

Hillsdale Planning Board Minutes

April 12, 2010

Present: Hank Henward, Chair; Mark Barbato; Bud Gardner; Patti Rohrlich; Ellen Levy; Deborah Bowen; Rich Freiman; Vivian deGeorges, Secretary, Dick Alford, counsel

Public Hearing regarding 4-lot Subdivision Application on Oxbow Road –Tax ID 137.-1-8.1 called to order at 7:40PM by Chairman Henward

Present: Mr. & Mrs. Kinney, owners; Kathleen McCormack, attorney; Frank Roche, attorney; Patrick Prendergast, PE; Karen Climo, owners' daughter; Penny Hudnut, neighbor; Gretchen Stevens, CAC, and members of the public

Mr. Prendergast presented the latest maps. Mr. Henward remarked that the PB has finished its review of the project and that we have to go through the SEQR review, which we'll do following the public hearing and then asked for comments from the public. There were no comments. Mr. Henward recapped the issues being addressed, describing the property, proposed driveway access and environmental concerns.

Ms. deGeorges read into the record two emails from neighbors with abutting property. They will be found at the end of these minutes.

Public Hearing closed and PB Meeting called to order at 7:50PM by Chairman Henward.

Mr. Henward asked Mr. Prendergast if there were any changes to be described and Mr. Prendergast told the Board that the driveway had been redefined so that it wouldn't have to go over the Schindler's property. The board consulted the new map. Mr. Prendergast said that the Kinneys gave an easement to the property in NY in order to keep the driveway on their own property. So now there is a single driveway off Millard Road going into lot 4. It becomes lot 4's driveway, no longer a shared driveway, and the Massachusetts lot will have its access directly from Mass., not NY.

Mr. Prendergast then presented a current DOH letter regarding the septic system and Mr. Roche presented the latest copy of the covenants which incorporate the changes discussed at the last PB meeting. Mr. Henward asked the Board if there were any questions; there were none except Ms. Rorhlich asking for CAC comment.

Ms. Stevens asked why the new driveway is set apart from the Shunpike roadway, instead of incorporating a part of the Shunpike, as that would entail

less land disturbance. Mr. Prendergast said that there was an old stone wall that they didn't want to disturb, between the drive and the turnpike. Ms. Stevens also offered that the drive that is no longer going to be used should have its fill removed and the pond allowed to drain so that the waterway is allowed to flow as it had before. Mrs. Kinney said that they love the pond and wouldn't want to have a waterway prevent them going from one part of the property to another. Ms. Stevens answered that there is a glut of artificial ponds in the county and not a lot of intermittent streams. The Kinneys said that they walk there and don't want to lose that area. Mr. Henward asked that once the lot is sold, would they still be walking there? There was a discussion on this point, Mrs. Kinney saying that as of this moment, they own it and would like to walk it. Ms. Climo offered that as a realtor, if she sold a piece of property with a pond, and then someone told the owner later to remove the pond, it would be difficult, saying that the pond was part of what they love about the property and was there when they purchased it.

Ms. Stevens reiterated her belief of having the pond and road fill removed to allow movement of organisms up and down the stream.

Ms. Hudnut lives on Millard Road. She stated that she felt the covenants should stand no matter who owns the property, whether relatives or non-relatives own the lots, and the Board agreed. Mr. Henward said that he thinks our attorney feels comfortable with the covenants and that they are enforceable. He said that the PB knows the Welch's built the pond and that the PB has no reason to ask for its removal despite the environmental concerns.

Mr. Alford asked Mr. Roche to look at the covenant section 2.10. Mr. Roche agreed that that section answered to the issue of Millard Road access and there was further discussion about accessing Millard Road from the other lots. Ms. Hudnut said that the Schindlers have retained an attorney to look at old maps to see if Millard Rd is indeed a road. Mr. Henward said that Millard Road in Mass. exists, is used, and is not abandoned. Once you hit the NY border, Millard Road is abandoned. The understanding we have with the town of Egremont is that we won't reactivate that road and use it as a right-of-way. In NY, it has reverted to shared ownership by the Schindlers and Kinneys. Whether it is reviewed by Mass. and declared public or private will have no impact on the Hillsdale PB's decision.

Mr. Alford read the first part of the SEQR statement aloud and described all attachments to the report. Mr. Freiman asked about the part of the report that said "does the project include any scenic views important to the community" which was answered no, yet it's in the Ridgeline so views should be considered important. Ms. Stevens said that lot 3 has beautiful views of the Mass. hills, so does this report not concern views from Mass. but only about views from NY? Mr. Alford answered that only the NY views are being considered and are in the jurisdiction of the Hillsdale PB.

Ms. Levy asked about the consideration of possible blasting, and if there's anything we can do to prevent that. Mr. Roche said that it would be avoided if possible, but if a house site needs blasting, it would have to be done with all appropriate precaution. Mr. Prendergast said that the test bores that were dug to about 7 or 8 feet showed soft shale and that no wholesale blasting was anticipated.

Ms. Stevens commented on soil drainage and questioned the figures in the form as to what portion (80%) is moderately and what (20%) poorly drained. She said that much less area is poorly drained and the area deemed moderate was more likely adequately to excessively drained. She then said the DEC letter stated there were no endangered species. She clarified by reading from it that no one from the DEC has actually done a survey and the only information the DEC has is what may have been reported to them. Ms. Stevens noted also that the question about whether or not there were hunting and fishing opportunities, which was answered no, was not correct and that there is indeed plenty of hunting opportunity in such a large forested area. Her last comment on this portion of the form was that the question about herbicides and pesticides were also answered no, but Ms. Stevens said that with lawns anticipated, both would probably be used.

Mr. Alford read the second part of the SEQR statement aloud and Mr. Henward answered the unanswered questions as to small/moderate/great impact of each action listed. This engendered a discussion as to how much storm water would be running off the drive, and Mr. Prendergast described the ameliorating design features such as level spreaders to feed any water back out in a fanning distribution area into the forest.

Ms. Stevens described how a study could be done regarding endangered species in the area, which is described as a significant biodiversity area. Mr. Henward said that there could be endangered species but we don't know, and that even if there were, the project would create a small to moderate impact, and to non-endangered species as well. Since the State admits that it can give no definitive answer as to endangered or other species on every site in the state, there is no information available to us to answer the question of species accurately. Mr. Henward suggested sending a letter to the DEC to ask for more enforceable regulations with better information if the species questions are to be answered accurately.

Mr. Henward then asked whether we could entertain a motion of a negative declaration to the SEQRA information stopping the project, in effect that there is no major impact on the environment by this project. He said that we could still request a CAC study if desired. Mr. Roche said that based on the answers given to the SEQRA questions, there is no basis on which to ask for a CAC study.

Mr. Freiman made a motion to propose that the board require a CAC study. All nays, except Ms. Bowen abstaining. Mr. Henward then made a motion to issue a negative declaration. All ayes. Mr. Henward reiterated contacting the State for better guidelines for environmental study.

Mr. Gardner made a motion to approve the subdivision. Mr. Barbato seconded. All ayes, except Ms. Bowen abstaining.

Steven Kimelman – regarding restoration of overcut property on White Hill Road Tax ID 127.-1-11 Frank Roche, attorney

Mr. Roche said that Mr. Kimelman was supposed to get in touch with a forester to come up with a remediation/restoration plan, but hasn't. Mr. Henward said that all PB members have seen the area, and that Mr. Howes, the person who had done the tree cutting, has been given permission to take out the debris. Ms. Stevens recommended Bridghe McCracken, a restoration specialist, to look at the site and come up with a proposal. An escrow account of \$1000 has to be established, and she could then supervise the implementation of the plan once it's been approved. It could then be reviewed by Mr. Kimelman and a second opinion could be obtained by him at his expense, if he desired.

Frank Pinto – regarding landscape design and site plan approval for pool at 350 Tory Hill Road Tax ID 135.-2-55 George Rodenhausen, attorney; Mr. Pinto, owner; Jamie Purinton, Landscape Designer

Mr. Rodenhausen brought new plans for the site for the pool and surrounding landscaping. The pool is about 600 sq. feet, a little over the 500 sq. foot threshold for site plan approval in the Ridgeline District. Mr. Henward asked for the soil engineering study which was done by Mr. Dente, and the report concluded that if the pool is back at least 12' from the edge of the slope, it would be stable. That report was sent to Doug Clark and he found no fault with the conclusion. Mr. Rodenhausen went through the Ridgeline requirements and said that there is no visual impact as the pool is at grade.

Ms. Purinton then opened the maps and described them, especially the area around the pool which will be bluestone with thyme growing between the stones so there would be no mowing needed, and that there would be good drainage through the spaces between the stones. She also described the direction any excess drainage from the pool area would go, which is not down the steep slope 12' from the pool, and further described the direction of rain water falling off the roofs of the buildings. Then a more detailed landscape map was opened and Ms. Purinton described it and said that Ruth Dufault went to the site with her and had significant input into the proposed plan. There was discussion about the types of

trees that can be planted on the edge of the slope as well as possibly on the riprap. There was then discussion as to where the riprap actually is on the site.

Mr. Henward asked if Mr. Dente had called Doug Clark and Mr. Rodenhausen said that he (Mr. Dente) would be calling Mr. Clark.

Mr. Freiman suggested that the planting would have to be done before the pool, but Ms. Purinton said that there was one place that needed to be done first, but then the pool needed to be done next, and then the rest of the planting.

Mr. Henward asked the board for thoughts/comments. Ms. Purinton asked if there were a provision that the site be reevaluated in a few years to see if what was planned had worked and things had grown the way they were anticipated. Mr. Rodenhausen said that everything that had been done on the site so far was legal, that the riprap and grading and disturbed area was less than 5000 sq'. Mr. Henward said it was more than 5000 sq'.

Mr. Freiman said that the main issue was the impact of what it looks like from the surrounding area. Ms. Purinton said that the clearing was done before the Ridgeline area was in effect. Ms. Rohrlich said that was so, but that it was cleared in anticipation of the Ridgeline regulations about to come into effect.

Mr. Henward suggested that Ms. Purinton and Mr. Pinto should think ahead to future building of a garage and that it would have to be screened. It would be a good idea to start planting now.

Mr. Alford said maybe we could have a provision that once the plantings were done on the slope and the riprap, that Ms. Purinton send us a letter certifying that it had been done as shown on the plan, with an inventory of what was planted. She agreed, and said that she was hoping for a final agreement between the engineers as to what can be planted in the riprap.

Mr. Henward asked for a motion to approve the pool as planned, with the provision of a confirming letter after the planting was done. Ms. Rohrlich made the motion, Mr. Henward seconded, all ayes.

Steve Bluestone – Spring Brook Lane property – regarding placement of septic system. Tax ID 116.-2-36.111

Mr. Bluestone showed the map with the site for the septic system and possible future house locations. There was discussion about when a house was possibly being built and Mr. Bluestone said probably in 4 or 5 years, so discussion about whether the DOH might change its rules by then. Then Ms. Rohrlich questioned the setbacks but they are on the map that the DOH approved. A map was put in Mr. Smith's mailbox for approval.

**Ruede/White property line adjustment with Bud Gardner
Tax ID 145.04-01-37 Patrick Prendergast, PE; David Ruede, owner**

Mr. Ruede and Mr. White own the building that was the Hillsdale Electronics shop. Their plan for the building is retail space and a restaurant, with the upstairs being retail space also, and the lower level having two workshops. For the restaurant, a change of use and a parking lot plan are needed. The restaurant will be owned by someone other than White/Ruede. The request before the Board this evening is for an adjustment of swapping the land at the back of Mr. Gardner's building for land that Mr. White and Mr. Ruede own which is on Rt. 23, which will become the parking lot for their building. There will be a provision of a right-of-way on the Rt. 23 piece of property which will allow Mr. Gardner to access the first 5 parking spaces for use by him and clients visiting his office. In exchange for this, Mr. Gardner will relinquish right-of-way between the buildings, which Mr. White and Mr. Ruede plan to use as a walkway. It was discussed that it will be necessary to move the telephone pole in order to make one entrance to the parking lot.

Ms. Rohrlich said if both parties are in agreement, it should be okay. Mr. Gardner said his attorney is still looking at the plan. Mr. Ruede was informed that he needs to see the ZBA for the change of use approval. Mr. Henward asked Mr. Alford if there was a problem with the sewer lines but it was decided that a gravel parking lot wouldn't impact the lines. Mr. Ruede was asked to come back with site plan with walkways and parking spaces shown.

**Mark Barbato – Pumpkin Hill Road - application to build garage
Tax ID 125.1-15.22**

Mr. Barbato showed the maps and there was discussion describing the site and plans of building materials. Mr. Henward told Mr. Barbato that a survey would be needed which Mr. Barbato can bring to the next meeting.

Motion to adjourn was made by Mr. Freiman, seconded by Mr. Gardner, all ayes, at 11:32PM.

From: [elizabeth.girard](mailto:elizabeth.girard@taconic.net)
To: fredviv@taconic.net
Sent: Thursday, April 08, 2010 2:38 PM
Subject: RE: Oxbow Lot 137.-1-8.11

I am Elizabeth Backus Girard property owner at 189 Oxbow Road. My parents, grandparents and I have enjoyed owning this property with the rural environment surrounding the Oxbow for many decades. My concern is that the Lot 137.-1-8.11 retain the natural look that my family has come to appreciate. My hope is that the driveway and homes will be in good taste and not have the look of suburbia.

Elizabeth Backus Girard
518-325-4311

Mailing address:
14509 Brookmead Drive
Germantown, MD 20874
301-869-1266

----- Original Message -----

From: mbrankin@earthlink.net

To: fredviv@taconic.net

Sent: Thursday, April 08, 2010 3:34 PM

Subject: Subdivision planning hearing April 12, 2010

This email concerns the four-lot subdivision of 3 acres, 10 acres, 25, acres, and 15 acres (Lot 137,-1-8,111). Because of family complications my husband and I will not be able to attend this meeting. Therefore, I am sending a few comments for your consideration. I am interested in this subdivision because I own property at 205 Oxbow Road that is adjacent to the land being proposed for development.

1) I understand that the lots will be accessed by a so-called "driveway" running north from Oxbow Road in a straight line to Millard Rd. and that this road will be on the east side of the proposed lots and, therefore not immediately adjacent to my property line. There seems to be another sketch in which this driveway is in the center of the Hillsdale portion of the entire property. However, we have no problem with either of these two locations. Similarly, My husband and I hope that houses would not be erected very close to our property line.

2) My husband and I whole-heartedly agree with the Hillsdale Planning Board that Millard Road should not be reopened as a public road. Doing so would impact all the four properties now owned by my sisters and myself and perhaps create pressure for further expanding the roadway. We would all strongly oppose doing so.

3) We also hope that some effort can be made be made to preserve some of the rural quality of the Ox Bow area. Four generations of our families have spent summers here since my grandfather brought the property in the early twentieth century. Not surprisingly, we are not enthusiastic about new developments and hope that some of the hills and woods will survive. We are aware, however that change can not be avoided and assume that we will meet the Kinney's and others someday.

Mary L. B. Rankin, 205 Oxbow Road
1614 44th St. NW, Washington, DC 20007
(202)337- 8659