks for sale and that didn't go in front of the Board. Coons stated that he feels it cheapens the front of the building and it shouldn't be there. Coons asked Weaver to speak with them and advise them to move them to a better site or else come in front of the Board for a site plan review. Coons stated they could be on the side or in the back but not on the sidewalk.

Bartles made a motion to adjourn at 9:15 pm; second by Osofsky. All in favor. Motion passed.

Respectfully submitted by:

Nancy E. Proper
Secretary

Sarah Jones
Acting Chair