

VILLAGE OF CROTON ON HUDSON, NEW YORK
PLANNING BOARD MEETING MINUTES – TUESDAY July 26, 2011

MEMBERS PRESENT: Fran Allen
Bruce Kauderer
Steve Krisky

ABSENT: Mark Aarons
Rob Luntz

ALSO PRESENT: Daniel O'Connor, Village Engineer

1. Call to Order

Meeting called to order at 8:00 p.m. by Deputy Chairman Kauderer. Chairman Kauderer stated that the order of the agenda would be slightly changed to accommodate some of the applicants' schedules.

2. OLD BUSINESS

- a) *157 Maple St. LLC – 157 and 159 Maple Street (Sec. 68.17 Block 4 Lot 41) -- Application for final subdivision approval (two-lot)*

The Planning Board reviewed the draft resolution for the final subdivision approval. Condition #6 in the preliminary resolution that states "the plans be revised to show the installation of additional landscaping in the front yards" was discussed. The Board agreed to delete this condition from the final subdivision resolution in order to give more discretion to the potential homeowners in choosing what kind of landscaping to install in the front yards.

A motion to approve the resolution granting final subdivision approval of 157 Maple Street LLC was made by Ms. Allen, seconded by Mr. Krisky, and carried by a vote of 3 to 0, all in favor. A copy of the final resolution is attached.

- b) *Hudson National Golf Club—40 Arrowcrest Drive (Sec. 67.15 Blk. 1 Lot 4) Application for an amendment to Hudson National Golf Club's Environmental Management Plan for the purpose of updating the pesticide and fertilizer use list*

Mr. Kauderer asked the Village Engineer why one of the four chemicals cited in the pesticide risk assessment report was not identified as "low risk." The Village Engineer referred to the Environmental & Turf Services, Inc. report which explains the results of their data review. The results showed that one pesticide (Acelepryn®) warranted further screening for ground water contamination. E&TS completed further screening of this chemical and concluded that this (and the other three pesticides) would not reach concentrations in ground water or surface water in excess of levels of concern based on conservative risk assumptions. Ms. Allen

noted that she had read an article about chemicals that has been used for a while and then, only later, discovered to be a problem; therefore, one had to consider the future risk potential of certain chemicals.

Karen Jescavage-Bernard, President of The Croton Arboretum & Sanctuary, Inc. to whom the Board had sent a copy of the EMP revisions and risk assessment plan, was present. She thanked the Board for the opportunity to respond to the pesticide risk assessment prepared by Environmental and Turf Services, Inc.

Ms. Jescavage-Bernard had two main concerns: 1) "Will the four pesticides requested by Hudson [National Golf Club] and reviewed by ETS be used **instead of**, or **in addition to**, the products permitted by the EMP? It isn't clear if these reduced risk pesticides are intended as replacements or supplements," and 2) "we are disturbed by the absence from ETS in the July 22 letter of their March 29 citation of deviations from the EMP...the fungicide vinclozolin is being used in areas where the EMP prohibits its use, and nutrient management is inconsistent with the EMP...ETS can't determine how Hudson decides how much fertilizer to use or when to apply it." With respect to the concern about vinclozolin, the Arboretum urged the Board "to require removal of this pesticide as a condition of approving either of the recommended fungicides."

Secondly, the Arboretum urged the Board "to require ETS to prepare a detailed protocol for fertilizer and pesticide application/monitoring and require Hudson to inservice its grounds staff on it and maintain records of their compliance with it."

After reading her response to this Risk Assessment, Mr. Kauderer asked her what suggestions she would like to share with the Planning Board.

Ms. Jescavage-Bernard presented seven suggestions and urged the Board to require inclusion of these suggestions into the Resolution approving any changes to the EMP:

- 1) Maintain an adequate buffer of shrubs and trees (e.g. not grass) between treated areas and non-targeted water bodies
- 2) No spraying or ground application when rain is expected within 48 hours
- 3) No spraying on windy days
- 4) Control soil erosion when bare soil is produced
- 5) Prevent leaching by prohibiting grounds staff from dumping grass clippings into wetlands with off-site flow
- 6) Configure subsurface drains to discharge away from the arboretum
- 7) Train Hudson's grounds staff in EMP maintenance protocols and monitor compliance.

Ms. Jescavage-Bernard added a request that the Board ask for a review of Phragmites in the EMP although ETS was not asked to review HNGC's compliance with the EMP re control of Phragmites." She stated that there were "massive stands

of this invasive plant” which indicated that Phragmites were not being controlled and that they were moving into the preserve.

Ms. Jescavage-Bernard asserted that these suggestions were not a criticism of the Environmental and Turf Services report; rather, an effort to convey different concerns that affect the Arboretum. Her concerns were about the risk to the wildlife, wetlands, the animals, and the plants.

Mr. Chris Smith, Superintendent of HNGC, was present and responded to a few of Ms. Jescavage-Bernard’s concerns, but maintained that he would feel more comfortable having E&TS respond in greater detail to her concerns and questions. Mr. Smith stated that the purpose of this amendment was to work with the village’s consultant, E&TS, in order to find chemicals that were better for the environment.

Mr. Kauderer suggested that Ms. Jescavage-Bernard’s response be submitted to Environmental and Turf Services , and subsequently, HNGC would be better able to reply to the Arboretum’s concerns at possibly the next meeting. The Village Engineer stated that the Arboretum’s response would be e-mailed to the HNGC and E&TS.

Ms. Allen raised concerns about the effectiveness of the water quality basins since the initial conditions of approval of the EMP were contingent upon effective drainage of these basins. Mr. Smith stated that the basins have been functioning as they are supposed to, and inspected numerous times by the Village Engineer. Ms. Allen requested that there be a definitive reading of water quality basins after some storms and the Village Engineer agreed to follow up after it rains.

Deputy Chairman Kauderer stated that the HNGC pesticide risk assessment would be tabled until a more definitive response is received from E&TS.

Ms. Jescavage-Bernard reiterated that the Arboretum was not opposed to chemical management of turf; rather they wanted to use the Planning Board’s authority to protect the arboretum.

3. NEW BUSINESS

- a) *Steel Style Properties, LLC -- 50 Half Moon Bay Drive (Sec. 78.16 Blk. 1 Lot 3) -- Application for an Amended Site Plan and Wetlands Activity Permit for new single-family dwelling*

Mr. Ralph Mastro Monaco, P.E. Consulting Engineer, representing Steel Style Properties and Mr. David Plotkin, owner of Steel Style Properties, were present.

Mr. Kauderer stated that he believed it was critical to have a site visit to this parcel in order to understand the proposed construction. Ms. Allen agreed.

Mr. Kauderer also stated that the property should be staked before the site visit so that the Board members could get a visual understanding of this proposed project.

Mr. Kauderer asked Mr. Mastromonaco why it was important for his client to own the underwater land since there was going to be a privacy fence and a gravel pathway through the property. Mr. Mastromonaco stated that it was a marketing issue. His client wanted to sell a house with waterfront access. Mr. Kauderer pointed out that one could have access without ownership. Mr. David Plotkin stated that the proposed site was a half-acre; however, including the underwater parcel, the site becomes 2-3 acres larger. Mr. Plotkin stated that nothing was going to be built on the water, it would continue to be navigable water, but by adding the extra acreage from the underwater land, the proposed site will be marketed as a larger parcel and sold for more money.

Mr. Kauderer asked about the land where the village mooring field is. Mr. Plotkin answered that upon receipt of the Certificate of Occupancy, there would be the gift of the mooring field to the village. The building and the land where the proposed structure is to be built is one lot (previously referred to as the "restaurant parcel"), and the mooring field is a separate lot. Mr. Plotkin is requesting a lot line adjustment to transfer a portion of the Water parcel and add that to the parcel on which the proposed house is to be built.

Mr. Mastromonaco stated that he has submitted an application to the Village Board for access through the village's parking lot since the proposed garage for this project cuts through the village's parking lot. He stated that the applicant has all utilities, and having looked at the steep slopes law, they believed that there was no need for a steep slopes permit.

The Village Engineer asked that a newer and more accurate topographical survey be completed. He also had some concerns that the relocated gravel path is close to the top of the slope near the Hudson River. He confirmed that this single-family dwelling is an allowable use in the Waterfront Development District (WDD) since this parcel is in the HMB condominium development.

Mr. Kauderer asked what the relationship of the proposed house is to the condominium complex. Mr. Plotkin asserted that the condominium complex is completely separate from this parcel. The Village Engineer asked if the private road was part of the homeowners' association to which Mr. Plotkin responded that Steel Style Properties owned the road. Mr. Plotkin stated that the marina is also a separate entity from the half-acre parcel. The marina is part of the Half Moon Bay Condominium complex.

Mr. Peter Drexler, resident of 215 Half Moon Bay, asked if the half acre parcel was covered in the original offering plan of Half Moon Bay even though the land changed hands in the bankruptcy. Mr. Plotkin asserted that the parcel was never promised nor offered in the Half Moon Bay plan. Mr. Kauderer stated that these

issues could be discussed at a later time, and for now it important to arrange a site visit as soon as possible.

Mr. Mastromonaco requested that the Board have a public hearing on this application as quickly as possible, so that they have the opportunity to address questions and concerns at the beginning of the process.

There was a general discussion about the application process and the various boards and committees that the applicant would need to see. The Village Engineer stated that a memo would be sent to the Village Board notifying the Village Board of the Planning Board's intent to declare itself lead agency, and once lead agency is established, the Planning Board can make subsequent referrals to the WAC and the WCC for a wetland activity permit. Before a public hearing is requested, the plans need to be at a point where a majority of questions and issues are answered; for example, the Board will need to see the elevations as well as the design and architecture of the proposed house. The Board has to feel comfortable with the plans before a public hearing is scheduled.

The Village Engineer stated that the Planning Board usually wants the WAC recommendation before a public hearing is set. Although single-family homes are exempt from the SEQR process, the Village Engineer noted that other actions in this application such as the wetland permit, and the Right of Way easement through village land would require the SEQR process.. The Planning Board will coordinate the SEQR review with the Village Board.

The Village Engineer suggested that help the process the applicant could perhaps have his attorney conduct research about the Homeowners Association ownership issue discussed earlier. Mr. Mastromonaco agreed to refer this to the client's attorney.

Mr. Mastromonaco stated he would like to be on the agenda for the next Planning Board meeting so that they could answer any questions regarding the site visit to be tentatively scheduled for Saturday, August 6th.

Mr. Krisky made a motion for the Planning Board's intent to be lead agency and to circulate the letter of intent to other involved agencies, Ms. Allen seconded, and the vote carried 3-0, all in favor.

4. OTHER BUSINESS

a) Recirculation of the Proposed adoption of Local Law Introductory No. 2 of 2011 which would amend Chapter 116 to supplement the list of Type II actions contained in the New York State Environmental Quality Review Act Regulations and proposed determinations of the Planning Board, Zoning Board of Appeals, Police Chief, and Village Engineer

Mr. Kauderer stated that the Planning Board has reviewed this proposal several times. All the boards and committees had submitted their recommendations for any changes.

The Village Engineer stated that this evening the Planning Board was taking two actions—1) making a recommendation to the Village Board to adopt the local law, and 2) letting the Village Board know that the Planning Board would adopt the amended Type II actions discussed at previous meetings.

Ms. Allen reiterated her concern that the Village was taking away too much authority from the boards. Ms. Gallelli, Village Board liaison, responded that the proposed law only takes Type II actions out of the SEQR process; it does not change the authority for any board or committee to approve an application. If a board or committee believes there is any environmental issue or impact, they have the full rights to review everything under any law that would apply.

Mr. Kauderer added that this law would remove the burdensome SEQR process for the applications that had very little to do with the environment. He had seen how much time is wasted having an application go back and forth amongst the boards when there was no environmental impact. Ms. Allen agreed.

Ms. Gallelli said that the process had included actions that were not relevant to the environment because we never had a complete Type II list; the state recommended making a more comprehensive Type II list of actions and the Village is following those recommendations.

Ms. Allen asked about the removal of trees covered under the amended Type II actions. The Village Engineer stated that wetlands and steep slope permits were not included in the Type II lists. If a site plan includes tree removals then the tree permits are covered under the Planning Board site plan review. For other tree removal permits, the Village Engineer's office evaluates and makes a decision.

Mr. Krisky made a motion to recommend the local law and to adopt the proposed determinations of the Planning Board after the SEQR process is completed; Ms. Allen seconded, and the vote carried by 3-0.

5. APPROVAL OF MINUTES

Approval of the minutes of the Tuesday, July 12, 2011 Planning Board meeting were approved, as amended, on a motion by Ms. Allen, seconded by Mr. Krisky, and carried by a vote of 3 to 0, all in favor.

6. ADJOURNMENT

There being no further business to come before the board, the meeting was duly adjourned at 9:45 p.m. on a motion by Mr. Krisky, and seconded by Ms. Allen, carried by a vote of 3 to 0.

Respectfully submitted,

Ronnie L. Rose
Planning Board Secretary

RESOLUTION GRANTING FINAL SUBDIVISION APPROVAL OF PROPERTY OWNED
BY
DANIEL MERRITTS OF 157 MAPLE STREET, LLC

WHEREAS, the Planning Board adopted a Resolution at its regular public meeting held on Tuesday, July 12, 2011 on the application of Daniel Merritts (the "Applicant") which granted preliminary Subdivision Plat Approval of certain property located on 157 Maple Street, in a Residential RB District, which property consists of approximately 0.49 acres identified as Section 68.17 Block 4 Lots 41 on the Tax Map of the Village of Croton-on-Hudson, on the terms and conditions more particularly set forth in said Resolution; and

WHEREAS, this property consisting of one existing lot is proposed to have the lot lines of the existing lot modified, which is considered a subdivision under the Village Code; and

WHEREAS, the recitals in the July 12, 2011 Resolution summarize the proceedings on the application of Daniel Merritts of 157 Maple Street, LLC to and including the date thereof; and

WHEREAS, as requested by the Village Engineer, the Applicant placed iron rods on the property lines at locations agreed upon by the Village Engineer; and

WHEREAS, on July 22, 2011, the Applicant submitted a proposed Final Subdivision Plat to be considered by the Planning Board at its regular meeting to be held on Tuesday, July 26, 2011;

WHEREAS, the Planning Board reviewed the proposed Final Subdivision Plat and Improvement plan at its July 26, 2011 meeting and deemed same to be officially submitted; and

WHEREAS, the Planning Board, at its July 26, 2011 meeting, determined that the proposed Final Subdivision Plat was in substantial agreement with the approved Preliminary Subdivision Plat, and that no public hearing was required pursuant to Village Law Section 7-728 6.(b); and

WHEREAS, the Planning Board carefully considered all comments received during the course of the Planning Board's consideration of the application up to and including the date hereof, including those received during the public hearing held on Tuesday, June 28, 2011; and

WHEREAS, the Final Subdivision Plans which are the subject of the following resolutions consist of the following sheets entitled "Subdivision Plat Prepared for 157 Maple Street LLC", dated July 20, 2011, and "Improvement Plan Prepared for 157 Maple Street LLC" dated July 1, 2011 prepared by Thomas C. Merritts Land Surveyors, P.C; and

WHEREAS, the following resolutions are also predicated on the plan entitled "Subdivision of Property Prepared for 157 Maple Street LLC" prepared by Thomas C. Merritts Land Surveyors, P.C., dated June 9, 2011.

NOW, THEREFORE, be it resolved: (i) That the foregoing recitals are incorporated in the resolution of approval, (ii) That the Final Subdivision Plat hereinbefore referred to is approved subject to the conditions set forth below; and

BE IT FURTHER RESOLVED that the Chairman of the Planning Board is authorized to endorse the Final Subdivision Plat subject to the following conditions:

- 1) That the Applicant shall abide by all of the conditions set forth in the preliminary subdivision resolution of approval dated July 12, 2011 (with the exception noted below in Condition #4); and
- 2) That the Applicant receive approval of the Final Subdivision Plat by the Westchester County Health Department as required by the County Sanitary Code and that the approval of the County Health Department is shown on the Final Subdivision Plat; and
- 3) That the party wall agreement submitted to the Village Engineer and Village Attorney for review be found acceptable. This agreement shall include provisions to address all shared and common components of the structure. A copy of the executed party wall agreement shall be filed at the same time as the subdivision map; and
- 4) That the requirement for showing the installation of additional landscaping in the front yards as specified in Condition #6 in the preliminary resolution be eliminated; and
- 5) That no sale of either lot shall occur until all site, utility and building improvements have been completed and inspected by the Village Engineer; and
- 6) That the deed for each lot reference the filed party wall agreement; and
- 7) That a mylar copy of the final subdivision map be submitted to the Village Engineer; and
- 8) That after filing the final subdivision map and party wall agreement a letter certifying the filing and including the filed map number and control number for the party wall agreement be submitted to the Village Engineer; and

- 9) That an estimated cost of construction be submitted to the Village Engineer for review for all proposed site utility and building improvements to the property. The approved estimated cost of construction will be used to establish the amount of the bond to be required before the final plat resolution is signed by the Chairman of the Planning Board; and
- 10) That approval of the Final Subdivision Plat be rendered void if the Applicant shall fail to file, in the Westchester County Clerk's Office, Division of Land Records, the approved Final Subdivision Plat within 62 days from the date of final approval, as final approval is defined in Village Law Section 230-134 (A).

IN WITNESS WHEREOF, the foregoing Resolution was adopted at a public meeting of the Planning Board in the Village of Croton-on-Hudson held on the 26th of July, 2011.

THE PLANNING BOARD OF THE VILLAGE OF
CROTON-ON-HUDSON, NEW YORK

Robert Luntz, Chairman (ABSENT)
Mark Aarons (ABSENT)
Fran Allen
Bruce Kauderer
Steven Krisky

The Motion to approve was made by Ms. Allen, seconded by Mr. Krisky, and carried by a vote of 3 to 0 in favor. The Resolution was accepted with the minutes of the Planning Board Meeting held on July 26, 2011.