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**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**APRIL 3, 2013**

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**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**APRIL 3, 2013**

PRESENT:	M. Hunter, Chairperson	D. Lindsay
	M. Christman	S. Turner
	C. Correia	R. Golden
	R. Anzalone	J. Kirby
	R. Cataggio	

Chairperson Hunter opened the meeting with the Pledge of Allegiance and a moment of silence for our Armed Forces and all others in harm's way throughout the world. She then introduced the Board members and Consultants.

Chairperson Hunter referred to a letter that was drafted to be sent to the Mayor regarding the Village Code provision relating to wireless communications facilities, and recent changes to the Federal law. She asked the Board if it would be okay for her to sign it and forward it to the Mayor. The Board members agreed that this would be satisfactory.

**CARRYOVERS & DECISIONS**

**PANERA/HARRIMAN COMMON PAD SITE 5 - TAX MAP 225-1-16.13**

Chairperson Hunter explained that this was to be a review of a draft resolution for a proposed amended site plan and change of use to include a restaurant (Panera Bread) on property located within the Harriman Common Shopping Center on Pad Site 5 at 340 Larkin Drive in Harriman. She also noted that the Board had received a letter from G. Thomasberger dated April 2<sup>nd</sup> stating that the signage proposed for Panera Bread is in compliance with the pre-existing non-conforming condition. This refers to both the wall signs and the freestanding sign. Dawn Kalisky pointed out that there were actually two versions of the sign plan. One has a green background on the sign and the other is just on the wall. They were labeled Version 5 and Version 6.

Chairperson Hunter then began her review of the Resolution of Approval beginning with the Specific Conditions. When she had finished, C. Correia made a motion to accept the resolution. M. Christman seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

## **REGULAR AGENDA**

### **TIMBER TRAIL - TAX MAP 237-2-1.21 & 4.11**

Chairperson Hunter explained that this was to be a discussion of an extension of a preliminary approval for an 8-lot subdivision located on Route 32 and Timber Trail in Highland Mills. She added that the Board had received a letter from Susan Shapiro dated March 18<sup>th</sup>. She then asked Ms. Shapiro to give the Board an overview of her request.

Susan Shapiro appeared as the applicant and explained that they had put in an application on March 15<sup>th</sup> for a water main extension and sanitary sewer extension to the Orange County Department of Health and to the New York State DEC, as well as realty subdivision approval from the Orange County Department of Health. She was asking for a three month extension so these applications can be processed.

After some discussion it was decided to give the applicant a six month extension. Chairperson Hunter made a motion to extend the preliminary approval for this application to October 16, 2013. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

### **DOM'S CUSTOM HOMES/ARB - TAX MAP 255-3-31, 32, 33, & 34**

Chairperson Hunter explained that this was to be a public hearing for ARB approval of single family home styles and materials for lots located in Phase 4 of the previously approved subdivision known as WP3/Woodbury Junction. The dwellings are located in a critical environmental area and are subject to the Village regulations for ridge preservation. The property is located on Dunderberg and Nininger Road in Central Valley. She then asked the applicant to display any renderings for the public.

At this point Joanne Gross appeared on behalf of Dom's Custom Homes and explained that they are proposing a four-lot subdivision on Patterson Pass in Woodbury Junction. The four lots (57, 58, 59 & 60) show four different elevations of the same home, with options for the purchaser for the exterior and interior.

Chairperson Hunter asked the Consultants for their comments. S. Turner reminded the Board that at the last meeting they had reconfirmed that this is consistent with the prior SEQRA findings, so no further SEQRA is required for this application.

**DOM'S CUSTOM HOMES/ARB - TAX MAP 255-3-31, 32, 33 & 34 (cont.)**

At this point Chairperson Hunter opened the floor for public comments and questions. There being none, Chairperson Hunter made a motion to close the public hearing. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

The applicant then showed the Board the colors for the various materials, for the benefit of the Board members who were not at the last meeting.

Chairperson Hunter then began her review of the Draft Resolution of Approval, beginning with the Specific Conditions. When she had concluded her review, R. Cataggio made a motion to approve the resolution. M. Christman seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

**SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2**

Chairperson Hunter read the Notice of Public Hearing for the proposed modification of six antennas with the installation of three additional panel antennas as well as two related equipment cabinets at the existing telecommunications facility located at the Cemetery of the Highlands. The property is located at 640 Route 32 in Highland Mills. She then asked the applicant to give a brief overview of their proposal.

Cara Bonomolo, of the law firm of Snyder & Snyder, LLP, appeared on behalf of Sprint. She explained that Sprint is seeking approval to modify its existing wireless telecommunication facility located on the existing tower at 640 Route 32 in the Cemetery of the Highlands. The modification will consist of replacing six existing panel antennas with three antennas and related equipment on the existing monopole, thereby reducing the overall number of antennas as well as lowering the height of the antennas. In addition, Sprint will be replacing the existing equipment cabinet and battery cabinet with a new equipment cabinet and two battery cabinets on the existing, previously approved, equipment platform, so there will be no expansion to the equipment compound.

**SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2 (cont)**

Chairperson Hunter then noted, for the record, that on March 27<sup>th</sup> the Orange County Department of Planning opined that this was a matter for local determination. Also, on March 15<sup>th</sup> a letter was received from the Orange County DPW with a local determination as well.

At this point J. Kirby handed out copies of his memo to the Board members and Consultants. He then began his review of the memo, stating that at the last meeting he received a copy of a structural analysis report that was prepared by GPD Group on behalf of Crown, the monopole owner. He said he had an opportunity to review this report but, unfortunately the review took place today. He said his letter has a number of comments regarding the structural analysis report. J. Kirby's letter explains, briefly, the basis for the original design of the monopole and describes what was done in the report. His basic finding was that the report used a lower wind speed than was used in the original design of the structure. It also used a lower wind speed than is required by the building code of the State of New York, but makes the comment that the analysis was fully in compliance with the TIA standards as well as all local codes. J. Kirby found this to be incorrect. He was concerned that the monopole may, in fact, need reinforcing in order to comply with the code requirements. It was his recommendation that this either be fully documented or addressed by the applicant.

J. Kirby also noted that at a previous meeting he had noted that the applicant was reorienting its antennas to point in different directions than they currently are. He requested a clarification of that from the applicant, which he has not yet received. Also, he has not received copies of the inspection and maintenance records which the applicant was requested to submit. Finally, he noted that the drawings that were submitted were lacking model numbers and other information regarding the appurtenances. Ms. Bonomolo said that at the last meeting it was her understanding that the only outstanding items were the maintenance inspection reports. She added that it was discussed that these reports could be submitted as a condition of approval, as would be consistent with the last application. With regard to the structural analysis, she requested that their structural engineer be permitted to look at J. Kirby's report and prepare a response to his satisfaction.

The discussion continued. Chairperson Hunter asked R. Golden for his suggestions. R. Golden had no problem with the condition in the resolution regarding the structural analysis, however, he did not feel that it would be wise for the Planning Board to approve this application if there is a conclusion from their wireless consultant that the monopole is likely to be overstressed. C. Bonomolo had a difference of opinion on this matter, so R. Golden asked J. Kirby if, after looking at the wind calculations and other information that he has, he believes the monopole will be overstressed if the Planning Board approves this project and it is constructed as presented. J. Kirby said yes, he does.

The discussion continued, with the applicant respectfully disagreeing. She said there is no report on the record which states that the monopole is overstressed. She added that they

**SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2 (cont.)**

submitted a report that was signed and sealed by a New York State licensed PE that says that it is not overstressed. D. Lindsay said that the report that is in the record is an opinion from a professional who advised the Planning Board stating that he has concerns. He added that these concerns can be remedied, but the remedies may include some solutions that the Board will want to review.

After some further discussion, it was R. Golden's opinion that the Board would not need to keep the public hearing open, and that this issue could be remedied by a discussion between the applicant's consultants and the Planning Board consultants.

There were no further comments from the consultants, so Chairperson Hunter opened the floor for public comments and questions. There were none, so C. Correia made a motion to close the public hearing. R. Cataggio seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

The discussion continued. Ms. Bonomolo reiterated, for the record, that it is their position that under Federal law this type of application where they are modifying an existing facility should be approved administratively, and discretionary approval is not appropriate. D. Lindsay said that the Board now has an opinion from its counsel, as well as a review of a structural report which does not support this argument.

Ms. Bonomolo also wanted to make clear that the report that was submitted does not state that the monopole is overstressed, and states that the monopole has sufficient capacity. She said the Board's consultant disagrees with the standards that were used, but there is no evidence that it is overstressed. R. Golden agreed, but said that the Board now has an opinion from its wireless consultant. He said the law is clear that, when there are conflicting issues, the Board has the right to rely upon this opinion. He said it is up to the Board how they want to handle this issue. Chairperson Hunter polled the Board members, who all agreed that there should be further discussion before proceeding with the review of the resolution. R. Golden suggested that the applicant's consultant and J. Kirby confer prior to the next meeting to see if they can come to some understanding or resolution of the issue. S. Turner requested that, if the resolution of the problem requires some sort of reinforcement of the pole, some kind of plan be submitted for the Board to review.

There was some further discussion. Ms. Bonomolo said she would forward a copy of J. Kirby's comment letter to her client so they could get it to the engineer who prepared the structural analysis. She said they will get a response and then if there is further dialogue required that can be done as well.

### **SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2 (cont.)**

There was some discussion as to when this application would be placed on the agenda. R. Golden noted that there is a 60 day time limitation after the close of the public hearing. He asked for Ms. Bonomolo's consent to extend this time frame. He said if the Board has to make a decision in the 60 day time frame and they don't have all the information they will have to deny the approval. D. Lindsay assured her that the application will be listed on the agenda for the next closest meeting two weeks after their materials are submitted. Ms. Bonomolo consented to this.

Ms. Bonomolo also wanted to be clear on what materials were to be submitted. She said they would need to submit a response to Mr. Kirby's letter that satisfies any structural concerns, and a copy of the inspection report. R. Golden said these are the items that will be needed for them to be listed on the agenda.

### **HIGHLAND SAND & GRAVEL - TAX MAP 203-1-8.21**

Chairperson Hunter explained that this was to be a discussion of a proposed expansion of use to include a construction and demolition recycling/processing center. The property is located at 911 Route 32 in Highland Mills. Bob Krahulik, attorney for the applicant, appeared on his behalf. He said that applications have been submitted to both the Planning Board and the Zoning Board of Appeals for consideration of a construction/demolition recycling facility to begin operation at the current Highland Sand & Gravel quarry. He explained that the application to the Zoning Board of Appeals was necessary because the current site is located in a residentially zoned district and constitutes a pre-existing non-conforming use. The code allows the change to another non-conforming use with approval from the ZBA and, therefore, they have submitted that application. Mr. Krahulik added that, after a brief discussion with R. Golden today, they felt it best to proceed with both applications simultaneously. He said that it makes the SEQRA process a little more complicated, but they will be working through that as well. He also said that they had received comments from D. Lindsay and S. Turner. He then turned the meeting over to Kevin Patton, a professional engineer with Advanced Testing Company, who explained that Highland Sand & Gravel is a producer of construction aggregates – sand, gravel and crushed stone – but primarily crushed stone. Mr. Patton said that the proposal is intended to maintain their existing customer base, but also follow an industry trend toward greater recycling as a source of these products. He went on to say that the quarry plans to continue blasting, crushing and processing stone, but to supplement that will also be crushing and screening concrete, masonry and asphalt paving materials that are brought to the site by dump trucks. Mr. Patton said the quarry has lost out on some recent contracts with contractors who prefer to go to a facility accepting C & D materials, and reloading their trucks with the processed materials as this process tends to be a little less expensive. He said C & D processing uses less energy and doesn't require blasting. The material going into the processing plant tends to be smaller and easier to crush. Much of it is already in a useable size and all they do is screen it.

**HIGHLAND SAND & GRAVEL - TAX MAP 203-1-8.21 (cont.)**

Mr. Patton said he did not see this as a significant change in the way the quarry operates, or a significant change in the volume of traffic into and out of the quarry. He said that the most significant change would be the reduction in the amount of blasting that is required.

Mr. Patton said that they had received a copy of Riddick Associates review of the application and there are several items for which they are requesting clarification and further explanation. He had no arguments with anything in the review.

Chairperson Hunter then asked D. Lindsay for his comments. D. Lindsay said that the Board would need to know exactly how the property is being used. He said they have a permit from the DEC for the total mining and total holdings, but there are some properties that are owned and some that are leased. He noted a number of items that would need to be shown on the plan so the Board could understand what is being proposed.

Chairperson Hunter then asked S. Turner for his comments. He agreed with D. Lindsay that the Board did not have a clear picture of what is being proposed from the materials that have been submitted.

With regard to SEQRA, S. Turner said that a Part One EAF has been submitted to begin the SEQRA process. He cited a communication that was received several months ago from the DEC regarding a modification to their mining permit. The DEC said that the Planning Board could be Lead Agency. He acknowledged the need to go to the ZBA and pointed out that often in Woodbury the ZBA does its own SEQRA. He said he and R. Golden agree that there should be a coordinated review, and an Unlisted Action. His memo suggested that a revised EAF be obtained, and a Notice of Intent to be Lead Agency be sent to the ZBA.

Chairperson Hunter asked R. Golden for his comments. He said that one of the problems in terms of SEQRA was that the initial EAF did not list the ZBA as an involved agency, so they have not received the notice. He said the best way to keep the process moving is for the Planning Board to type the action based on the information that it has, even though the EAF needs to be revised. The Board could then send out its Notice of Intent to be Lead Agency. The ZBA could then say yes or no at its next meeting. If they say no then the Planning Board would be Lead Agency and can go forward with the environmental review, which would have to be done before the ZBA could make any decision.

R. Golden also agreed with D. Lindsay that there needs to be a better understanding of the exact extend of the sand and gravel operations and the C & D operations. It will also affect the ZBA decision as to whether it's moving a non-conforming use or substituting part of a non-conforming use. He said the information is not clear enough at this time to determine these things.



**HIGHLAND SAND & GRAVEL – TAX MAP 303-1-8.21 (cont.)**

R. Golden also referred to some recent cases in the Court of Appeals which got messy because it was unclear as to what the approval was. He said they may be approved for a certain area, but have vested rights for a much larger area. He said this is fine, but the Village needs to know so they can understand exactly what is being approved. R. Golden said he felt it was important to identify what areas on the site are within the sand and gravel mining operations, which are active, which may not be active at this point in time and which areas may be coincident to the C & D and sand and gravel operations.

S. Turner wanted to comment on the Notice of Intent for the ZBA. He said that usually the process would not be started until the Board was able to describe the action and get at least a Part I EAF. Mr. Krahulik said that they understand the need to provide a more detailed site plan, and fully intend to do so as they receive comments from the Engineer and the Planner. He said they fully expect to provide another draft of the site plan that will provide the type of detail that the Board wants. S. Turner then said he saw no problem with starting the process. R. Golden agreed and said that the Board could type this as an Unlisted Action, even though it may later change to a Type One.

R. Golden also said there may be an issue with the ZBA regarding the clarity of defining what the operations are. He said that when it says a change of use from one thing to another, to him that means that if there are ten acres for sand and gravel, now one acre will be changed to another use. He asked if this was the way the applicant was looking at this as well. Mr. Krahulik said he did not break it down in that much detail, but that the C & D operation will simply be replacing the traditional quarry operation. R. Golden said that he thought it would be important to fully describe this displacement process.

There was some discussion of a site visit, possibly jointly with the ZBA.

After some further discussion, Chairperson Hunter made a motion to type this as an Unlisted Action under SEQA. M. Christman seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

**HIGHLAND SAND & GRAVEL – TAX MAP 203-1-8.21 (cont.)**

Chairperson Hunter then made a motion to send a Notice of Intent to the ZBA for the Planning Board to assume Lead Agency status for this application. C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Anzalone – In Favor  
R. Cataggio – In Favor

There was no further business for the Board to conduct, so R. Anzalone made a motion to adjourn the meeting. M. Christman seconded the motion. The vote was as follows:

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Anzalone – In Favor  
R. Cataggio – In Favor

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

  
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Gale Naugle  
Planning Board Secretary