

TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL  
WEDNESDAY, MARCH 4, 2009

MEMBERS PRESENT:

Peter Goss, Chairman  
Douglas Cook  
Mary Ann Hoffmann  
James Jeffrey  
Lauren Kingman

MEMBERS ABSENT:

Jeffrey Anagnos  
George Lawrence

Chairman Goss opened the meeting at 7:00 p.m.

**Public Hearings:**

1. **Aiello/Steckler** – Kirk Horton L.S. was present representing both applicants for this lot line adjustment between property owned by Jason Aiello/Lindsay Bliss located at 941 Academy Hill Road, tax grid number 6573-00-937299, 1.53 acres in the A5A zoning district and property owned by George Steckler located on Academy Hill Road, tax grid number 6573-00-942334, 9.5 acres in the A5A zoning district. Chairman Goss read the legal notice that was posted in the paper and sent to neighboring landowners. Mr. Horton said Mr. Steckler is conveying 3.50 acres to Mr. Aiello which will bring the Aiello property into conformance with the zoning district and leave Mr. Steckler with 6 acres, also in conformance with the zoning district. One person was present on behalf of Turkey Hill Properties who had no problems with this proposal. Mr. Horton said he added the corner stakes and the railroad bed to the map.

Mr. Jeffrey motioned that the Planning Board declare themselves lead agency for the Aiello/Steckler lot line adjustment application. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

Mr. Jeffrey motioned that the Milan Planning Board approve the Negative Declaration pursuant to Part 617.7 of the State Environmental Quality Review Act for the Aiello/Steckler lot line adjustment application. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

Chairman Goss completed and signed the short EAF.

Mr. Kingman motioned to close the public hearing for the Aiello/Steckler lot line adjustment. Mr. Cook seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

Ms. Hoffmann motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Town of Milan Planning Board has considered the application from Jason Aiello/Lindsay Bliss and George Steckler for a lot line adjustment (minor subdivision);

WHEREAS, an application packet was submitted to the Planning Office on February 17, 2009 and a site plan prepared by Kirk Horton, L.S. dated February 16, 2009 has been submitted for the requested lot line adjustment between two properties located on Academy Hill Road in the A5A zoning district and identified as 6573-00-937299 (Aiello/Bliss) and 6573-00-942334 (Steckler); and

WHEREAS, the proposed action will convey 3.500 acres from the lands of Steckler to the lands of Aiello/Bliss; and

WHEREAS, the proposed action will bring the pre-existing, non-conforming 1.530 acre Aiello/Bliss parcel to 5.030 acres which is in conformance with current zoning; and

WHEREAS, the proposed action will bring the existing 9.357 acre Steckler parcel to 5.857 acres which is in conformance with current zoning; and

WHEREAS, the Aiello/Bliss parcel is improved with a single family dwelling, garage, well, and septic system; and

WHEREAS, the Steckler parcel is vacant but there is a DEC protected trout stream running along the road which would make access to the property very difficult. Mr. Steckler has stated he has no plans to build on the parcel; and

WHEREAS, a public hearing was held on March 4, 2009 with no public comment; and

WHEREAS, the Planning Board declared a Negative Declaration for this action on March 4, 2008.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board grants conditional final approval to the requested lot line adjustment and authorizes the Chairman to sign the mylar once the following conditions have been met:

- A. All corners of the new lot are to be marked by iron rods and shown on the plat;

- B. Dutchess County Health Department endorsement is received;
- C. All fees have been paid as follows:

Publication Fee: \$69.17

The lot line adjustment fee of \$125.00 was paid on 2-18-09

Seconded by Mr. Jeffreys.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

Mr. Cook motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the Aiello/Bliss and Steckler lot line adjustment (minor subdivision) application of property located on Academy Hill Road and identified as 6573-00-937299 (Aiello/Bliss) and 6573-00-942334 (Steckler); and

Whereas, an environmental review was conducted in accordance with 6 NYCRR Part 617 which resulted in no identified concerns and a Determination of Non-Significance (Negative Declaration) was approved by the Planning Board on March 4, 2009; and

WHEREAS, a public hearing was opened and closed on March 4, 2009; and

WHEREAS, this application complies with all of the provisions of the Town of Milan Code chapters 177 (Subdivision) and 200 (Zoning); and

WHEREAS, all conditions for Final Approval are detailed in the resolution for Conditional Final Approval which was approved by the Planning Board on March 4, 2009.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board finds that the approval of the Aiello/Bliss and Steckler Lot Line Adjustment (Minor Subdivision) is in compliance with the Town of Milan Subdivision Regulations (Chapter 177). Seconded by Ms. Hoffmann.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

Conditional final approval expires in 180 days (**August 31, 2009**). When the final map is prepared, it is suggested the applicant submit a paper copy to the Planning Office for review. Once it is determined that all of the conditions have been met, the **mylar plus five paper copies** must be submitted to the Planning Office for the Chairman’s signature for Town files, along with any paper copies the applicant would like signed.

Once the mylar is signed by the Chairman, it must be filed in the office of the Dutchess County Clerk within 60 days of the date of signature or the lot line adjustment becomes null and void.

**Administrative Items:**

- Mr. Kingman motioned to approve the minutes of February 4, 2009 as presented. Mr. Jeffrey seconded.
 

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	
  
- Correspondence: A letter was received from Mid Hudson Ecological Services describing the environmental consultant services they offer. It will be kept in the file.

**Applications:**

1. **Red Hook Fence:** Paul Hughes appeared regarding site plan re-approval for Red Hook Fence located on Willowbrook Road/Route 199, tax grid no. 6571-00-572228. Mr. Hughes said he received approval for his requested front setback variance along Route 199 for merchandise display at the ZBA meeting on February 25<sup>th</sup>. Mr. Kingman read the proposed conditions for final approval and Mr. Hughes agreed he could meet those conditions.

Mr. Jeffrey motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the application of Paul Hughes, Red Hook Fence, for approval of an amended site plan;

WHEREAS, Red Hook Fence received conditional approval on June 8, 2006 from the Planning Board for a site plan for a 2.35 acre parcel identified as tax grid number 09-6571-00-572228 located in the HB Zoning District; and

WHEREAS, an amended site plan map prepared by Mark Graminski dated December 23, 2008 was submitted reflecting a modification to the approved site plan to replace the currently permitted display area with a 16' x 40' fence materials display area; and

WHEREAS, the applicant flagged the proposed display area and Planning Board members visited the site; and

WHEREAS, the Planning Board sent a positive recommendation to the Zoning Board of Appeals to grant the requested area variance for the proposed display area on January 15, 2009; and

WHEREAS, the Milan Zoning Board of Appeals granted a conditional area variance to Red Hook Fence on February 25, 2009 to permit a front yard setback of 6 feet to allow stock to be displayed within the setback area facing Route 199 with the condition that “the site must fully comply with the approved amended site plan and be granted a Certificate of Occupancy for the site no later than 180 days after the Planning Board grants site plan approval; and

WHEREAS, a public hearing is not required for this action as the Planning Board held a hearing on June 4, 2006 under the previous application review and this is a minor change; and

WHEREAS, a full SEQRA review was done at the time of the original approval and as this action is a minor change, another review is not required; and

WHEREAS, this application was forwarded to Dutchess County Planning and Development under NYS General Municipal Law Section 239-m on December 22, 2005 and they responded “A Matter of Local Concern”.

NOW, THEREFORE, BE IT RESOLVED, the Town of Milan Planning Board approves the amended site plan for Red Hook Fence as submitted by Paul Hughes subject to the following conditions:

- A note describing the variance granted by the ZBA on February 25, 2009 to permit a front yard setback of 6 feet where 80 feet are required to allow stock to be displayed within the setback area facing Route 199 needs to be added to the map.
- A note needs to be added to the map stating a Special Use Permit for the accessory apartment to be located within the Red Hook Fence main building was approved by the Zoning Board of Appeals on June 26, 2006.
- All outstanding conditions of the site plan approval granted by the Planning Board on June 7, 2006 must be completed no later than 180 days after approval is granted for this amended site plan (August 31, 2009) as follows:
  - o The Red Hook Fence sign must be moved out of the NYS DOT right of way.
  - o The permahedge fence must be completely installed
- The applicant must apply for a Certificate of Occupancy no later than August 31, 2009.

Seconded by Ms. Hoffmann.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

The Planning Board’s approval of a site plan shall expire if either of the following circumstances should occur:

- (a) The site plan is not submitted for stamping and signature by the Chairperson within three calendar months (June 4, 2009) of the Planning board’s resolution of site plan approval, unless an extension of the time frame is granted by the Planning Board.
- (b) A complete application for either a building permit or certificate of occupancy is not submitted to the Building Inspector, as applicable, within six calendar months of the stamping and signing of the site plan by the Chairperson.

Unless otherwise specified herein, upon written request to the Planning Board, the time period for either submission of the site plan or submission of the complete application for a building permit or certificate of occupancy may be individually extended for a maximum period of six calendar months from its otherwise specified termination dates, provided that the applicant demonstrates to the Planning Board that it has acted in good faith and with due diligence.

**Four copies of the complete site plan must be submitted for signature by the planning Board Chairman to be used for Town files.**

Mr. Kingman motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board of the Town of Milan has considered the Red Hook Fence application to amend an existing site plan; and

WHEREAS, the applicant has obtained a variance from the ZBA to permit a front yard setback of 6 feet to allow stock to be displayed within the setback area facing Route 199; and

WHEREAS, an environmental review was conducted in accordance with 6 NYCRR part 617 at the time of the original application and a Determination of Non-Significance was adopted by the Planning Board; and

WHEREAS, all conditions for approval are detailed in the resolution of Conditional Site Plan Approval adopted by the Board on March 4, 2009; and

WHEREAS, the application complies with the provisions of the Town of Milan Code Chapter 200, Article IX, Site Plan Review.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board finds that the conditional site plan approval for the amended site plan for Red Hook Fence is in compliance with the Town of Milan Zoning Regulations, Chapter 200.

Seconded by Mr. Cook

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye

Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

2. **George Carrothers** – Mark Graminski, P.E./L.S., submitted a request dated March 4, 2009 for a three month extension to the conditional site plan approval granted by the Planning Board on December 3, 2008 for a Bar/Tavern on property located on route 199, tax grid no. 6471-00-935427.

Mr. Jeffreys motioned that as per the email submitted by Mark Graminski, P.E., dated March 4, 2009, the Planning Board grant the requested three month extension to the Conditional Approval for the Carrothers Site Plan for “Enigma” located on NYS Route 199, tax grid number 6471-00-904454-00. This first extension will expire on June 4, 2009. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye
Douglas Cook	Aye
Mary Ann Hoffmann	Aye
James Jeffreys	Aye
Lauren Kingman	Aye

Motion carried 5-0.

3. **Chestnut Mart** – At the request of Ciro Interrante, who was not present at the Planning Board meeting held on March 4, 2009, the Planning Board made the following motion:

Mr. Jeffreys motioned that the Planning Board table the vote on the positive declaration for the Chestnut Mart application until the April 1, 2009 Planning Board meeting. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye
Douglas Cook	Aye
Mary Ann Hoffmann	Aye
James Jeffreys	Aye
Lauren Kingman	Aye

Motion carried 5-0

The Board discussed briefly. Mr. Kingman said the Board has done a conscientious job of keeping the lighting under control, keeping the canopy lights under 10 candle foot, keeping the lighting on the parking areas and under the soffitts fairly low. Mr. Kingman said he has noticed a trend in gas stations to start using LED signs and he feels that falls under internally illuminated signs. Many stations have also started to use flat screen videos on the pumps. When we pull together the special use permit, we need to factor in consideration of where the technology is going with these things so we can maintain as dark a sky as possible in that area. Mr. Jeffreys said there are diffusers that can be added so that the lighting cannot be seen far away, and he asked if the applicant would be able to use LED lighting, like black on a white background, for the gas pump price signs. Mr. Kingman said the code states no internally lit signs. As a board, we need to

understand what we would like to see or not see because the special use permit will allow this board the ability to spell that out. If there are certain things we don't want to see, we don't want to have any misunderstandings as to what is considered internally lit. Mr. Jeffreys asked if the canopy lights are recessed and Mr. Kingman said yes, they focus down on the activity area. The applicant originally requested 40 candles per square foot and we are now down to between 5 and 10 based on recommendations from lighting engineers for rural areas. We also measured lighting at different stations around nearby towns which reflected lighting between 5 and 10 but closer to 5.

**Discussion Items:**

1. The Town Board has referred to the Planning Board for comment a proposed local law to change Article X of the Town Zoning Code to amend the notice provisions. Mr. Kingman looked over the whole law and submitted a document dated 3/4/09 stating his concerns and providing recommendations. The Town Board can initiate a change to the zoning code and/or zoning map, the Planning Board can recommend the Town Board make a change, or an applicant can apply to the Town Board to make a change. Mr. Kingman's first question was what is the definition of "frontage in the zoning district". Is it a linear measurement? Ms. Richardson, Town Attorney, interpreted with the Curran zoning change request that it was 50% of the HB area and the contiguous A3A area. Mr. Jeffreys said he thinks anyone should have the right to petition the Town Board to make a change but he doesn't know that it is the right thing to do to make it incumbent on them to get 50% of their neighbors to sign a petition. Mr. Williams said his concern is not with someone coming in and asking to rezone their parcel, it is with someone who wants to change a use on their parcel or wants to change the setbacks which affects the entire district and could be a short cut on a Zoning Board variance process, particularly with regard to use variances. The question is, do you want to make it that easy for people to petition the Town Board for a zoning change. The purpose of the 50% was to make it a hurdle. Mr. Kingman said he thinks the first paragraph should be clarified. There could be different impacts depending on what is being requested, whether it is a zoning change, a change of use, a zoning map change. Mr. Williams said we tried to leave the law where it is now and just change the section on notice if the circumstances were an individual trying to rezone. If we want to raise all these other issues and reinvent the law, that will be a lot of work. Mr. Kingman said we have had two changes to the zoning code in the past, one which was Carrothers which changes the restriction of entrance and exit to property with access on 199 and a town road and the other which was for Chestnut Mart to allow a convenience store to have gas pumps as an accessory use. Mr. Carrothers asked the Town Board to change the law and they said yes. In the case of Chestnut Mart, the change was critical to their business plan, and things have changed since the code was written where almost all gas stations are convenience stores so with the gas pumps the secondary use so that change made sense. However, that change changed many pieces of the town code. The key question is, who covers the cost of the change for the town planner, town

attorney, etc. Chestnut Mart paid for it which could lead to the problem of someone saying the Town is being bought off. However, on the other side, if the Town pays for it, you have people saying their tax dollars are going to changing a law to benefit one person. If someone has a petition in front of the board and agrees to continue with it, then an escrow account is established and the fees are covered by that escrow account. We don't have anything to identify how the fees are paid if the code is changed via another route. Chestnut Mart followed Section B, paragraph B. Mr. Jeffreys said this law must have been recently enacted and Mr. Williams said it was changed back in 2007. The attorney reviewing the law concluded there are two ways to amend the code, one by resolution and one by local law. We had determined in the Town code to amend by local law but had adopted provisions for amending by resolution so we substantially changed this section of the law so we were following state provisions for changing by local law rather than by resolution. In that process, we received advice to not take on more notice requirements than the state required so, therefore, we did not include individual notification which is what we want to put back in. Mr. Jeffreys asked if there were any notes relative to the discussions that took place prior to the creation of this law. Mr. Williams said he thinks the 50% frontage requirement came through from a prior version of the law. If it is lot frontage, that may create discriminatory charges for one applicant and not for another.

Mr. Kingman said he thinks the code needs to be clarified as to the steps that need to be taken for each process relative to who initiates the change, i.e. a change in the zoning district requires this, a change of use requires this, etc. Mr. Jeffreys said if it is a change in the zoning law that is being changed, it should be the responsibility of the Town. If it is beneficial to one person and possibly the town, that is an escrow situation. The current attorney says if an individual goes before the Town Board and wants a change, they have to submit the petition and go through escrow. Section B is confusing at best, and the front end of the process has to be cleaned up. Also, the Fee Schedule does not state a fee for a zoning change.

The Board reviewed the suggested changes in Mr. Kingman's memo and agreed to forward this to the Town Board as a preliminary review of the local law and to request an additional 45 days to allow the Planning Board more time to prepare a more comprehensive set of recommendations.

Mr. Kingman motioned that the Planning Board will forward this amended draft memo as a preliminary review of the referred local law proposal relative to Article X. Mr. Jeffreys seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

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Ms. Hoffmann motioned to adjourn the meeting at 8:00 p.m. Mr. Kingman seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Absent
Mary Ann Hoffmann	Aye	Motion carried 5-0.	

The next Planning Board workshop meeting will be held on Thursday, March 26, 2009 at 7:00 p.m. and the next regular meeting will be held on Wednesday, April 1, 2009 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board