

**Minutes of the Town of Johnsborg Planning Board Meeting
April 23, 2012**

Minutes of the public hearings and regular meeting of the Planning Board of the Town of Johnsborg held on Monday, April 23, 2012 at the Tannery Pond Community Center, North Creek, NY.

Roll call showed the following persons present: Dottie Osterhout, Cork Nester, Roger Smith and Janet Konis, Bill Moos (Tim Record–absent)

Also present was attorney for the planning board, Mike Hill

The meeting was called to order by Chairperson Osterhout at 7:00 pm, reminded everyone that the meeting was being recorded and asked that everyone excluding the board to identify themselves each time they speak.

Opened the PH session of the meeting:

1. Special Use Permit 01-2012 “Camp Orenda” – David Webb, owner/operator, representing the project. He is proposing a low impact, back country camping retreat in Johnsborg. Hearing no comment from the public, a motion was made by Mr. Smith and seconded by Mr. Nester to close the public hearing – all in favor.
2. Continuing Subdivision 224-11 “Cunningham to Stewarts”-new real estate representative for Stewarts is Chuck Marshall. Mr. Marshall gave the board a copy of new drawings for the project. (They are looking to add 75’ behind existing shop to ease congestion for traffic ingress and egress. They have added catch basins to address run-off concerns raised at previous hearings, increased the pipe from 12-30 inches, extended the out-fall 200’ to the North. There was a recommendation for the inclusion of porous pavement but with gasoline that is not an option. Instead they are proposing to install a “T” just before the outfall to separate the gasoline. Finally instead of acquiring more than 75” they have acquired an easement so Mr. Cunningham knows there will be an easement. In the future they do plan on changing from the old cedar shingle roof to a new metal roof – it will for longevity and esthetics. The color will be bronze – kind of a burgundy-copper. A comment was heard from Rebecca Mulvey, an adjoining landowner to Stewarts in regards to her concerns about run off, traffic and noise impact of her property. The drains will be controlled within the storm water structures. Stewart’s representatives say they are trying to be good neighbors and offered plant trees as a buffer. She feels that the proposed project is putting a real burden on the residential aspect of her building. Chairperson said they would address that concern further in the main part of the meeting. Hearing no other comments a motion to close the Public Hearing was made by Mr. Smith, seconded by Mr. Nester – all in favor.
3. Subdivision #01-2012 “Four V’s Development” is a continuation of a public hearing and the developer wishes for it to remain open. A motion was made by Mr. Nester and seconded by Mr. Smith to leave the hearing open and continue it to the May meeting– all in favor.
4. Subdivision #225-11 “Ward Hill” is also a continued open public hearing. There was no comment from the audience but Chairperson Osterhout had a letter to be read into the minutes dated April 12, 2012 – sent via email to our secretary and forwarded to the board from Mr. James Madden. At the advice of counsel the hearing should remain open as long as there are still open issues of concern. A motion was made by Mr. Smith and seconded by Mr. Nester to leave the public hearing and continue it to our May meeting. – All in favor.

Approval of minutes – The minutes from the previous meeting were forwarded to the board via email prior to this meeting – Mr. Nester wanted to add the missing name of the gentleman who spoke regarding the trout study and again later regarding fire protection as Vito LaPenna. Hearing no other additions or corrections, Chairperson Osterhout deems the minutes to be approved as corrected. **AT THE NEXT MEETING SOMEONE SHOULD MAKE A MOTION AND SECOND TO APPROVE**

Old Business

1. **Site Plan 02-2012 “Camp Orenda”** –Mr. Nester referred a question to Mr. Webb regarding the concern of grey water from the last meeting. Mr. Webb presented a set of drawings for a standard system with a tank and distribution box to handle the flow. The ZEO has not issued a permit yet for this as she was awaiting the approval of site plan to issue the permit for the system. Mr. Nester made a motion to conditionally approve the site plan upon the approval of the proposed septic permit with the ZEO and it was seconded by Mr. Smith. Attorney Mike Hill spoke in regard to SEQR and felt that this project would fall into the ‘exempt class’ due to the temporary structures used only part of the year and are well below the thresholds would normally trigger a SEQR. Mr. Moos questioned the grade in regard to the leach lines, suggesting he try to go 4-6 inches deeper to get into original soil. Mr. Smith addressed Mr. Webb to confirm that he understood that his approval from the board tonight was contingent on receiving the wastewater/septic permit from Danae (our ZEO) and he affirmed yes. Hearing no other discussion, with a motion moved and seconded to approve the site plan – all members voted in favor.
2. **Subdivision #224-11 “Cunningham to Stewarts”** – Chairperson Osterhout felt it would be necessary for the board to have a copy of the newly proposed easement on file in order to issue final approval for this project. Mr. Smith still had a concern that there were no provisions to mitigate run-off, and having just heard from an abutting landowner who shared the concerns of run-off and additional traffic concerns, felt he was more looking for something to infiltrate a bit of run-off rather than collect it and expel it onto the adjacent property; utilize the multiple cubic yards of material that would be brought in to do this project and try to get some water quality improvements there. The representative said the only suggestion he’d been advised of was the porous pavement. Mr. Nester reiterated that the board was trying to come up with ideas for mitigation and further suggested the possibility of installing a couple of dry wells. Chris Potter from Stewarts spoke and said they would be concerned with the dry wells at the top of the slope, with taking all that water and potentially blowing out the side of that bank, which is why they went with the larger diameter pipe and restricted the outflow so at a large storm event, the water would then stay inside the pipe and be released at a slower rate. Mr. Smith noted the existing drop inlet the currently discharges over the bank onto the Cunningham property, and it seemed that would be a good location for a dry well. Mr. Potter agreed that could be possible. Mr. Smith was still concerned that they were hearing from the adjacent landowner that the discharge was there. Mr. Potter said he did not have a problem with the suggestion of not only dealing with the new run-off but mitigating some of the issues with the old, citing the discharge would be routed away from the Mulvey property. Mr. Smith asked that a copy of the easement be provided as early as possible so the boards counsel could review it. Chairperson Osterhout reminded the board they had to do SEQR on this project as it was not approved at the last meeting. Attny. Hill asked if there was any other discussion from the board regarding traffic circulations or other matters. The direction of travel will be one way, and they are willing to plant evergreens as a buffer to headlights for the Mulvey property. Ms. Mulvey had not actually seen the plans –Mr. Moos asked if she would entertain the tree buffer, but she felt it would not address the immediate impact until the trees grew up over the years. She also mentioned that she had been approached by Stewarts a few years ago about purchasing her property to expand parking and possibly change the outlet off from Route 28 to a potentially safer location on Hanpeter but nothing ever came of it. Chairperson Osterhout asked Mr. Smith or Nester to rephrase for the minutes, clarification of the discussion they’d had with the engineer about changes as they were talking amongst themselves– Mr. Smith said they suggested that the design be revised to include dry wells either to treat existing run-off or run-off from the new surface as best done. He understands the applicants concerns about blowing the bank out, charging that fill and having it erode; so moving them back, adjusting the piping, collecting it on the other side of the driveway vs. the outside and treating it might be an option but short of designing it, he would offer that back to the applicant for consideration. Attny Hill asked Mr. Smith to clarify that what he is proposing would result in the outfall for the storm-water being in a different location than is presently planned and be away from the neighbor. Mr. Smith was wondering why it was draining to the east, and the applicant said they were looking at the same thing and spin it to the north-east a little bit and extend the pipe. Mr. Smith simplified the discussion as 1. Adding drywells or some sort of

mitigation for water quality and 2. relocate the discharge/outfall and 3. mitigate lighting and noise impacts to the property to the North. Asked for clarification regarding the mitigation, there are trees there now, and planting pine trees would be better – Mr. Nester said the most concern would be in the design as vehicles are coming around to the North as they come around the building, look at the direction of angle – as they make the turn, maybe do something on a diagonal – Mr. Smith – propose a live buffer near the driving surface to block the lights and noise better than at the base of the slope at the arc of the curve. Some new LED lights, board discussion regarding fixtures and shields or down lighting – all the LED fixtures are all down lights and nicer than the old ones, pole mounts – when they do the new roof, they will all be recessed. Chairperson Osterhout felt they were ready to move to the SEQR. Atty. Hill leads the discussion for the review. 1. NO, 2. Coordinated review, NO, board adv effects? After brief discussion the board decided to wait until they have the revised plans to review. The Chairperson advised the applicant that the next meeting will be held May 21st.

3. **Four V's Development** – still on hold

4. **Ward Hill Subdivision #225-11** – the Planning Board had a workshop session with ours and Ward Hill's engineer and reviewed several of the points of concern. Still a few left to discuss. Referring to a memo dated 4/16/12 (6 pages) – 6 major items left with Clough Harbour. Dottie addressed the town supervisor regarding the fire protection issue, who in turn was consulting with the Town's attorney. The Sup will also speak with the chief recharging the incorrect information he was apparently given and try to explain the NYS fire code. Chairperson Osterhout's main concern was the flat out refusal of the chief to provide protection. April 19, 2012 letter from Clough Harbour – and discussed the 6 outstanding points of interest. Mr. Easton stated that items 1-5 were submitted as an exhibit on 8 1/2x11 that Clough Harbour wanted on the plans to which the applicant will comply. Regarding the concern of retention basins – Mr. Easton feels that Clough Harbour may not have had sufficient time to review the 3 inch file submitted in this regard, and he felt he could just write a response to their concerns. Mr. Easton confirmed that the long term maintenance of the roadway is the responsibility of the HOA – and annual inspections and maintenance to be done – will be added to the plan. Discussion continued regarding detailed explanations of the retention ponds and roadway construction. Per Mr. Easton he has 3 permits to obtain; NYS-DOH permit (well yield), NYS-DEC permit (notice of disturbance), "SPDES Permit", and lastly the Army Corps. Nationwide Permit (Wetland Disturbance) – all will be later in the process. Mr. Easton would still like to be on the agenda for May 21 and hope that at that point the hearing could be closed at that time. Ellen Smith asked if she could get a copy of the email from James Madden. Mr. Smith said he would give her his. Atty. Hill said that before tonight's discussion was closed, with regard to SEQR, an environmental assessment form has been filed, since there were other agencies involved, he was wondering if the SEQR had been sent to them to notify them that this board planned to be lead agency for purposes of SEQR review. Neither Chairperson Osterhout nor Mr. Easton had done so. Mr. Easton state usually Planning Board needed to either a coordinated or un-coordinated review. If there was to be coordinated review the Board would need to send out notices in this regard. Chairperson Osterhout asked Atty. Hill for his recommendation and his was that they do a coordinated review and for the board to contact the 3 agencies identified, provide them with a copy of the environmental assessment form and copies of the application materials and notice that the planning board intends to be the lead agency for the purpose of environmental review. From the time of the notice being sent, the agencies would have 30 days to respond and let the board know if they have any objections the board being lead agency. Chairperson Osterhout noted that even if we sent the notice tomorrow it would not be enough time for the May meeting anyway. The rest of the board was in agreement, understanding that they would not be in the position to do the SEQR until June.

5. **North River Hobby Farm – Site plan #03-2012:** The board received a letter from Steve and Mary Jane Hardesteen which raised a couple of concerns. Chairperson Osterhout noted that she had made a visit to the site. One concern was the size of the gate so she had sent a letter to the Emergency Squad and North River Fire Department to take a look at the size of the gate to ensure that emergency vehicles would be able to access the site if needed. Chief John Donohue sent a letter stating that he made a site visit and found there to be sufficient room for both their vehicles to access the property. Chairperson Osterhout

also had spoken to Kelly Nettle, President of the EMS, and though they had not made a site visit felt that their ambulance was no bigger than a large pick up and should not be a problem. Chairperson Osterhout echoed the same feeling in that if a fire truck could clear the gate, certainly there would be no problem for an ambulance to do the same. Chairperson Osterhout also noted that the property line along the cemetery was fenced so she does not see a concern about chickens and children running over the grave stones etc. The applicant provided another email she had received to also be read into the minutes from Debbie Gardener, a neighbor directly across the street, who was in support of the project. The applicant clarified that there is a new well on site (800 ft deep) and the outhouse has been removed – there will be no public rest facilities on premise. Hearing no other questions, a motion was made by Mr. Nester and seconded by Mr. Moos to approve site plan #03-2012 – all in favor.

6. Dell'Aquila – Subdivision #02-2012 –Attny. Rob Simon represented the applicant in this matter. The proposal is for a two lot subdivision on South Johnsbury Road where the property is dissected by the road. Every thing West of the road will be one lot, and everything East of the road will be another lot. One letter was received by an adjoining owner who thought they had an easement which has not been located at the time of the meeting, thought it is not a planning board issue. Hearing no questions or other discussion a motion was made by Mr. Nester and seconded by Mr. Moos to schedule the matter for Public Hearing on May 21, 2012 – all in favor.

NEW BUSINESS

1. White Water Challengers site plan amendment. Mr. Schmale has found he needs to build a couple of buildings for his new project. Ironically he does not even need a permit from our ZEO due the size but because it wasn't on the original plans we wanted to have everything in order in case anyone should question it. Mr. Schmale explained they would build a lean-to at the beginning of the ropes course for donning and doffing of the harnesses. It is 10x14 – he will get a zoning compliance from our ZEO but is not required to get a permit from the County because he is less than 144 sq. ft. The second structure will be a shed will be constructed at a later date but he indicated its location on the map to prevent having to come back to the board again in the future. The shed will be used to secure the equipment for the paintball adventure and it will be the same dimensions of the lean-to. Mr. Smith made a motion to accept the amendment of adding the two structures with the condition that he gets compliance certificates from the ZEO prior to their construction. The motion was seconded by Mr. Moos and all members voted in favor.
2. Ms. Mulvey came before the board as a preliminary presentation to discuss the possibility of establishing a U-Haul company on her property located on Baroudi Lane in North Creek. She explained it would be a small operation consisting of a couple trailers and a couple of small vehicles (trucks). She planned to locate it on the vacant parcels she owns behind barVino and her residence on Baroudi Lane. Will possibly locate the “office space” in a vacant apartment she owns behind barVino as it is already a commercial property. Mr. Smith inquired about a possible location for a sign and Ms. Mulvey indicated she may use the right-of-way on Baroudi Lane. Chairperson Osterhout reminded them that a sign located any where other than the parcel on which business would be conducted would be considered an “off-premise” sign and would not be allowed. Danae Tucker, Town ZEO said they could entertain a special use permit for an “off-premise” sign, citing Section 725 (as set forth in Article 9) of the current land use plan. There was extensive discussion regarding traffic congestion and impact concerns, and several possible options were discussed. Ms. Mulvey said she would finish her application, follow up with the office and submit her plans at a later date.

Chairperson Report

1. Pedal Cab update – Chairperson Osterhout explained that the proposed venture would be operating out of a store front in Lake George – will not have a store front in North Creek – which basically eliminates the need for “site-plan”, but may need a ‘Peddlers permit’. They would be renting the pedal cabs to operators and they take the passengers to their destination. The owners of the cabs will not be running them – they will lease them to potential operators. The Owners proposed to come to town hall to meet

with Supervisor Ron Vanselow and Chairperson Osterhout to discuss the details of the proposal to determine the direction they need to head for compliance. The cabs will be stored in a trailer and brought site to site as needed.

2. Training in Washington County is May 23, 2012 from 5:30p -8p with light dinner provided. The town will pay the expense for those who wish to attend.
3. Chairperson Osterhout spoke to Supervisor Vanselow and he said he was willing to take any of our recommendations for changes to the code to the Town Board for review and eventual extension to the APA without waiting for the more controversial issues in order to amend the plan as needed. We have lot line adjustments, abutting owner notification, Fire code compliance for road standards as the top 3 items. If there is anything else you think of that we can bundle up to forward to the Town Board. Signs would be reserved for a future discussion and submission.

The ZEO report was submitted for file, no one spoke for privilege of the floor and there was no executive session. A motion to adjourn was made by Mr. Smith and seconded by Mr. Moos – all in favor.

Respectfully Submitted:
Cherie Ferguson, Secretary