

May 9, 2012

**PINE PLAINS PLANNING BOARD MINUTES
MAY 9, 2012
7:30 PM**

IN ATTENDANCE: Don Bartles, Jr., Chairman
Sarah Jones
John Forelle
Ken Mecciarello
Steve Patterson
Vikki Soracco
Kate Osofsky

ALSO PRESENT: Peter Salerno, Alternate member
Louisa Grassi, Alternate member
Sandra David
Warren Replansky
Drew Weaver
Dan Stone
Millerton News
Fifteen members of the public

BIRCH SUBDIVISION PUBLIC HEARING: Chairman Bartles opened the meeting at 7:30 pm by reading the public hearing notice as it appeared in the Millerton News. David Birch was present at the meeting. Bartles asked Birch to briefly describe his proposed subdivision. Birch stated he has a 20-acre parcel on Bean River Road that has a ranch house on it. He is proposing to subdivide this property. He has spoken to the Highway Department and they would prefer a single access point instead of separate driveways. He stated after the Board approves the subdivision he would have to go back to the Highway Dept. to see if they like what he has proposed as the best possible site for the driveway. Bartles asked if the applicant has discussed this with the Health Dept. Birch stated he had and they told him it wasn't necessary to get a prior approval but for someone to build on the parcel they would have to get approval. Bartles asked if the Health Dept. had seen the map. Bartles stated that typically they review all maps to be filed. Bartles stated just seeing now what they hadn't before which is where the septic is located, he was warning the applicant that it may be better if he has the BOH approval once the preliminary approval is done so they have a chance to review it. Bartles asked if there was any public comment. No comments. Bartles stated that this is located in the Pulvers Corners hamlet area so the lots far exceed the minimums. Bartles stated the Board did a site visit and walked the property with Birch to see what the issue was with the driveway and what might be the better configuration. Jane Waters asked if the applicant would be allowed to put in separate driveways as the applicant said the Highway Dept. preferred a single driveway but she would

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think doing it that way would detract from the property value of the ranch houses. Birch stated that because of the site distances they really prefer to have just one driveway. Waters stated she didn't think the site distance was so bad there. Bartles stated it is quite terrible as you start to drop over the hill after that and lose the cars that are coming from the south. Bartles stated the Board walked up and down the road and looked at this. Bartles stated the way the configuration of the lots are now the other owner who is in front owns a long triangular lot and he basically is forcing the access to that point. Bartles stated in the future any further subdivision would either require the construction of a private road or making appropriate arrangements with that property owner. Bartles asked for any further comments. No comments. Motion by Soracco to close the public hearing at 7:40 pm; second by Osofsky. All in favor. Motion passed. The applicant was asked to fill out Part I of the Short Form EAF. The Board moved on to the next order of business while the applicant completed the form.

CARVEL PROPERTY DEVELOPMENT: Bartles advised that the Town Board held a special meeting prior to this meeting in which they discussed a resolution with regard to the Planning Board's proposed resolution to resume Lead Agency status and continue with an SDEIS. The Town Board passed a resolution in support of the Planning Board keeping Lead Agency status. Bartles stated he did not have a copy of the resolution but read the cover letter that was addressed to the Planning Board and signed by all Town Board members who stated they adopted a resolution this date concurring that the Planning Board should continue as Lead Agency for purposes of the SEQR for the NND Zone Petition. The letter stated that the Town Board agrees that the NND petition is essentially a continuum of the applicant's development proposal going back to 2003 though be it under a new Town code provision. The Town's resolution also asks that the Planning Board keep the Town Board fully informed of and involved in the SEQR process through the use of joint meetings where appropriate and by copying the Town Board on all SEQR documents, meeting agendas and communications involving the proposed development. The letter stated the Town Board has the responsibility for the final actions following completion of the SEQR review namely approval of the NND zone designation, amendment of the zoning map and approval of a final master plan. The letter also stated it is important the SEQR process supports any decisions the Town Board may take and requested that, for the convenience of the public and the reviewing Boards and agencies, the Planning Board require the applicant to make the SDEIS a complete DEIS so that all potential impacts are addressed in one volume or series of volumes without the need to refer back and forth between the original and SDEIS. Bartles stated the Planning Board had

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asked Replansky to draft a resolution with regard to their efforts to proceed. Bartles stated Replansky has done so along with a Notice of Intent. Replansky stated that he had prepared two resolutions depending on the outcome of the Town Board's meeting. The one that was emailed was the wrong one to act on. Replansky had the correct one with him but the copy machine was not working so copies could not be made for the Board. Replansky stated his office is making copies and he expects them to arrive shortly. The Board decided to go back to the Birch subdivision proposal while waiting for the resolution copies to arrive.

BIRCH SUBDIVISION: The applicant completed Part I of the Short Form EAF. The Board resumed discussion of the project. The Board reviewed Part I. The Board proceeded to complete Part II of the Short Form EAF. Motion by Soracco; second by Jones to declare the Town of Pine Plains Planning Board Lead Agency. All in favor. Motion passed. Motion by Forelle; second by Mecciarello to declare this an unlisted action. All in favor. Motion passed. Motion by Osofsky; second by Jones to authorize the Chair to prepare a Negative Declaration. All in favor. Motion passed. Motion by Soracco; second by Jones to declare the SEQR complete. All in favor. Motion passed. Bartles stated the next step would be a motion for preliminary approval and any conditions that the Board feels would be necessary. Bartles asked if the Board is going to require Health Dept. approvals prior to final or just assume they will review it. Bartles stated he would like to see indication of Health Dept. approval prior to final. Bartles stated that a motion for preliminary approval should be subject to receipt of Health Department approval prior to final approval or their lack of interest and then something from the County saying that this driveway location is suitable. Short discussion on Health Dept. approval followed. Bartles advised the applicant that he will have to do this anyway or sell the lot without approval. Birch stated he doesn't know where a house is going to be sited. Bartles advised the applicant would pick a location, have the work done and show the Board that there is an approval. Bartles stated when the prospective buyer goes and wants to build he has to go back to the original permit and have it modified if he chooses another location. Bartles stated the Board is looking for assurance that it can be done. Bartles stated it will be an engineer's determination. Birch asked if he had to hire an engineer to get involved in this. Bartles stated yes and he would anyway in order to get Health Dept. approval in this Town. Birch asked if he had to go to that expense before he knows where the house is going to be. Bartles stated for lots of this size yes. Bartles stated that Birch has to demonstrate that the lots are buildable. Replansky stated that is correct. Bartles stated the Board doesn't subdivide lots that are not buildable. Bartles stated this also saves

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the applicant from having a lot that is not able to be sold. Bartles stated this has always been the criteria. Birch stated he understands. Osofsky stated the Dept. of Health may state it is a non-issue for them and they don't want to get involved. Bartles stated the Board is not concerned with the 14-acre parcel but it would be the smallest parcel to the south. Motion by Patterson; second by Jones to give preliminary approval subject to the receipt of Health Department approval prior to final approval and receipt of approval of a suitable driveway location from the County. All in favor. Motion passed. Bartles stated that the applicant will need a copy of the SEQOR form to give to the Health Dept. and the County. Bartles advised that would be prepared and sent to Birch with a letter. Bartles advised that Birch will have to consult with an engineer.

CARVEL PROPERTY DEVELOPMENT: Discussion resumed on the draft resolution that was received by the Board from Replansky. Replansky read through the Notice of Intent (attached). Replansky read through the draft resolution (attached). Bartles asked if the Board had any questions. Forelle asked if the applicant had reviewed this and was satisfied. Replansky stated the applicant had not reviewed the documents. Replansky stated this is what the applicant has been asking for and assumes they have no objection to it. He stated the only difference is the issue of the one set of documents. Replansky stated of course there has to be an escrow agreement and that has to be worked out between the consultants and what their various responsibilities will be. Replansky stated there was a draft of that a while back which will be updated and he will work with the consultants and the applicant on it. Replansky stated what will happen next is it is the applicant's responsibility to prepare a proposed scoping document to the Planning Board. He stated the Planning Board will review the document and make changes or deem it complete enough to have a scoping public hearing. Replansky stated the public hearing will be held on the proposed scoping document that will set forth the areas that need to be covered in the SDEIS. Replansky stated the Board will get input from the public and the consultants. Replansky stated the Town's consultants have to at some point early on in the process review the NND petition and related documents to make sure that what has been submitted meets the prima fascia requirements for an NND zone petition. Replansky stated that should not hold up the scoping process. He stated once the scoping public hearing is closed, the Town will issue its own scoping document. Replansky stated he anticipates the document will be many, many pages long. Forelle asked if the analysis of the conservation subdivision will be required in the entire work. Replansky stated he thinks that is part of the process, as the law requires it for comparison. Replansky stated the resolution is just the first step in a fairly

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lengthy process and there are still a lot of decisions that will have to be made along the road including what is going to be required of the applicant in conjunction with the SEQR review. Replansky stated that once the Planning Board as the Lead Agency issues the scoping document, it is the applicant's responsibility to prepare the SDEIS and the Board will go through the same process it did previously in reviewing the SDEIS to determine whether it is acceptable in its scope and content for purposes of commencing a public review. Replansky stated there will be a public review of the supplemental just as there was of the DEIS. Jones stated in both documents it is very unspecific about why the SEQR review did not proceed to the point of the preparation of an FEIS. Jones asked if there would be any problem for the Board in not being more specific about what occurred and can the Board be faulted for not completing that process in a timely fashion. Replansky replied no. Jones asked why not. Replansky stated the moratorium law and the agreement that the Board had with the applicant suspended all of the timeframes for moving forward. Replansky stated it was the applicant who didn't want to proceed and not the Planning Board. Jones stated the applicant informed the Board they had a new plan they were undertaking. Jones wondered if they would be better off putting it in or not. Replansky stated he could but it would require an amendment to the resolution and he would have to go back to refresh his recollection of the exact history and would have to talk to Stolzenburg. Jones stated that Stolzenburg was making a matrix for the Board to work from and the applicant advised that a new plan was being proposed and the Board just didn't proceed to review the comments. Replansky stated there was an understanding that the Board was not going to proceed at the request of the applicant. Jones stated she reviewed the minutes and there was never an outright request. Jones stated its an area she is uncomfortable with and would like to protect the Board. Replansky stated just putting it in the resolution doesn't protect the Board. He stated whatever happened, happened. Replansky stated he is not concerned with the language. Replansky stated it was not any fault of the Planning Board, as they did not say they weren't proceeding with FEIS. Jones agreed. Replansky stated that whether it is in the resolution or not it doesn't rewrite what actually happened. Jones stated in terms of how the materials are going to come to the Board there is going to be a substantial amount of materials that are no longer relevant and she would like those to be so indicated. Bartles stated that is the scoping process. Replansky stated that will be worked out with the consultants. Jones stated she has four boxes at home and wanted to know how many more boxes she is going to have to deal with. Jones stated she would like to make it as workable as possible. Replansky stated that decisions will be made as to what documentation from the DEIS is going to be refaced into the SDEIS. Replansky stated those decisions

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cannot be made tonight. Replansky stated there is a limited amount of things that we can or want to address in the resolution but the point is well taken. Replansky stated nobody anticipates that the Board will take everything that was done before and combine it with all the new stuff into one document. Replansky stated the next step is an escrow agreement that will be discussed between the two boards with the attorneys and consultants. Replansky suggested there may need to be a joint meeting between the Town and Planning Boards for just that discussion. Forelle asked if there were timeframes. Replansky stated none at this point. Replansky stated the Board will not proceed any further until the escrow agreement is worked out. Forelle asked if the Planning Board will re-engage the same consultants. Bartles stated that prior we had Nan Stolzenburg, Bonnie Franson, Replansky and Ray Jurkowski as the consultants who were working with the Board. Bartles asked the Board if they are comfortable with asking them to continue or should the Board be interviewing other prospects. Discussion followed. Jones stated she was in favor of continuing with Stolzenburg. Mecciarello agreed. Bartles stated he has no issues with the consultants continuing as long as there is no issue with the Town Board's review of the NND. Bartles stated he would like to ask Franson and Stolzenburg to continue. Replansky's recommendation is to have a meeting with the consultants to discuss what their roles would be and then make a decision. The Board agreed to plan on having a joint meeting with the Town Board with the sole purpose being to discuss the roles of the consultants. The Board agreed that they did not want to bring in new consultants. Replansky stated he would discuss this with the Town Board at the next meeting. Bartles stated he is still concerned about the interpretation or misinterpretation of what the final document will look like but also thinks it should be part of the scoping session to determine that. Replansky stated this was a suggestion that was made by the Town Board and its consultant so maybe this is something that should be discussed at the joint meeting. Bartles stated he wants to pass the resolution but doesn't want this to be a stumbling point. Forelle stated he thinks they were trying to say that within the four corners of the document everything would be there. Discussion followed. Stone stated he feels it is within the power of the Board to get a document that they feel is readable. Forelle stated he feels the resolution is clear enough to be enacted on. Bartles agreed. Replansky advised that the Board needs to vote on the resolution and the other document is passed. Osofsky made a motion to adopt the resolution (attached); second by Forelle. Roll call vote: Bartles: aye; Forelle: aye; Jones: aye; Mecciarello: aye; Patterson: aye; Osofsky: aye; Soracco: aye. All in favor. Motion passed.

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OTHER BUSINESS: Bartles stated that Forelle brought up an interesting point after the last meeting. The Board is receiving emails and letters from the public and Proper disseminates them to the members. The question is what is miscellaneous correspondence and what is correspondence that needs to be responded to. Bartles stated that when you have a public hearing you accept in-person comments and written correspondence for a certain period of time. Bartles stated the Board receives a lot of miscellaneous correspondence during the course of events and not during the public comment period. Forelle asked what we should do with this and what is our policy. Bartles stated we really don't have a policy except what Proper has devised. He stated she keeps two folders. One is general correspondence and one is official comment during a public comment period. Bartles asked if we should be responding to all correspondence. Bartles stated everyone receives this correspondence and if someone chooses as an individual member to respond that is fine. Discussion followed. Bartles stated only the comments received during a public comment period go into the "official" file. Bartles advised that Proper acknowledges receipt of the correspondence. Bartles stated he is not sure it is clear to the public that their comments are not included in the "official" file unless it is a public comment period. Bartles stated it also says in the acknowledgement that it has been forwarded to all Board members. Replansky stated all comments have to be acknowledged from a public hearing. Replansky recommends that if letters come in not in the context of a public hearing or scoping session, there should be a form response thanking them and advising that it will not be a part of the official part of the record of the application as that would have to be submitted during the course of a public hearing or comment period. Replansky stated that should be all applicants not just Carvel. Bartles asked if the Board can dispose of their copies, as Proper's file is the official one. Replansky stated yes. Replansky stated nothing needs to be forwarded to the applicant unless there is a particular concern and the Board feels the need to do so. Replansky stated the applicant can always Foil or come in to inspect the file. Replansky stated during a public comment period, the comments should be forwarded on. Replansky will work with Proper on a proper form response.

Bartles asked for a motion to approve the April minutes. Jones stated she thought Proper did an excellent job. Forelle made a motion to approve April 2012 minutes; second by Jones. All in favor. Motion passed.

Bartles stated that on the application of David Birch he has the driveways crossing other people's properties. Bartles stated he thinks what the County is going to require is that

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there are easements or rights of way so that some can cross each other. Bartles stated he should have brought that up previously and forgot to. Bartles stated when the SEQR is sent he will send a note that he will have to make sure that appropriate covenants are put into the deeds and they will have to be reviewed by Replansky. Board agreed.

Motion by Patterson to adjourn at 8:50PM; second by Jones. All in favor. Motion passed.

Respectfully submitted by:

Nancy E. Proper
Secretary

Donald Bartles, Jr.
Chairman