

**Minutes of the
TOWN OF JOHNSBURG
PLANNING BOARD MEETING
May 20, 2013**

Minutes of the regular meeting of the Planning Board of the Town of Johnsburg held on Monday, May 20, 2013 at the Tannery Pond Community Center, North Creek, NY.

Meeting was called to order by Chairperson, Mr. Cork Nester at 7:01 p.m.

Roll call showed the following Board members present: Roger Smith, Cork Nester, Tim Record, and Bill Moos – Absent: Curt Richards

Also present was attorney Mr. Mike Hill, for the planning board.

Guests Taken from the Sign in Sheet (also attached): Peter Lenseth, Susan Lenseth, Joe brown, Dan Smith, Robert Manning, Roxanna Freebern, Reginald Freebern, Dale Monthony, Joyce Monthony, Helen Lawrence, Nancy Persons Kulikowski, Joseph Kulikowski, Leslie Clement

Continuation of the Open Public Hearing for SUBDIVISION APPLICATION #SUB-03-2013 FOR HEITHAUS TAX MAP #178.4-1-17 LOCATION Garnet Lake Road –

Cork asked if anyone had any comments – No Comments - Tim Record made a motion to Close Public Hearing and Roger Smith Second – All in favor

Cork Nester informed the Board that Janet Konis has resigned because of health reasons.

The Planning Board is looking for 2 more Board members and 1 alternate.

Approval of Minutes: Meeting of January 28, 2013 Board Members Present for the January 28th meeting Roger Smith, Bill Moos, Tim Record and Cork Nester - Roger Smith motion to accept the revised minutes, Tim Record Second. All in Favor

Minutes still outstanding - lack of quorum: Jan 7, 2013 and April 22, 2013

**SUBDIVISION APPLICATION #SUB-03-2013 FOR HEITHAUS TAX MAP #178.4-1-17
LOCATION Garnet Lake Road**

Attorney Dan Smith representing Heithaus – Attorney Smith was asked by the board in March to get a letter from the Garnet Lake Civic Association and from the Manning's accepting this proposal. Attorney Smith presented TP-584 Transfer Tax Return and a RP-5217 along with a letter from the Garnet Lake Civics' attorney McPhillips, Fitzgerald & Cullum accepting the deed and agrees to the Boundary Lind Adjustment and consent to the Planning Board Action. Attorney Smith presented TP-584 Transfer Tax Return signed by the Manning's.

Attorney Mike Hill asked Attorney Smith about the Letter from the APA dated June 26, 2012 Attorney Smith replied that it is correct, that, like the Town of Johnsbury, the APA doesn't have a lot line adjustment.

The Board proceeded to do the SEQR review. All questions had a consensus No. Therefore a motion was made by Roger Smith, for a negative declaration, Seconded by Tim Record – All in Favor. A motion was made Tim Record to approve the subdivision, and seconded by Roger Smith – All in favor.

SUBDIVISION APPLICATION: #SUB-01-2013 Leslie Clement Tax Map #30.-1-68 & 30.1-69 for 4 Lots located on Shields Road, North River & SUBDIVISION APPLICATION: #SUB-02-2013 Leslie Clement Tax Map #30.-1-75 for 6 Lots located on Shields Road, North River

Leslie Clements - giving 4 acres to DPW along 13th Lake Road were the wash out was so it is easier for them to maintain that area.

Cork Nester - said that they would like to see the SOIL and WATER plan done first before anything else

Leslie Clements – Stated that everything is growing up there and looks nice.

Cork Nester – time frame for the completion of the

Leslie Clements – 2 Weeks

Cork Nester – so roughly a week and a half from now

Leslie Clements – Roger I'm sure is very familiar with all this stuff - the silt fence isn't in enough in some places - No issues with the logging that was done – they have no issues around any of the logging areas for erosion – the area around the road is all coming in thick and nice – all kinds of native plants are popping up all over the place – they only think that Leslie had to refer out to an Engineer was there insistence of removing the local practice of cob rock and replace with angular rock – she has spent so much time and money to make it look like a country road she is objecting to it because of wasting all that money – Zack Monroe is working on – when replacing the cob rock she just needs to watch the weather so no erosion happens. – Leslie believes it's going to take a month to two months to do the SWPPP.

Cork Nestor – Leslie needs a SWPPP for our application and for DEC and Zack is going to be working on that and right know what Leslie is doing in the next week and a half is implementing everything that Warren County Soil & Water has set forth for her. Warren County will be checking on it and Chris Lassell from DEC will also be checking on it. Once we have the SWPPP then they can start talking about the application again.

Leslie Clements – whole property is about 40 acres and she has logged about 4 acres and what they count as soil disturbance it's about three and a half – she said that she filled out the Notice of Intent with them

Tim Record – You have gone from being a land owner to a developer

Leslie Clements – she knows that there are state regulations and local regulations and some place in there is also a 15 thousand dollar request to replace all the nice Cob rock with angular rock – she didn't try to do anything behind anyone's back – she got what she believed to be the necessary ok's – she is tired to being made to feel that she went up there and raped the land – or tapped into someone's water or did this or did that – she has done a very careful job as a land owner and an a butter she lives right next door

Tim Record – remembers Leslie coming in about 10 years ago talking about stuff

Leslie Clements – right I always come in about plans so let's be civil – she doesn't like to be made to feel that she has done something wrong she loves her land

Tim Record – so until we get a Storm Water Prevention Plan the board is not preceding at all

Leslie Clements – but there are decisions to proceed with and that have to happen like who owns this road and the maintenance of it

Cork Nester – that basically is a Town Board Issue

Leslie Clements – asked Cork then the best way to resolve it is to go to the Town Board

Cork Nester - Yes

Leslie Clements – doesn't think that the town has the money to maintain roads – and she thinks the right way going into the future to do like on private subdivisions – You guys are on your own to plow it and you guys have a homeowners association and hire someone to take care of it – she believes this is the best model for the Town of Johnsburg because the town doesn't have the money to build new roads or improve roads like she did or maintain – but she can't move forward with anything up there until there is a decision.

Cork Nester – one thing that is for sure if the Town maintains or if the Home Owners Association maintains it has to go through town standards - the roads have to be to town standards so the fire trucks can get up and down them.

Leslie Clements – what you need is the correct width and a turnaround at the end -- this ¼ of a mile on Shields Road is different – is currently in the town inventory they are already getting money to include it in there plowing so the money she spent to improve a town road – she is not going to be told know that it has to be at town standards – it is as wide as Shields road is – there is adequate drainage there is adequate culverts – so she is not going down this road

Cork Nester – you just got done telling us that you always come and ask how to do stuff – so you didn't talk with anyone about the town road

Leslie Clements – yes I did – with Dan Hitchcock and told him she wanted to access her property and he told her if you want to access your property and you own all that land going up to go ahead but they are not going to maintain it

Roger Smith – thinks that it would be silly for the town to maintain that ¼ of a mile – the town board has time and time again said that they were not going to improve the road or maintain it.

Leslie Clements – has 4 existing build lots and has frontage on the town road

Cork Nester – that is a Town Board decision

Roger Smith – asked at what time would they be seeing a completed plan

Leslie Clements – June meeting

Leslie Clements - said she did a very poor job explaining her intentions on the plans – she is showing 4 cottages and what she always wanted to do was come down her own driveway and retain land up in here (Leslie had a map as reference for the board and guests to see) she wants cottages or camps for the kids or a house for her someday as part of this. Sometimes she over thinks projects and even though she doesn't have the money to build rental cabins but if she built rental cabins and what if the kids wanted to sell them separately – she asked the engineer to draw in a proposed access road that would come down to Shields road – but she doesn't want to build this access road and she never had an intention for the lots going to Shields Road so she wants to withdraw the subdivision application for the upper lots – because number one this is not her intention the engineer shows it on the plan about the road – and then where the Prueinger little house was the best is probable the best site to put a house but with an idea of getting a view up on the hill she had the engineer draw it but the driveways are ridiculous – she is not happy with her own plan and wishes to withdraw it subject to getting back the 21 hundred dollars that she paid to the town and in hopes that they could move this along and commit down and move towards the resolution

Tim Record – asked if that was the six lots

Leslie Clements – yes Tim because what she has there now is two viable lots already – she would come back to the Planning Board if she decided to do the little rental cabin community on the upper part – then she would be back to see them showing coming down the existing driveway

Tim Record – has never heard about withdrawing with a condition - he doesn't know what the conditions of the condition are – he doesn't know if they can comment on that right now.

Leslie Clements – when she reads the subdivision regulations to do proper land planning you have to take the whole puzzle into account what she is showing is the picture of the 4 lots on the lower side

Cork Nester - what he prefers to do right now is to leave everything the way it is until they get everything finished up with the Warren County Soil and Water and DEC

Leslie Clements – but she can't finish her SWPPP without that or else they are going to want the whole picture

Roger Smith - when they get a letter from Jim Lieberum that everything is secure then Leslie can withdraw the one subdivision application

Attorney Mike Hill - you can look at this as two separate things though – he thinks that the questions of the existing Erosion and storm water control violations of the disturbance that has gone on and it sounds like DEC and Warren County Soil & Water are address that and in terms of a plan and that is separate a part that is a different plan then the SWPPP plan that is necessary for the sub division application – he does understand from the applications position in instructing the engineer of the preparation of the SWPPP that if the ultimate plan is not going to be both applications that have been submitted but rather only one application that is going to be all the project for now it seems the SWPPP should cover just the application that is going to move forward – can't speak for the Town as far as the refund goes but giving Leslie some direction so she can instruct the Engineer he thinks that as a Board it's there understanding that from this point forward the only thing that is going forward is the application for the lower side – so she can let her Engineer know regarding the preparation of the SWPPP That doesn't in anyway effect or reduce or eliminate the need for compliance with the plan that Soil & Water and DEC are putting together with the respect to the erosion and disturbance that has occurred as the result of the work that has already occurred up their

Cork Nester – would like to consult with Chris Lassell at DEC – the condition that Leslie has asked for they cannot make a decision on that

Leslie Clement – asked if that was a Town Board decision

Cork Nestor – would like to table Leslie's request until he has talked with Chris Lassell – he doesn't see a problem about withdrawing the application but he doesn't know about the condition.

Tim Record – asked if it was just the one condition

Leslie Clements – yes that is it

Bill Moos – since you have already so much money involved and time she should make sure that everything is done regarding the erosion control before doing anything else.

Leslie Clement – they just said it was just 6 or 7 items that need to be dealt with

Bill Moos – but before you make more aggravation for yourself and spent more money and time focus on making sure you have a stable piece of ground.

Leslie Clement – the top of the property is all old farm land and “I have had no erosion” the only thing they have been after me for is not enough Silt fences, hay bales not enough of and in the wrong spot, they did say there was erosion

Tim Record – you have had erosion there is no questions you have had some erosion

Leslie Clement – No Tim I had some of that Barton Mines stuff that spilled over during construction that is it

Moving on Leslie Clement met with Vincent Daley and gave him an offer to purchase his lot

Attorney Mike Hill – Cork just so the record is clear so the board and the applicant have the same understanding - would like to go back to the SWPPP earlier there was a discussion about the engineer preparing the SWPPP and the SWPPP would likely be submitted to us and possible to DEC also before the June meeting but then there is the questions about the withdrawal of one subdivision application and obviously we can't speak on the issue of the refund of money but Attorney Hill would like on the record at this point whether Leslie is going to directing the engineer to proceed with the SWPPP on part of the subdivision or alternately the board does not want her to do and wants her to wait until the next meeting until the issue of the potentially refund of the town is clear just so everybody is on the same page with each other

Cork Nester – understands what Attorney Hill is saying but tonight they are missing information

Attorney Hill – you are correct Cork we cannot speak on behalf of the town regarding the money

Cork Nester – advice to her would be that – Cork will talk with Chris tomorrow and get feedback from him

Leslie Clement – said she talked with him at length about it all and a lot of the detailed stuff and what is involved

Cork Nester – will let Leslie know his feedback and about the withdrawal and if she should be making a SWPPP up for the entire project or just for the lower lots

Attorney Hill – that will be fine as long as the board authorizes Cork to have that discussion with Chris and subject to whatever Chris's directions is from DEC and what the scope of the SWPPP needs to be and that the board is in agreement with his determination will be the word on that then that is fine then Cork will communicate whatever that discussion is to Leslie and she can give direction to her engineer based on that also with the public that is here tonight it sounds like Leslie will be back in for the June meeting

Short discussion where the board gave Cork permission – at the same time Attorney Hill was speaking

Cork Nester – Yes

Attorney Hill – I just think it is very important to keep the public in the loop as to what the process is

Cork Nester – It will be advertised and the advertisement needs to be in two weeks in advance for the paper

Attorney Hill – asked if a public hearing has been set for this

Cork Nester – No

Attorney Hill – because we don't have a completed application – once the complete application has been submitted then there will be a public hearing

Cork Nester – Chris Lassell from DEC, Jim Lieberum from Warren County Soil & Water, Danae Tucker and himself met up there and walked the site and then Warren County prepared a plan for Leslie and once this plan is completed they will come back and make sure that everything has been done according to the plan so if you see things going on up there it is because of the plan – does anyone have any questions

Peter Lenseth – questioned Leslie if she is a home owner or a developer and if she is a developer that before she took one stick down she should have come to the board. This did not happen she did it as a home owner

A LOT OF LOUD TALKING WENT ON

Cork Nester – Will not have any more out breaks like this or will close the meeting

Peter Lenseth – discussed his spring and how Leslie started doing stuff before coming to the board

Cork Nester – Peter we will be taking your well and everything into consideration - but at this time we are in a holding pattern - we don't have a completed application yet

Peter Lenseth – then continued about his feelings and thoughts of the project

Leslie Clement – there is something else that she would like on record

A LOT OF LOUD TALKING WENT ON

Cork Nester – again had to settle everyone down

Peter Lenseth – continued on about how he handles projects

Tim Record – Leslie is proposing to not have that subdivision up there so perhaps you may not see that – we will have to see what happens

Cork Nester – had mentioned before that this is preliminary that they don't even have a complete application – they have a lot to work through starting with the Erosion plan – as soon as they have everything for the application along with the SWPPP – then they will talk about her with drawing the one application - Any other Comment at this time

ZEO Report: Danae Tucker - just what ever that was e-mailed to you

Cork Nester - ask if anyone had a comment on it

Roger Smith - asked Danae if she has been on Shields Road at all

Danae Tucker – was up there when DEC was there

Roger Smith – is the town formalizing any follow up or anything – is there any marching orders for Danae to watch it once a week or once every two weeks

Cork Nester – right now it is under DEC

Danae Tucker – at this point DEC is handling this – if there where further violations then she would need to know about it – the neighbors can all call her – if the town was to move forward with enforcement action she would need solid documentation to do so and at this point she doesn't – Danae believes at this moment our judge would not do anything because of DEC being involved and at this time if she doesn't do what DEC is looking for she will be facing some heavy fines. Danae does have some concerns – that maybe notification should be sent to the sub-contractor because the town can hold them in violation – and she doesn't know if Bob Lavergne is aware of what is going on

Roger Smith – is just trying to find out what the penalty would be if it continued without an approval

Peter Lenseth wants to know what the status on the road is right know because it doesn't go to his property all the way

Cork Nester – that is a question for the Town Board which is held the first and third Tuesday of the Month

It was asked to Mr. Lenseth if the road was passable right know

Peter Lenseth – said yes but it stops just before his property

Leslie Clement – asked about the Site Plan and the 911 address

Cork Nester – the Site Plan application is on the web site and Warren County does the 911 addresses

Leslie Clement – do you want 911 addresses on the proposed plan

Cork Nester – we can't do that until later on

Tim Record – on the check list can we go from just having checks to having initials

Cork Nester – yes we already talked about that and it will make things easier

Motion to Adjourn: Tim Record and second by Bill Moos – all in favor

*Next Planning Board Meeting
Monday, June 24, 2013
Tannery Pond Community Center
7 p.m.*