

**TOWN OF SOUTHEAST
PLANNING BOARD MINUTES
August 12, 2019**

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

PUBLIC HEARINGS:

- 1. MAFFEI WETLAND PERMIT, 57 Milltown Road** – This was a Continued Public Hearing to review an application for a Wetland Permit. Engineer John Karell appeared before the Board. The motion to Open the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Gress and passed all in favor. Mr. Karell said we were here a month ago and since then we've satisfied the comments of the Health Department with respect to the septic and wells as well as the Department of Environmental Protection's (DEP's) comments relative to the septic and the wells. He said as far as SEQRA goes, there were comments by (Town Engineer) Tom Fenton, (Wetland Inspector) Steve Coleman, and DEP and we spent the last month dealing with DEP. He said we do not have to get a DEP Permit for either piping or IRSP. Chairman LaPerch said what does that mean for the benefit of the public? Mr. Karell said Residential Stormwater Permit. He said we eliminated the dip in the driveway, which everyone seemed to have a problem with and we're going with a precast concrete type bottomless culvert to allow the water from a piece of the wetlands. Chairman LaPerch said point it out please. Mr. Karell said this blue is the wetlands and you can see a small portion of the wetlands goes under the driveway so there's going to be a series of concrete bottomless culverts that DEP does not consider a pipe so we don't need a permit to put this and it will allow the water to flow down through the wetlands. He said we're not changing drainage patterns; all the drainage is presently going to the west away from the houses and will continue to go west away from the houses. All of the impervious surfaces are being infiltrated in this pond, he said, and we're proposing mitigation with a filter strip. He said we added to the map the names of the property owners and the addresses so if someone wants to come up and see where their property is with respect to this project they can. I provided a response to the Public Hearing, he said, the comments that were made at the Public Hearing. Chairman LaPerch said thank you and (Town Planner) Ashley (Ley), can you tell us where we are with the application and the actions ahead of us before we go to the public. Ms. Ley said this application is before the Board for a Wetland Permit and at this point a SEQRA determination has not been made and we still have the Public Hearing open. She said there are some comments from the Town Wetland Inspector that have not been addressed. He is currently reviewing the submission that came in late, so the Board is considering holding the Public Hearing open. Chairman LaPerch said that's my recommendation anyway. He said Mr. Karell we have received all the consultant's letters and you are making progress, but there are still some issues from our Wetland Inspector that we'd like to see before... Mr. Karell said some details from the Wetland Inspector, we're waiting for the formal letter from DEP on the SEQRA determination and that goes to the DEC (Department of Environmental Conservation) because we need a State Wetlands Permit for this project. Chairman LaPerch said the only comment I have is that in the neighborhood down below of the property, some neighbors with adjoining property had some concerns about sight and visual issues about the driveway, which I think you addressed in your comment letter and the wells and water quality. He said can you speak to that issue, elaborate on it please? Mr. Karell said the Health Department requires a certain distance to the well, 100 ft., and all the wells are at least 100 ft. from our septic system and we've satisfied the Putnam County Health Department in that regard. He said the 100 ft. is the same throughout the state and in the New York City Watershed and New York City has commented on it also. Chairman LaPerch polled the Board and there were no comments. Chairman LaPerch asked for comments from the public and said once again, it is my recommendation that until we see the wetland mitigation plan from our Town Wetland Consultant we will continue this Public Hearing so there will probably be another meeting so we understand what the mitigation plan and what our

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consultant signed off on. Joe Meliambro of 43 Scenic Route Drive approached the Board. Chairman LaPerch said point out your house Joe. Mr. Meliambro said first I ask the court to terminate this project on the following issues. He said the first one is called fairness, the second one is called testing, third one is safety, and the fourth one is common sense. He said on the fairness issue, I ask that all homeowners please stand up; if there are any homeowners here that actually have homes here just stand up for a second. He said I'm just going to ask you a couple questions. How many of you have lived in your homes for over 20 years, he said? (*Several people standing indicated they had.*) He said how many of you purchased your home with the general knowledge that the land behind you would never be developed. A couple members of the public indicated they had. Chairman LaPerch said this is not the forum, I can't go here because there are names going on here. He said if you have a comment please come up later. He said this is not the right forum to have this type of talking. Mr. Meliambro said what forum am I supposed to do this? Chairman LaPerch said this is a Public Hearing so (Secretary) Ms. Desidero needs to understand who is talking at all times so that we have a public record of this. Mr. Meliambro said it's the people up here that own these homes. Chairman LaPerch said they have not identified themselves so I want to make sure everything... Mr. Meliambro OK, so they'll identify themselves, that's no problem. Chairman LaPerch said Ms. Desidero, how would you like to proceed here? Ms. Desidero said I have four people you're going to be asking questions of and four people answering but if all they're doing is answering yes or no, I got it; I just need their names then. Lucy DiLeo of 63 Scenic Ridge, Robert Foss of 33 Scenic Ridge, Gabriella Cotignola of 73 Scenic Ridge all stated their names. Mr. Meliambro said how many believe there's an intrinsic value to having peace and quiet and wildlife in your backyard; just raise your hand. How many believe that the resale value of your home could go down upon completion of this project, he asked? Mr. Meliambro continued: how many of you think that it is unfair of this court to consider this project that will jeopardize the value of your home and quality of life behind you? He said I ask that you all put yourself in Joe DiLeo house 63 Scenic Route Drive as it is one of the first house in danger of a contaminated water supply. Mr. Meliambro said so this well where he's done his testing recently, correct? Mr. Karell said yes. Mr. Meliambro said everyone knows the land is very dry and this testing is unacceptable, not even on the septic, but also in this whole area. He said you have to test this in like March or April because in March and April you get heavy snow and in April you get heavy rains. He said what happens to this? It becomes a quagmire, he said, right behind my house and where Mr. Foss is inside, just because it's not considered wetlands does not mean that this is not wet. This is a quagmire here, he said. You're looking at a map and going well the blue is here, everything is clear, he said, and this time of year it's no problem when you have 100 degree days and it's the middle of the summer, it's pretty dry, but you go back there in March and April you'll see a totally different situation. Mr. Meliambro said the next issue, the testing should be done at that period of time; in other words, done in abnormal conditions so to me all this testing doesn't mean anything. He said they can give you averages all they want, that doesn't mean anything. He said the design of this driveway is for passage of a car or a light pickup truck, that's what it's designed for; it's going to a residential area and, at best, depending on the amount of rainfall and the time of year. After thawing snow and early spring rains, he said, if a fire were to break out at this house a firetruck that is designed to drive over hard, dry surfaces will have to take a magic carpet ride over here because this is a quagmire, especially at that time of year to get to the burning house. He said everyone knows that a firetruck that drives over a septic field or ground water, what happens, it will sink. If you think that by putting gravel... they're going to tell you they'll put gravel or Item 4 as a driveway that does nothing to the ground water, he said. Mr. Meliambro said by pitching it, what happens when it rains that basically pitches the surface water, but it does nothing for the ground water so that ground water is sitting there the whole time. So, if anyone tells me you're going to put gravel or you're going to put Item 4 and you're going to solve this ground water problem, it's not going to happen. He said you have to put in excessive drainage to pull this water out to make it

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dry otherwise it's not going to dry because this is level property. He continued: This isn't pitched away from the houses like he said so if you go back and find Bob Foss' house, 10-20 ft. in it's like a quagmire; he can't go back there with his boots on. He said so if you're having a fire how is a firetruck going to make it through there at that particular time and the other thing is if you have a vehicle going one way and another vehicle going the other way, one vehicle would have to back up the whole way or the other vehicle would have to go on the side into the mud because there's no way two vehicles can, he said, so this is a safety issue on top of it. Mr. Meliambro said and then we are talking about some old-fashioned common sense here: it's been 30 years it hasn't been developed so you have to ask yourself why has it been 30 year? He said he's not the first one to come develop this property... I'm sure so there has to be a problem. He said you're going to tell me you're going to put in some kind of pipe or whatever and that's going to fix that whole area; that makes no sense. Mr. Meliambro said when you look at the commonsense end of it none of it makes any sense to me. He said the bottom line is this property to be developed the correct way will require more than a few hundred thousand dollars and would not be cost effective to develop and that's why it's taken 30 years otherwise it would have been developed. Chairman LaPerch said thank you very much, can I get your notes for the file if you don't mind? Mr. Meliambro said oh sure. Chairman LaPerch polled to Board to see if there were any additional questions. Boardmember Armstrong said I think with all due respect, the Board I think has to go by what the technical review says and it's the technical review by the engineers and whomever else. He said if they say that this land is buildable given certain changes and certain methods of draining water off, whatever it takes, then we can't deny someone the right to use their property because of the impact on the neighbors assuming they can do something to deal with whatever the impacts are and we do that all the time; visual impacts, water impacts, everything. He said that's the system and we're in the middle of the system right now and it's not that I don't understand what you're saying or that I disagree; I'm just saying that everyone here has certain rights, land rights, and the law tries to make it possible for people to develop their land without creating a problem for the neighbors or the Town and that's just a general statement that I think is pretty factual. Gabriella Cotignola of 72 Scenic Ridge said we moved here in 2015 I think it was. These are my parents that are building behind my house, she said, so to be honest with you when we first moved to the neighborhood I called the Town because we didn't want a development going in back there and wanted to make sure there wouldn't be a strip mall or whatever. She said we really didn't get much information from them. She said they said because of the frontage that it would only be able to be a one-family house if anything, but they did say there was the possibility of building more than one house if whatever. Ms. Cotignola said I personally am happy that there's only one house going back there because there could be so many other things that could be back there that would make our property value a lot less. She said as for you saying 30 years, why hasn't it been built up, they have been working with the DEP and everything else for over a year and they have been putting them through hell. She said they are nitpicking every little thing so I think as far as why it hasn't been developed, I think a lot of people that are going to be buying 23 acres probably would want to be building more than one house. She said I don't think most people would buy a big lot like that to build one house. Mr. Meliambro said it depends on the price, I disagree with you. Chairman LaPerch said OK, this is not an argument, let her speak please. Ms. Cotignola said I don't know how long the property has been on the market but I had spoken to an agent before we bought ours and I asked why it's still there because I came from Westchester and I think the property was originally at \$250,000 and we were saying for Westchester that's low and for 23 acres why wouldn't someone snatch that up? She said he actually said to me that it was a lot for a single-family residence up here. She said I don't know what the going rate was but I think that was part of the reason why it didn't sell. She said the property did sell and it's affecting me more than anyone else because it's really my backyard. Ms. Cotignola said another issue is I wanted to make sure because I would be able to see it from my son's room and they are building a ranch. She said if they were to build a colonial it would be

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taking up a lot more air space; they're doing 23 acres because they want their privacy; I hope that helps. Chairman LaPerch said I want to reiterate that I support Boardmember Armstrong's statement. He said this is a business decision whether he wants to move forward with this and he's doing everything possible to make sure the agencies are on-board with it and, at the end of the day, it's a financial decision what goes on for this applicant so as long as the consultants are comfortable and they sign off that this can be built we have to work with the property owners; that's what we do here. Town Councilwoman Lynne Eckardt said it sounds like only one house can be built here but they could consider... to help neighbors feel more comfortable, a deed restriction that it will always be one house. Mr. Karell said we could certainly put a deed restriction on the wetland and there are restrictions on how far from the house we can clear for lawn. Chairman LaPerch said yes, but from a technical standpoint what she is saying is a good suggestion. He said it shouldn't be an issue because you can't build anything else as you are building on a little pocket to begin with. Ms. Eckardt said it would be a comfort level for the neighbors. Chairman LaPerch said my opinion is I would like to wait until Steve Coleman comes back and signs off on the wetland mitigation plan. Ms. Desidero said our next meeting is August 26 and then September 9. Mr. Karell said what's the deadline for August 26? Ms. Ley said it's already passed so the Board would be giving you an extension. Mr. Karell said let's do that. Ms. Desidero said so a copy would need to go to all the consultants, copy to me, and also to the Planning Board members. Mr. Foss said at the last meeting we were told that the colors would be available but they were not when I looked at all the available information and I would really like to have that. Chairman LaPerch said we will get it up. Ms. Desidero said I didn't get a chance to put it on the site but the engineer gave responses to some of the questions that were raised last time and it will be on the website as well as the memos from the consultants. Mr. Karell said how do you want me to get you the colorized version? Ms. Desidero said I just need a digital copy. The motion to Continue the Public Hearing to August 26, 2019 was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor.

2. **ROOT AVENUE SUBDIVISION AMENDED WETLAND PERMIT** – This was a Public Hearing to review an application for an amendment to a previously approved Wetland Permit for a lot in an approved Subdivision. Jamie LoGiudice of Insite Engineering appeared before the Board. The motion to Open the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed all in favor. Ms. LoGiudice said I am here on behalf of Root Avenue Subdivision for the Amended Wetland Permit for Lot 2. She said we revised some retaining walls and increased the mitigation areas. She said we did receive comments back from the Town Engineer and Town Wetland Inspector and believe we have addressed all comments. The Chairman polled the Board for questions and there were none. There were no comments or questions from the public. The motion to Close the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Gress and passed all in favor. The motion to Adopt a Negative Declaration under SEQRA was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed by a roll call vote of 4 to 0 with 3 absent. The motion to Grant Final Approval for an Amended Wetland Permit was introduced by Chairman LaPerch, seconded by Boardmember Gress and passed by a roll call vote of 4 to 0 with 3 absent.

REGULAR SESSION:

1. **RUFFIAN, 3834 Danbury Road** – This was a review of a Request for Release of a Performance Bond for Erosion & Sediment Control. Chairman LaPerch said the Town Engineer has recommended to release the Performance Bond and the establishment of a Maintenance Bond. Ms. Ley said the Maintenance Bond is for two years and it's to make sure that all the landscaping stays in place. Ms. Desidero said there's one for the Stormwater Maintenance and the other is for the landscaping; one is two and one is four. It's on the recommendation to the Town Board, she said.

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Chairman LaPerch said these bonds are held by the Town Clerk. The motion to Recommend a Bond Release and Establishment of Maintenance Bonds was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed by a roll call vote of 4 to 0 with 3 absent.

It was determined that there was not a quorum of members present to approve any of the Meeting Minutes.

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

August 26, 2019/CC/VAD