

TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL
WEDNESDAY, APRIL 1, 2009

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None

ALSO PRESENT:

David Byrne, Town Board Liaison

Chairman Goss opened the meeting at 7:02 p.m. There were no public hearings scheduled.

Administrative:

- Approval of Minutes: Mr. Jeffrey motioned to approve the minutes of March 4, 2009. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 7-0.

Applications:

1. **Willms Subdivision** – Tom Foote appeared on behalf of Luzia Willms for her application for a two lot subdivision of property located at 211 Academy Hill Road, tax grid number 6571-00-183937. Mr. Foote has submitted the application packet and maps and the site visit was held on March 30th for the Board members who could make it .

The board agreed the application has met the conditions of sketch plan endorsement.

Mr. Kingman motioned that the Planning Board declare its intent to be lead agency for the Willms two lot subdivision application and that the application be circulated to the Milan Town Board, Dutchess County Board of Health, New York State DEC, and Dutchess County Department of Public Works. Mr. Jeffrey seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 7-0.

Mr. Kingman said Mr. Foote needs to submit a final plat map which the Board will review at the March 30th workshop. The target for the May 6th meeting will be to do the declaration and set the public hearing date for June 3rd.

2. **Cross Country Subdivision** – Mark Graminski, P.E./L.S., appeared on behalf of Cross Country LLC for their four lot subdivision of property located on Salisbury Turnpike and NYS Route 199, grid numbers 6471-00-929291 and 6471-00-940375. The conditional final approval for this project expires on May 3, 2009. Mr. Kingman gave a brief overview. As the Board went through the process for this subdivision, a key item was the applicant's intent to put the whole subdivision under a conservation easement with carved out building envelopes. The common driveway, which has been constructed and inspected and approved by the Town Engineer, is off of Salisbury Turnpike with a hammerhead and will provide access to the four parcels. The as built location of the common drive is shown on the map. A good portion of the individual drives are roughed in, and there is an existing well on the property which was done by the previous owner. Mr. Graminski went through the conditions of final approval. He said the Board of Health is pretty well squared away and the wetlands have been delineated by the state and the boundaries have been signed off. The applicant chose to file for the extensions due to the sluggish real estate market. Mr. Graminski said since their second extension runs out on May 3rd, they were gearing up to finalize any outstanding items. One item remaining was to execute the conservation easement with Winnakee Land Trust. The easement was voluntary on the part of the applicant and Mr. Graminski said the applicant and his attorney had negotiated an easement with Winnakee about six months ago. Steve Gelburd, one of the owners, went to Winnakee yesterday and found out the terms of the agreement had changed with regard to payment. Initially, Cross Country LLC negotiated for an initial small payment and as lot sales took place, would make incremental payments to Winnakee for the stewardship. Since that negotiation, Winnakee has changed its policy and now wants all the money up front, however, they did not contact Mr. Gelburd to let him know that and he has said he is not in a position to do that right now. The donation would be approximately \$12,000. Mr. Graminski said his understanding, from second hand information, is that the rationale behind requiring all the money up front is because Winnakee is having problems getting the additional payments from developers. Mr. Graminski said he is here this evening to discuss with this board the option of re-approval of this subdivision without the conservation easement. Mr. Jeffreys suggested they approach the Dutchess Land Conservancy before proceeding without a conservation easement. Mr. Graminski said while that is a possibility, the conservation easement was done voluntarily by the applicant and was not a requirement of this Board for the subdivision. Cross Country put in the conservation easement as part of the application as a show of good faith from an environmental point of view. Mr. Kingman said the value of the property is higher with a conservation easement as it guarantees no further subdivision and

provides protection against clearing, but there is also the one time federal tax incentive for the donation and the New York State ongoing yearly credit which is, he thought, 25% off of the land value of the land in the easement for the new owner and this whole property was going to be put into an easement with small building envelopes carved out so most of the property would be under the easement. Mr. Kingman said he spoke to Mr. Gelburd earlier and he said he has not lost interest in the easement and may do it later but this is a limited partnership and they just can't financially afford to do it now. Mr. Kingman said he hopes Mr. Gelburd appeals to Winnakee and asks them to reconsider.

As far as re-approval without the easement, Mr. Kingman said he believes the appropriate process would be to provide a new application which would reflect the same project without the easement. All the maps are drawn so it would just involve any references to a conservation easement be taken off and then the Board would have to go through SEQRA again. There are two main areas of concern. The main reason for the negative declaration was the easement so we need to look into this further. The plan as such is a good one, but because the land is surrounded by DEC wetlands, we will need planner input from the environmental side. He suggested perhaps Mr. Graminski could talk with the DEC to get suggestions. The conservation easement does two things. It protects the property and provides a yearly monitoring so if, for example, someone were digging up a back slope, they would catch that within a year and make sure it gets corrected. Without a conservation easement, there is no one to monitor the property. There is no replacement for what a conservation easement does. This Board would need to have a professional look at this and make sure we are taking the appropriate steps to best protect the site. Morris Associates contracts with a couple of environmental planners so we would probably work through them and have the Planner talk with the DEC to get their feedback on the best measures of protection. The DEC would also be involved in the SEQRA review. Mr. Graminski said we are not putting anything in the buffer areas and this subdivision has been approved already with the conservation easement. Mr. Jeffreys asked why get the DEC involved, and Mr. Kingman said the point is to get with the DEC for their experience. Mr. Graminski said the DEC's forest management group was out there because we wanted forest management due to the conservation easement, but this property is so small the DEC would not consider it. Mr. Kingman said the key consideration for this board is, we had a statement in the negative declaration stating the sensitive areas are protected under the conservation easement. We need another means to protect those areas.

Mr. Graminski said he will start processing the new application but will also talk with the DLC or the Town of Milan to go for the easement and possibly try to appeal to Winnakee. Mr. Kingman said the biggest exposure with the Town of Milan is that it is quite possible our town attorney does not have any experience with easements which will rack up attorney time which will eat into any savings by not doing the easement with Winnakee right now. Mr. Graminski said nothing is changing except the date on the map. The Habitat Assessment is done, the

wetland delineation is good for 10 years, and the negative declaration would have to be addressed in those areas that refer to the conservation easement. Mr. Kingman said one other concern is that without a conservation easement, even though there is a do not subdivide restriction on the property, under County regulations, where the stream bisects the property on the back lot, those two pieces could be broken off as a natural subdivision. Mr. Graminski said they could not do that because there is no frontage for that lot. Mr. Kingman said according to County, someone could just file the form to do just that. However, it would be a problem later. He suggested having the applicant’s attorney look at this to find a solution then the town attorney would only have to review and approve it. Mr. Jeffreys thinks there may be a code on the assessor’s card that states no subdivision allowed.

There was no action taken at this meeting.

- 3. **Chestnut Mart Site Plan/Special Use Permit:** Ciro Interrante, Architect, sent an email dated March 26, 2009 requesting the Board postpone their vote on the positive declaration for one more month as he is still waiting for input from the DEC regarding the storm water design for the ongoing site plan review of property located at 1445 Route 199, tax grid number 6570-00-536267.

Mr. Jeffreys motioned that the Planning Board table the vote on the positive declaration for the Chestnut Mart application until the May 6, 2009 Planning Board meeting. Mr. Kingman seconded.

Peter Goss, Chairman Aye James Jeffreys Aye
Douglas Cook Aye Lauren Kingman Aye
Mary Ann Hoffmann Aye
Motion carried 5-0

- 4. **Battenfeld Site Plan/Special Use Permit:** The site plan/special use permit for a public stable for Doral Farm by Suzanne Battenfeld, located at 867 Route 199, tax grid number 6471-00-540601, expired on March 3, 2009. Ms. Battenfeld submitted an application for re-approval.

Mr. Lawrence motioned that the Planning Board set the date for the public hearing for the re-approval of the Doral Farm Site Plan and Special Use permit for a public stable to be held at the May 6, 2009 Planning Board meeting. Mr. Kingman seconded.

Peter Goss, Chairman Aye James Jeffreys Aye
Jeffrey Anagnos Aye Lauren Kingman Aye
Douglas Cook Aye George Lawrence Aye
Mary Ann Hoffmann Aye
Motion carried 7-0.

5. **Barron Berg Subdivision:** Michael Duval, P.E., submitted a memo dated March 30, 2009 to the Planning Board requesting the second and final 90 day extension for the three lot Berg subdivision of property located at 1055 Route 199, tax grid number 6471-00-667652 because the coordination with the DEC and Health Department is ongoing.

Mr. Kingman motioned to grant the second 90 day extension to the Barron O. Berg Subdivision pursuant to the letter submitted by Michael Duval, P.E. dated March 30, 2009 requesting this extension. This 90 day extension will expire on August 01, 2009. Mr. Jeffreys seconded.

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

Motion carried 5-0.

6. **Turkey Hill Acres Subdivision** – Andrew Willingham, P.E., submitted a memo dated March 30, 2009 to the Planning Board requesting the second and final 90 day extension for the Turkey Hill two lot subdivision of property located on Turkey Hill Road, tax grid number 6473-00-983432.

Mr. Jeffreys motioned to grant the second 90 day extension to the Turkey Hill Acres Subdivision pursuant to the letter submitted by Andrew Willingham, P.E., Clouser & Associates, dated March 30, 2009 requesting this extension. This 90 day extension will expire on August 01, 2009. Mr. Cook seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 7-0.

Discussion Items:

- **Referral from Town Board** – The board reviewed the changes suggested at the workshop meeting to the draft document prepared by Mr. Kingman and agreed to forward the document to the Town Board.

Mr. Kingman motioned that the Milan Planning Board recommends the Milan Town Board consider the recommendations contained in the attached memo dated April 1, 2009 relative to the amendment process for petitioners. Mr. Anagnos seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 7-0.

- **Verizon Cell Tower** – Mr. Jeffreys had previously agreed to speak to Mr. Greeley from Verizon regarding their antennae upgrade that was done without Planning Board approval but he said he had not had a chance to do so but would have some information soon.
- Chairman Goss said he would be out of town for the April 30th workshop and asked Mr. Kingman to chair the meeting.

Ms. Hoffmann motioned to adjourn the meeting at 8:15 p.m. Mr. Anagnos seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Aye	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 7-0.

The next workshop is scheduled for Thursday, April 30th and the next meeting is scheduled for Wednesday, May 6th. Both meetings start at 7:00 p.m. and are held at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board Members