

**TOWN OF SOUTHEAST
PLANNING BOARD MINUTES
May 13, 2019**

Present: Chairman Thomas LaPerch; Boardmembers Dan Armstrong; Michael Hecht; Jim King; Jack Gress; Town Planner Ashley Ley; Secretary Victoria Desidero. Absent & Excused: Vice Chairman David Rush; Boardmember Eric Cyprus; Town Attorney Willis Stephens

PUBLIC HEARINGS:

REGULAR SESSION:

- 1. NORTHWOOD TREE CARE, 25 Fields Lane** – This was a continued review of an application for Site Plan Amendment and Wetland Permit. Peder Scott of PW Scott Engineering appeared before the Board. Mr. Scott said going back into the history of this thing, is its expansion of an existing use. The first thing we did when we did this project, he said, is we hired Bergendorff Collins (Land Surveyor) who created an as-built map defining everything from all the disturbed areas which took place in this portion of the property, all of the existing additions that run off toward the road and they located everything. He said and then we had aerial topography provided for the property and the rear of the site and Mr. Fenton wants me to provide more information: we are going to probably give him inverts of all the (inaudible) existing catch basins just to clarify the conditions on the property itself. Mr. Scott said there are actually two lots owned by the owner, total acreage is 37.88 acres but we are only working with 18.5 acres which is in the OP-1 Zone. He said what's proposed is an expansion... there is two uses on the property and in the '90s this project had an approval where we've had a Special Permit for Light Manufacturing, which was Wood Processing and that wood processing operation continued for many years and then recently we had a tenant modification: two new tenants took on the property and they received the Town of Southeast Tenant approval permits. One of which is (inaudible) which is a soil recycling business in this area and they make (inaudible) and various finishes; and the second component is a continuation of the existing wood processing operation, he said. Mr. Scott continued: the intent is to move it farther away from the street, which is Fields Lane, and put it in the rear of the property in Phase 1 and, in Phase 2 on this property, was an expansion of that use to the rear of the property right here and that's the second phase. He said there is some discussion about the processing of the wood timber; when this was approved as a Special Permit that was the only category they had was the Light Manufacturing but now there is a definition of a Wood Mill and our attorneys on the project have one sort of review or opinion on the use. We've received other interpretations from the Town of Southeast and I am not an attorney, he said, but we are going to try and work that out somehow, either through ZBA (Zoning Board of Appeals) or through some other interpretation with the Zoning Board of Appeals. Mr. Scott said we've received many memos in regard to that and, unfortunately, once you determine what the use is then you have to shake out all these other components like outside storage and everything else, but we are kind of at an impasse at this point in time until we resolve that one particular issue. Chairman LaPerch said kind of a critical issue... Mr. Scott said it is. Chairman LaPerch said so let's stop there: (Town Planner) Ashley (Ley), so before this applicant gets any further into this review, can you explain that the variance will occur after SEQRA is complete, correct? She said yes. He said and the disconnect we have with this application is that it doesn't fall under our new definition of Wood Mill, correct? Ms. Ley said so back in 2015 the Town updated the Zoning Code to include a new definition for Wood Mill which is what this use would fall under: there's two uses on the property and one would still fall under Light Manufacturing, which is the rock processing, and then the Wood Mill aspect would fall under the new Wood Mill definition. Light Manufacturing is permitted a greater amount of outside storage than a Wood Mill, she said, so the issue is that the Wood Mill portion of this would need to get a pretty significant area variance to conduct their operation. Chairman LaPerch said how big? She said they're requesting... Mr. Scott said about 3.5 acres so a 2.5-acre variance; we are allowed about 40,000 sq. ft. by definition. Chairman LaPerch said and you are going to request what? He

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said about 2.5 times what is permitted by the regs and that's why... Chairman LaPerch said so this application is a lot of waste because you can't discuss much until that is resolved, correct? Mr. Scott said I think we may be going for an interpretation of the ordinance with the Zoning Board first. Chairman LaPerch said before SEQRA is complete? Mr. Scott said I think we would like to do that; it's a not binding SEQA item so it might make sense to everyone. Chairman LaPerch said I would have thought you would have done that before you got to this stage. Ms. Ley said so one of the things we discussed when they came in for a Staff Meeting was that the merits of the application being considered a Wood Mill, it pretty clearly falls within the definition, so if they were to go to ZBA and it may be more prudent to just seek the area variance as it is a Permitted Use and while it is a large area variance, it would only be one trip to the ZBA as opposed to two trips to the ZBA. Chairman LaPerch said OK, I agree so without that variance, your other items don't really... Mr. Scott said pretty much you end at Phase 1 and Phase 2 is basically pending on... Chairman LaPerch said I guess my question, Ashley (Ley), would be how quickly, if they don't go for an interpretation, and we do the referral, when is that referral going to occur, within how many months from now? Ms. Ley said that referral would happen as soon as SEQRA is complete; typically, the Board concludes SEQRA after the Public Hearing but at this point there are some outstanding items on the site plan that need to be corrected and addressed before either (Town Engineer) Tom Fenton or I would recommend holding a Public Hearing. Chairman LaPerch said let's assume the applicant gets that information to us, we have two meetings in June, and as well in July... is that correct (Secretary) Victoria (Desidero)? She said yes. He said OK so I am just trying to timeline this for this applicant here so the best case scenario, Peder (Scott) I guess if you get back to us and get our consultants caught up, we are looking at a July meeting because there is a 30 day notice for a Public Hearing, correct? Ms. Ley said right so if you can submit everything in time for the next meeting then at the next meeting the Board would set the Public Hearing in 30 days from that meeting; after that meeting, presumably the Board would be able to make a SEQRA determination and refer you to the ZBA. Ms. Desidero said so you are looking at July 8 for a possible Public Hearing. Chairman LaPerch said and then if that Public Hearing is set, the earliest he gets to the ZBA is... I am just trying to time line this for you. Mr. Scott said yes, we are aware of that. Ms. Desidero said if he was referred to the ZBA on July 8th, presumably he would get his application to them by the end of July so he would be in front of them in August. Chairman LaPerch said and then, depending on... Ms. Desidero said I can't tell you how long it will take... Chairman LaPerch said so best case, you are back here end of August, early September, assuming you satisfy our consultants. Ms. Scott said I appreciate that: a couple things again, we will speak to our attorney who couldn't be here tonight, also we will meet with Mr. Fenton about the surveyor's work (inaudible)... I am not sure what he needs to bring that up to speed. Chairman LaPerch said yes, please do... I just want to be on the same page with our consultants. Ms. Ley said even if the ZBA were to determine that this is continued Light Manufacturing Use, you still need area variances... a couple of them, right? She said weren't there other area variances you were seeking? Mr. Scott said I don't think there were: this is the only one I believe. Ms. Ley said including for Phase 2? Mr. Scott said yeah, that is purely just outside storage interpretation: we are fully complying if it is Light Manufacturing but a Wood Mill then we are not conforming. Chairman LaPerch polled the Board for questions. Boardmember Hecht said the original operation when it was doing that years ago; do you remember how big that was or any idea how big it was then? Mr. Scott said sure, they had variance granted to them and they had 40,000 sq. ft. of wood storage, 4,000 sq. ft. of processing area and then an existing building up front. Boardmember Hecht said so the new proposed processing area is what? Mr. Scott said basically what it is... it's taking that use from here and putting it in the corner in Phase 1, pretty much where all the disturbed area is and they had a disturbance issue as well. Boardmember Hecht said so it is kind of like the same size and you are just lifting it up and moving it... Mr. Scott said yes Phase 1 is the same size; Phase 2 is the expansion. He said Phase 2, as I indicated, requires potentially variances would be this big area back here. Boardmember Hecht said

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that helps thanks. Boardmember Armstrong said I really don't think this application is ready for prime time because we have a three-page memo from our Planning consultants, we have a five-page memo from our Engineering consultants with a number of questions that need to be answered. I just think that this is not ready to move along, he said, and I will not vote for the referral, I will abstain on the referral. He said it just seems to me that, you know, whatever is required is laid out very carefully in the Zoning ordinance and in other ordinances: there is no mystery here, it is right there to read and to comply with and this application is not complying with it. He said it is a procedural issue: I have not made up my mind about any of the factual stuff or what you are really looking for but I just don't see that it is ready for prime time and so therefore I will abstain, or I don't know how I am going to vote for the referral. Mr. Scott said I appreciate that: we have to work with Mr. Fenton and find out how much surveying work he wants. We do have topography provided to us, he said, by aerial but again most of his comments are here on the existing portion of the site which we did get something from the surveyor but, unfortunately, they didn't put exact spot elevations of all the structures and I think that will satisfy Tom (Fenton). Boardmember Armstrong said and let me amend my statement: the memos I mentioned are dated May 7 so you really haven't had a chance to review them necessarily and comply or respond to them but the fact is it just... I can't imagine the amount of time that must have already been spent on this and how long this has been in the works that it's not clear what is required to get an approval here. He said that is my main concern and observation. Chairman LaPerch said and (Town Engineer) Tom Fenton was very clear today in my phone call with him that it is critical that we establish existing conditions before we move forward and that's what his e-mail said as well: he was very clear that the existing conditions is the baseline for this Town and always has been. Mr. Scott said we will speak to the surveyor and see what we can add to the survey. Chairman LaPerch said we were hoping that would have happened for tonight. He said no further questions? There were none. The motion to Declare Intent to be Lead Agency was introduced by Chairman LaPerch, seconded by Boardmember Gress and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Classify this as a Major Project was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor. The motion to Refer the Application to County Planning under GML-239m was introduced by Chairman LaPerch, seconded by Boardmember Hecht and passed 4 to 0 with Boardmember Armstrong abstaining. Chairman LaPerch said the reason we are referring this to the Town of North Salem? Ms. Ley said it is within 500 ft. of the Town line. The motion to Refer the Application to North Salem due to proximity to the Town line was introduced by Chairman LaPerch, seconded by Boardmember Gress and passed 4 to 0 with Boardmember Armstrong abstaining. Chairman LaPerch said so Peder (Scott) you've got some work to do: clean it up and get back here in a timely manner.

2. **NYSEG PARKING AREA, 35 Milan Road** – This was a review of an application for Site Plan Amendment. The applicant was not present. Ms. Desidero said I will say they are from out of Town so it is possible they are running late with the weather. Chairman LaPerch said we will come back to this one.
3. **NERY SPECIAL PERMIT, 24 Deans Corner Road** – This was a review of an application for a Special Permit for Excavation & Grading under Chapter 69. Joseph Rinna of Site Design Consultants appeared on behalf of his client. Mr. Rinna said the area I have highlighted here is 5.1 acres: the owners of the property unknowingly did some clearing on the property to create a backyard for themselves and as you can see the house is located right on Deans Corner Road and they have really no back yard so they wanted to create an area for the family... the children. Chairman LaPerch said the reason for this is they want to create a play area? Mr. Rinna said yes, basically a back-yard area for the family and put a play set for the kids and etc. He said so, he received a violation, an order to remedy, and subsequently we submitted an Erosion & Sediment

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Control application and plans. He said the total disturbance is just under 17,600 sq. ft. and with that we submitted this plan as seen here and there is a detail sheet that goes with this also that shows all the erosion and sediment control details. It requires a Special Permit, he said, so we applied for a Special Permit. Chairman LaPerch said our engineers don't have really anything other than provide some names and addresses of adjoining property owners, change the contours, and listed conditions of approval shall be part of the Special Permit. Chairman LaPerch polled the Board for questions and there were none. He asked Ms. Ley: are there any issues the Board should be aware of and she said no, it needs to go to County Planning under 239-m and I am recommending it be classified as an Unlisted Action under SEQRA for the area being cleared. Chairman LaPerch said before I go on to my action items, Mr. Rinna, we are going to set a Public Hearing for June 10: is that something you can make before I make that motion? Mr. Rinna said I cannot make that; I will be away but I will have someone cover it. The motion to Declare Intent to be Lead Agency was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Refer the Application to County Planning was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor. The motion to Set the Public Hearing for June 10, 2019 was introduced by Chairman LaPerch, seconded by Boardmember King and passed all in favor.

4. **FARM TO MARKET ROAD SUBDIVISION, 83 & 85 Farm to Market Road** – This was a review of a request for Two 90-Day Extensions of Subdivision Approval. The applicant was not present at the meeting. Chairman LaPerch said so they are looking for their final two 90-day extensions? He said then what, Ashley (Ley)? Ms. Ley said this is it so if they don't file the necessary paperwork between now and when the extension expires, they will need to start over. The motion to Grant the Final Two 90-Day Extensions for the Subdivision Approval for Farm to Market Road Subdivision was introduced by Chairman LaPerch, seconded by Boardmember Armstrong, who said may I ask a question? He said what is the delay: are they explaining why they can't get it done? Ms. Ley said they have not provided any explanation. He said OK. Chairman LaPerch took the roll call vote and it passed 5 to 0 with 2 absent.

5. **DURKIN WATER / DREW REALTY, 120 & 160 Fields Lane** – This was a continued review of an Application for Site Plan Amendment and Wetland Permit. Jamie LoGiudice of Insite Engineering appeared before the Board. She said since we were here last, we received several comment letters which we have responded to comments and I think we addressed the majority of the comments short of lighting and landscaping on the Drew Realty parcel. We've also had the wetlands flagged, she said, along the (inaudible) section of the development on the Drew Realty parcel so we did send a copy of this to the Wetland Inspector. Chairman LaPerch said and he hasn't gotten out there yet to verify it? She said correct, hopefully this week. Chairman LaPerch said this was a violation, correct Ashley (Ley), that they are making legit? Ms. Ley said kind of a combination: what started it was they were coming to get a minor site plan amendment for the barn on the Durkin Water property and then in the process of that we noted that the Drew Realty parcel had been disturbed without approvals. Chairman LaPerch said OK, fair enough, and polled the Board for questions and there were none. Chairman LaPerch asked if a Public Hearing on June 10 will work for the applicant and Ms. LoGiudice said yes. The motion to Declare Lead Agency under SEQRA was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Refer the Application to County Planning under GML-239m was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor. The motion to Set the Public Hearing for June 10, 2019 was introduced by Chairman LaPerch, seconded by Boardmember Hecht and passed all in favor.

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NYSEG PARKING AREA, 35 Milan Road – This was a review of an application for Site Plan Amendment. Chairman LaPerch said I am going to assume that the applicant for number two is not going to be here so Ashley (Ley), I am going to ask you to tell us is there any outstanding items before we vote on Final Site Plan Approval? He said I don't see any. Ms. Ley said I am not aware of any outstanding items: it's a re-paving project... Chairman LaPerch said which they badly need: I was up there the other day. Someone asked "where is this?" Ms. Ley said the NYSEG Service Center on Milan Road so what they are doing is they are repaving the parking lots and the last one in the chain they are going to reclaim that area as lawn and there is some limited landscaping. Chairman LaPerch said yeah, they really need it. The motion to Grant Final Approval of the Site Plan Amendment was introduced by Chairman LaPerch, seconded by Boardmember Armstrong, who said I have a question: so, everything they need to do... they filed plans and everything? Ms. Ley said yes, they filed their plans, they have been reviewed by myself and by the Town Engineer... Chairman LaPerch said everything is legit. Ms. Ley said the Board voted it was a Type II Action under SEQRA back in March, waived the Public Hearing, referred it to County Planning and the Board waived the referral to the ARB (Architectural Review Board) because of the limited nature of the project. Boardmember Armstrong said so they are ready to go? She said yes. Chairman LaPerch took the roll call vote and it passed 5 to 0 with 2 absent. The motion to Recommend a Performance Bond as created by our Town Engineer to the Town Board was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor.

Chairman LaPerch asked for comments on the April 8 Meeting Minutes and there were none. The motion to approve the Meeting Minutes of April 8, 2019 as written was introduced by Chairman LaPerch, seconded by Boardmember Gress and passed all in favor.

He asked if there were any questions about the April 22 Minutes and there were none. The motion to approve the Meeting Minutes of April 22, 2019 as written was introduced by Chairman LaPerch, seconded by Boardmember King and passed all in favor.

The motion to close the meeting was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor.

June 6, 2019/VAD