



Hillsdale Planning Board Minutes September 8, 2014

Present: Hank Henward, Chairman; Bud Gardner; Ellen Levy; Deborah Bowen; Patti Rohrlich; Mark Barbato; Vivian deGeorges, Secretary

Excused: Richard Freiman

Also Present: Bud Atwood; Gretchen Stevens; Ruth Dufault; Jeff Paige

Mr. Henward opened the meeting at 7:30 PM

1. **David Ruede property line adjustment on Henich Lane and Wolf Hill Rd.** purchase 1.9 acres from their neighbor Michaela Lipsey; Dan Russell, surveyor

Mr. Russell submitted maps to the Board.

Received: application; check for \$155; short SEQRA; EAF Mapper summary report; DEC mapping of site; authorization letters for Mr. Russell to represent; copy of Lipsey deed; agricultural statement; drawn map of site with surrounding neighbors; survey maps.

Mr. Ruede would like to add 1.9 acres to his 5.81 acre parcel, purchasing it from Michaela Lipsey who lives in Portland, OR. There is no house on the Lipsey parcel. Ms. Levy asked if any setbacks would be affected and Mr. Russell answered no. He further described that it is in 3-acre zoning and the resulting 4 acre parcel will have sufficient acreage for building and also has sufficient frontage.

Mr. Henward asked if there were any questions from the Board and there were none and asked for a motion to approve.

***Ms. Rohrlich made a motion to approve this lot line adjustment. Ms. Levy seconded the motion.
The vote was all ayes.***

Mr. Henward stamped and signed the maps.

2. **Peter Yates** further discussion on his site construction - Matthew J. Griesemer, attorney.

Received: letter from Tapler Tree Care; plans for foundation, first and second floor, and roof; site plan of 29 November 2014, marked as "Revised 11 August 2014"; site plan of 11 August 2014.

Mr. Griesemer recapped the history of this site, including approvals from the Planning Board and Building Inspector. He said that Mr. Heim issued a stop work order which didn't specify the reason for the order. The basement was in discussion regarding whether it is an additional story. Mr. Griesemer said that he wants to

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see if we can address the issues for the stop work order and get them resolved before it gets later in the season because the contractor will be charging Mr. Yates significantly more for winter work.

This is the recap by Mr. Griesemer:

The first item in contention is the height of the building. The preliminary plans as submitted to the PB showed a height of approximately 21'9". Those preliminary plans were clearly not building plans. The permit was issued based on the final plans. They found that the roof couldn't be flat but instead needed an 8" pitch because of snow load. However, it will appear flat. These plans were submitted to the BI. We know there's some question about a one stage or two stage permit. We didn't know anything about that and we got a building permit based on the final plans we submitted to the BI and we started construction. We now understand that a stage one permit is for clearing and the minutes of the PB of December 2013 show that the Board knew that the land was already cleared. The hill goes up behind the house so it's not at the top of the ridgeline. The preliminary plans show 21'9" as the height of the house. Ultimately the final height is 29'8" and the absolute height is 30'6".

The second thing is the length and width of the home site - the preliminary plans show 30' X 57'10". The revised (11 August) plans are for 34' X 64'2". Mr. Deruzzio from the DOH shows a very limited space for the septic because of shale and slope. The angle of the house was changed only slightly and it's because of the placement of the septic.

The third item was some concern about a tree on the property, an oak tree at the rear of the property. There was a rear deck shown on the preliminary drawing but there were no dimensions shown. The final plans, however, showed the dimension.

End of recap.

Mr. Henward agreed that Mr. Yates didn't know about the stage 1 and stage 2 building permits. The septic issue is the distance of the house to the septic, which is now closer. He then said that we never got the plans with the deck dimensions until after the fact. The BI who is relatively new in this town was not fully aware of the stage 1 and 2 requirements. That doesn't mean they're not enforceable. He took action after the problem was brought to his attention. When a site plan approval is given based on a specific building footprint, it's assumed by the Board that those are the final dimensions of the building. The Board took this as the building footprint and when it was shown to be considerably larger, especially considering the deck and the pillars that support the deck, we brought it to the attention of the BI. As for the matter of the height, even with the walkout basement being classified as a basement, the building height as measured on the street front exceeds the height that we approved. Our meeting notes include the applicant's reference to a maximum of 19'. My advice to Mr. Yates was that he should come back to us with different options and proposals. Mr. Henward said that he knows Mr. Griesemer's office has contacted our town attorney and that he hadn't spoken to him prior to this meeting.

Mr. Griesemer said the proposal as I'm presenting it is that these are the plans we submitted to the building inspector and these are what we're building from.

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Mr. Henward said that the Board will ask questions they have and then you can submit proposals to come into compliance.

Ms. Levy remarked that Mr. Yates came in with a preliminary concept which is what we saw and then changes happened afterward. I understand the BI approved a final plan but it's really the PB role to approve. Mr. Griesemer said the Board didn't ask for final plans. The items now being addressed were never questioned of the applicant, like the amount of soil excavated. They appear to have been raised after the approval. He then said that Ms. Levy should recuse herself as she's a neighbor.

Ms. Levy said that she is a neighbor but that she's most concerned about the law in the ridgeline and that the changes made were egregious changes from what was originally shown to the PB.

Ms. Bowen said that it's not one tree; it was 3 trees that were supposed to shield the view of the house. The construction debris was spread on the three trees which will kill them and then these screening trees will no longer be there.

Mr. Griesemer said that he called an arborist, Michael Tapler, who said that the tree will not be harmed. It's 8 feet away from the deck. Mr. Yates said that the soil will be removed from where it was spread at the base of the other trees.

Mr. Henward said that the issue of the soil was the 2' of the excavated shale that was put on top of the tree roots and would have resulted in the death of these trees over a period of time. There's also material spread around the site which would have been seen as part of the stage 1 permitting. Mr. Griesemer offered that he can have the arborist look at the other trees and add his opinion about them to his letter about the one tree.

Mr. Henward spoke about the building footprint. He said that the PB approval was based on this very specific footprint measurement shown on the preliminary plans. The building is larger than the site plan we approved. When you have a deck within a few feet of a tree that's essential to protect, it raises our attention. We didn't understand till we went up there how the house got so close to the tree without changing the footprint.

Mr. Griesemer said that the surveyor, Mr. Plass, shows the tree to be 9' from the deck. I think the original discussions of the Board show that it was assumed to be closer to the deck. We came to the Board with preliminary plans which were approved and the BI issued a permit based on our final plans. We proceeded and signed contracts based on the permit and then our work was stopped.

Ms. Levy said that she thought we were going to entertain proposals to mitigate our concerns.

Mr. Griesemer said we believe we're doing what's needed according to the law regarding the ridgeline laws and that we did what was approved by the BI and what the Town approved. He further said that they don't know why they're being shut down. Mr. Henward said we had a meeting with Mr. Yates and Ms. Bowen and we discussed a number of mitigations available - additional screening, lowering the height, etc. Mr. Heim had two set of plans, one earlier one and then final plans which he looked at.

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Mr. Griesemer said we weren't told that we had to come back before the PB with the final plans.

Mr. Henward said that this is not going to be resolved tonight. If the trees can in fact be saved, that won't be an issue but we have to reach some satisfactory resolution of the height issue and the building envelope size. Those are the two issues and you can contact the PB secretary and we can hold a meeting with the Town attorney.

Mr. Yates said that he wants to reiterate a couple of the solutions that Matt mentioned, one being that the arborist said he would inject liquid fertilizer into the roots of the trees. The deck piers will also be a different type that are minimally invasive without digging a footing so you can drill straight into the bedrock and will be a small bore and won't affect the tree.

Mr. Griesemer said that the Board had discussed this and that it wasn't concerned about the height of the building. He read the minutes from December 9, 2013: "Mr. Henward said that at 19', which is what's on the plan, we won't need it", meaning a visual assessment form which Ms. Levy had suggested.

Ms. Levy said that the fact that it's below the ridgeline isn't the only factor concerning the height. Mr. Yates offered that the height is no higher on the ridgeline than it was in the preliminary plans because we dug deeper, didn't build higher. Discussion continued about the height being still the same elevation because the basement was dug deeper.

Ms. Bowen said that our whole discussion is based on the view from below, the face of the building that shows from below. Mr. Yates said you can see that it's a two-story house. Ms. Levy said that it might be the same height, but with the basement being a walk-out, there is another story of glass and light to its frontage which is visible from below. Ms. Rohrlich said what about a balloon test to verify that we're at the same elevation. It seems like an easy way to verify it and for us to understand that digging deeper made the elevation of the roof the same. It can show that it isn't exceeding the ridgeline regulations. You can go out on a public road and make your observations when the balloon is up.

Mr. Henward asked Mr. Griesemer to let the Board know what he wants to do.

Discussion with the CAC about the tree in question near the deck of Mr. Yates' house, and the possibility of trees being planted for more screening. Ms. Dufault said maybe small quick-growing trees are possible, but there's not enough soil for large trees to be planted.

Mr. Henward asked for a motion to adjourn the meeting. Mr. Gardner made the motion and Ms. Levy seconded. The vote was all ayes. Mr. Henward adjourned the meeting at 9:13PM.

The next meeting is scheduled for October 13, 2014.