

Minutes of the Town of Lake George Planning Board meeting held on February 13, 2018 at 6:00 p.m., at the Town Center, 20 Old Post Road, Lake George, New York.

Members Present: Sean Quirk, Chairman
Fred Pape, Vice Chairman
Heath Mundell
Robert Flacke
Nathan Hall
David Meixner

Members Absent: Rich Askew

Also Present: Adele Behrmann, Dan Barusch, Michael Stafford, Esq. Matt Fuller, Esq., Tom Hutchins, Gary Hughes, Bill Bernard, Tracey Cameron, Charles Dippo, Diana Hrycyk, Corinna Martino, Zach Monroe, Dennis Lafontaine, Shayla Clark, Destiny Decker, Skylar Healy, Emily Finch, Alyssa Decanio and others.

Acceptance of the Minutes

A motion is introduced by Heath Mundell; seconded by Fred Pape to accept the minutes of the January 9, 2018 meeting as complete.

All in favor, motion carries.

PUBLIC HEARINGS

- 1. Modification to Site Plan Review SPR35-2017 submitted by Michael Stafford, Esq. with a proposal to demolish a 6 ft. x 6 ft. shed, replace stairs and renovate a structure on the southern boundary line; for property located at 9 Old Lake Road. Tax Map No. 252.09-1-6. Lot size is 0.12 acres. Zoning Classification is RS-1. Code References are 175-23 & 175-37. SEQRA is Type II.**

Nathan Hall recuses himself.

Michael Stafford, Esq. begins by stating that at a previous meeting, concerns over a structure on the site came up. He subsequently had Dennis Dickinson draw a conceptual design of the improved shed occupying the same footprint and simply taking the rear roof line and leveling the building up. However, at this point he asks the Board to just consider the original application which was to demolish the shed and rebuild code compliant stairs thus removing the renovation of a structure on the southern boundary line.

Fred Pape confirms that the stairs will be removed and the little deck will be connected to the existing shed building; Mr. Stafford replies that at this time he has no plans to connect the deck to anything therefore it will be just a set of stairs with a landing.

Chairman Quirk opens the meeting to the public for comments.

Matt Fuller, Esq., who represents three other owners of the easement rights to the property. The owner of BAB Realty, LLC, Eric Aberstat, who is the fourth property owner with rights to the easement, contacted him and informed him that particularly with the BAB rights, as evidenced on the deed that Mr. Stafford drafted for the previous property owner, there a "no improvements" exclusion and limitation in the rights granted to those people. He asks to note for the record that, should this project move forward, BAB Realty objects to the interference of their property rights. His clients have no issue with the

improvement of the stairs but rather with Mr. Stafford's continued interference with their easement rights. Back in November, there was talk of a lawsuit and eviction process by Mr. Stafford. The lawsuit made its way to court which was dismissed by one of his clients and withdrawn by Mr. Stafford. His clients are still in possession of the 6 ft. x 6 ft. structure that Mr. Stafford wants to tear down. His biggest concern is when the proposed work will be done since his clients don't want the construction project to interfere with their rights to use the beach in the summertime. He asks that the Planning Board conditions and limits when the improvements will be done. He clarifies that the other part of the application for the canoe storage is being withdrawn and not tabled.

Chairman Quirks asks about BAB Realty's license; Mr. Fuller replies that the license is revocable but the easement is an irrevocable license with very clear limitations on any improvements that can be done to this property which is very different from other easements. Dan Barusch states that a copy of the deed in questions was submitted as part of the application however the license was part of the deed in 2007 but it is not part of the deed from Jackson to Stafford in 2016.

Mike Stafford replies that he is familiar with the Eric Aberstat and that at the time Brian Richenbach did the transaction and decided to call it an irrevocable license instead of an easement which is the same thing but it doesn't confer more than an easement. As for the lawsuit, it was withdrawn because the server didn't serve it correctly. Dan Barusch believes that the stairs and the shed are not affected by the limitations but future projects could potentially be; he'll confer with the Town's attorney. As for the construction time table, Mr. Stafford will have the work done as quickly as he can in the spring; an agreement is mutually reached to use July 4th as the completion date.

A motion is introduced by Fred Pape; seconded by Heath Mundell to close the public hearing.

All in favor, motion carries.

A motion is introduced by Heath Mundell; seconded by Fred Pape to accept the amendment to the original application SPR35-2017 to include the re-building of the stairs in addition to the demolition of the shed.

All in favor, motion carries.

A motion is introduced by Fred Pape; seconded by Heath Mundell to approve the amended Site Plan Application SPR35-2017 with the following condition:

- All demolition and construction must be completed by July 4, 2018.**

Ayes: 5 Flacke, Mundell, Pape, Meixner, Chairman Quirk
Nays: 0
Abstain: 1 Hall

Motion carries.

- Application for Site Plan Review SPR1-2018 submitted by Philip Viger with Michael Muller, Esq., Tom Hutchins and Gary Hughes as agents, with a proposal to replace an existing structure damaged by fire with a new 3,085 sq. ft., single family dwelling with garage and 1,714 sq. ft. of decks and porches; for property located at 12 Little Bay Lane. Tax Map No. is 226.05-1-17. Lot size is 0.63 acres. Zoning Classification is RCH-LS. Code References are 175-23, 175-37 & 175-90(A). SEQRA is Type II.**

Nathan Hall rejoins the Board.

Tom Hutchins presents the project to the Board as Mr. & Mrs. Viger's agent. This project includes rebuilding a house destroyed by fire however two variances are required; one for fill being brought in to fill in the area of the previous residence and the second for setbacks relief for major stormwater devices from the lake. Since they weren't able to obtain the variances due to the cancellation of the Zoning Board meeting, they're here tonight to just present the project to the Planning Board. He directs the Board to several maps showing a demolition plan, a site plan showing the area of the old house and the area of the new house which is 20 ft. further away from the lake. The footprint of the new structure is bigger due to the addition of the garage. Much of the hardscape was not damaged by the fire and their intent is to maintain some intricate stone work however the hardscaping on the northern side of the house will be removed because of the location the house. The setback relief for stormwater is a necessary and good one since it will allow them to put stormwater controls. The detailed grading plan shows the reduction of the area of the driveway. As per the house design and the west elevation because of the slope, the house appears to be a ranch from the road while the garage is located on the second floor of the structure. The lakeside elevation shows the basement area and two floors and the south elevation shows the garage, the main floor and the basement. The stormwater controls are underground and the pervious areas will be mainly grass. Sand will fill the area of the old foundation.

Chairman Quirk asks the difference between the old house and the new one; Gary Hughes replies that it will be approximately 1,600 to 1,800 sq. ft. with an increase in the footprint of about 300 ft. which is due to the addition of the garage. The basement of the old house was built on ledge and wasn't used; the new house will have the foundation pinned onto the ledge with some necessary blasting and filling.

Dan Barusch informs the Board that since this was an after-the-fact project, the applicant's agent, Mike Mueller, Esq. appeared in front of the Town Board, it was all settled and it is now ready to move forward. Dan Barusch questions the applicant about an easement that a neighbor has and informs him that during the construction phase, the easement has to be left open at all times.

In response to Nathan Hall's concern about the visibility from the lake, Tom Hutchins responds that there are a few big trees which will stay, the current house will be a modern structure slightly higher but the difference will be minimal. Gary Hughes adds that the trees are not in the best of shape but Mr. Viger will keep them as long as he can; he has done a good job with the landscaping.

Bob Flacke asks if they are planning on keeping the same septic system; Tom Hutchins replies yes and they know the locations of both the tank and the pump station. Chairman Quirk reminds them that the height of the structure is one concern; it needs to be below 40 ft. and they're very close to it. Gary Hughes adds that the plan is to keep it below 39 ft. Dan Barusch inquires about the 3,085 sq. ft. on page 3 of the application; does this number include the deck? Tom Hutchins replies that he'll confirm it at the next meeting since they will be coming back. A decision is made by the Board not to read the application into the record and keep the public hearing open. Fred Pape wants to make sure that the site coverage is accurate since there are a lot of paved areas on this site such as patios, walkways etc. Dan Barusch recommends that the glass for the window be non-reflective glass on the lake side.

Chairman Quirk opens the public hearing to the public for comments with no response.

A motion is introduced by Fred Pape; seconded by Heath Mundell to table Site Plan Review SPR1-2018 and leave the public hearing open.

Ayes: 6 Hall, Flacke, Mundell, Pape, Meixner, Chairman Quirk
Nays: 0
Abstain: 0

All in favor, motion carries.

REGULAR MEETING

3. **Application for Site Plan Review SPR43-2017 submitted by William Bernard with a proposal to construct a 2,519 sq. ft. 2 story single family dwelling with an attached garage and walkout basement; for property located at 14 Sagamore Street. Tax Map No. is 238.08-1-14. Lot size is 0.34 acres. Zoning Classification is RCH-LS. Code Reference is 175-37. SEQRA is Type II.**

Bill Bernard begins by stating that the Board Members should have all the documents but he has some photographs he'd like to share if they want to see them; Chairman Quirk directs him to give them to Adele. They purchased the property last summer and after a review with Dan, they hired Ethan Hall for the drawings and Williams & Williams for the construction documents. In August they obtained the building permit from the County after Dan Barusch's approval but when they started excavating, they discovered bedrock. It's a tight lot and the discovery of bedrock is prompting them to move the house further back and the septic system having to be placed in the front yard. The ledge from the front yard was blasted in order to accommodate the septic system however when excavation began for the footings for the rear of the house, more ledge was discovered. This ledge was removed but it raises the height of the cellar walls for the walkout basement and it is reaching a point where it is cost prohibitive to continue to blast. He projects that he'll need 200 cu yards of fill around the cellar walls for approximately 400 or 500 total yards including the septic. He believes that bringing in fill is a less environmentally invasive and more cost effective option.

Chairman Quirk is concerned with the applicant's septic being too close to his neighbor's and asks about the distance; Mr. Bernard replies that this particular neighbor's septic is in his front yard however the ones on Sagamore Street have their wells in the front which prohibits the installation of his well in that area; as a result the well was installed in the back southeast corner of the lot. As for the other neighbors, he is clearly more than 100 ft. away.

In response to Fred Pape's question, Mr. Bernard states that because of the fact that he wasn't able to blast deep enough for frost footings, the foundation will be raised by about 3 to 6 ft.; he did however, remove many, many yards of shot rock when blasted from this area. A discussion ensues among the Board Members who voice their concerns with the final elevations; the maps submitted don't actually show a before and after concept. The applicant replies that they blasted down 6 to 7 ft. and with the fill he is bringing in there shouldn't be that much change in height. Dan Barusch reminds him that 40 ft. is the highest he can go with the house which at this point is a little over 39 ft. from the finished grade of his deck in the backyard to the top of the chimney. The applicant goes on to explain that the fill is to replace all the shot rock that was removed from the area as well as being used for the lawn area; pictures are passed around to the Board Members. Dan Barusch feels that there shouldn't be much difference in the height of the dwelling however current and post grading plans need to be submitted. The septic was reviewed as a mound system as well as the amount of fill needed to establish the separation to bedrock from the laterals. After a review of the documents submitted, it is discovered that the current submitted plans don't show a walkout basement therefore the Board feels that since the applicant is very close to the 40 ft. in height, he needs to submit a new, corrected and upgraded grading plan.

Dan Barusch recommends that an engineer or a surveyor and not an architect draw the plans simply because they are more knowledgeable of the process. Bill Bernard asks for clarification from the Board as to exactly what they want to see in relation to the elevations; Chairman Quirk responds that they need to see the final elevations from where the floor of the proposed cellar is to the top of the chimney. Dan Barusch adds that the height of the house shouldn't change and that the bottom of the grade will still be approximately 39 ft. below the ridge; what Mr. Bernard needs to show is where the house is going to be on a topographic map, submit existing and proposed post development grading plans, elevation shots and updated site plan maps.

A motion is introduced by Fred Pape; seconded by Nathan Hall to table Site Plan Review SPR43-2017 to the next meeting.

Ayes: 6 Hall, Flacke, Mundell, Pape, Meixner, Chairman Quirk
Nays: 0
Abstain: 0

All in favor, motion carries.

- 4. Application for Site Plan Review SPR2-2018 submitted by Tracey Cameron as agent for Jerrold & Candice Cameron with a proposal to conduct timber harvest on both sites. The selective timber harvest will be on 40 acres, 45,000 bf with residual basal area of 60 sq. ft. per acre; for property located off Truesdale Hill Road. Tax Map Nos. are 224.04-1-18 & 224.04-1-19. Lots sizes are 22.63 acres & 17.47 acres respectively. Zoning Classifications are RR-7 & RR-5. Code Reference is 175-15. SEQRA is Type II.**

Tracey Cameron explains that his parents own the property and the plan is to conduct a selective cut with no stream crossing. He informs the Board that the lots are not land locked and that there is a 25 ft. right-of-way between the two properties. Dan Barusch reminds applicant that a construction entrance is required with any timber harvest operations; the reason is to keep the dirt under the tires from being released to neighbors' properties. He also adds that Kurt Koskinen, who is a forester, has prepared the timber harvest plan with all the necessary details and maps. The harvest is very selective at 30% of the total acreage; it's a pretty simple job and the only concern is to keep the access from Truesdale clean.

Fred Pape reads the application into the record.

A motion is introduced by Chairman Quirk; seconded by Heath Mundell to accept the application as read.

All in favor, motion carries.

A motion is introduced by Heath Mundell; seconded by Fred Pape to approve Site Plan SPR2-2018 as submitted.

Ayes: 6 Hall, Flacke, Mundell, Pape, Meixner, Chairman Quirk
Nays: 0
Abstain: 0

All in favor, motion carries.

- 5. Application for Site Plan Review SPR3-2018 submitted by Charles F. Dipppo & Diana L. Hrycyk with Martino Engineering as agent with a proposal to construct a 3,640 sq. ft. single family dwelling with decks, porches and stormwater management devices; for property located at Olde Coach Road. Tax Map No. is 225.08-1-29. Lot size is 5.17 acres. Zoning Classification is RR-10. Code Reference is 175-37. SEQRA is Type II.**

Corinna Martino is the representative for the applicant. She begins by describing the project and referring the Board to maps and states that originally the lot was 5.17 acres but a lot line adjustment was done to increase the size to 7.50 acres. She has received Chazen's review and has a call into them and is confident that she can address all of their concerns. The project is located at the end of Olde Coach Road and there will be a 12 ft. wide extension of Old Coach Road that turns into a driveway to the dwelling and they've received the approvals by the Highway Dept. Due to the slopes, they're proposing an Eljen septic system and she shows a specific area where it is going to fit which is the only area it can fit in however she will seek a variance from the Consolidated Board of Health for depth separation to bedrock. As for stormwater, the main device will be an infiltration system along the road. The location of the proposed dwelling is so to keep it as far away from the slope

although blasting will be required. There currently is a vacant lot with frontage to this road which if developed will need an easement for access; as for the maintenance, the owner and not the Town will be maintaining it.

Chairman Quirk is concerned with the ability for emergency vehicles to access the dwelling and turn around. Dan Barusch adds that there is no other way to access the house but he can have the Fire Department Chief take a look at the plans and asked Corinna Martino to get a sign off from the Highway Dept. as well. Chairman Quirk informs her that the Board has not seen the Chazen's comments and she informs him that a number of comments were small and technical in nature; they had some concerns with infiltrating on slopes and she plans to line the proposed rain gardens with a poly liner so they'll filter and treat the overflow but they are not going to directly infiltrate because they'll overflow out.

Chairman Quirk questions the size of the lot in the 10 acres zoning district; Dan Barusch replies that it's a pre-existing, non-conforming lot. He then voices a concern he has which is cutting trees from the front of the house which is very often the case with mountain top homes specifically aiming at the lake view. Corinna Martino replies that there a very good view of the lake from the peek already and there shouldn't be a lot of clearing since it's not densely populated with trees to begin with. Dan Barusch reminds the applicant to submit her response to Chazen for the next meeting and also about the Consolidated Board of Health meeting which will be held on 2/20/2018.

Fred Pape reads the application into the record.

A motion is introduced by Heath Mundell; seconded by Nathan Hall to accept the application as read.

All in favor, motion carries.

A motion is introduced by Fred Pape; seconded by Heath Mundell to table Site Plan Review Application SPR3-2018 to the next meeting.

All in favor, motion carries.

- 6. Application for Site Plan Review SPR4-2018 submitted by Dennis Lafontaine with Winchip Engineering as agent, with a proposal to construct a 1,490 sq. ft. single family dwelling with a deck, entrance landing and stormwater management controls; for property located at Truesdale Hill Road. Tax Map No. is 238.00-1-31.14. Lot size is 10 acres. Zoning Classification is RR-10. Code Reference is 175-37. SEQRA is Type II.**

Zach Monroe from Winchip Engineering is representing the applicant. He begins by stating that they received the letter from Chazen, that deemed this project as a major stormwater project yesterday and he has addressed some of their comments. The project entails a single family residence with no garage which is a correction on the agenda. This lot is part of a subdivision recently approved by the Board with the house and the septic being very close to where the subdivision's proposed house location is. As for stormwater runoff on the site, the proposal is to construct a retention berm infiltrating into the ground. The only change made to the plans from the submitted plans is the size of the wrap around deck which has been adjusted and it is shown on the updated plans that Dan Barusch has.

Chairman Quirk informs the applicant that the Board has not received the comments from Chazen however he has felt all along that this is a straight forward project. Zach Monroe adds that he has addressed all of Chazen's concerns which were minimal and he reiterates that the only changes are the size of the deck and the infiltration trench where the driveway is entering the site. Chairman Quirk adds that unfortunately the Board has not seen the review from Chazen yet but Dan Barusch informs the Board that Chazen has 13 comments for this project most of which are minimal changes. Heath Mundell asks if any test pits were done for the foundation and the elevation of the house to which Zach Monroe replies that there were a few done nearby that showed bedrock at 39 in. therefore he believes that either some blasting or bringing in fill for

the shallow trench for the septic may be necessary. Should the owners decide not to blast then the house can be rotated just a few degrees with no issues with setbacks.

Nathan Hall reads the application into the record.

A motion is introduced by Heath Mundell; seconded by Fred Pape to accept the application as read with the amended size of the deck and impermeable area.

All in favor, motion carries.

A motion is introduced by Heath Mundell; seconded by Fred Pape to waive the public hearing.

All in favor, motion carries.

A motion is introduced by Nathan Hall; seconded by Fred Pape to approve Site Plan Application SPR4-2018 with the following conditions:

- **Applicant shall provide the Zoning Officer updated square footage for the wrap around porch.**
- **Applicant shall obtain approval by Chazen for stormwater controls.**

Ayes: 6 Hall, Flacke, Mundell, Pape, Meixner, Chairman Quirk
Nays: 0
Abstain: 0

All in favor, motion carries.

A motion is introduced by Sean Quirk; seconded by Fred Pape to adjourn the meeting at 7:40 p.m.

Respectfully Submitted,

Adele Behrmann
Planning and Zoning Clerk