

TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL  
WEDNESDAY, JULY 8, 2009

MEMBERS PRESENT:

Peter Goss, Chairman  
Jeffrey Anagnos  
Mary Ann Hoffmann  
Lauren Kingman

MEMBERS ABSENT:

Douglas Cook  
James Jeffreys  
George Lawrence

ALSO PRESENT:

Glenn Butler, Highway Superintendent

Chairman Goss opened the meeting at 7:26 p.m.

**Public Hearings:**

1. **Willms-Foote Two Lot Subdivision** – Luzia Willms and Tom Foote appeared for the public hearing for their proposed two lot subdivision of property located at 211 Academy Hill Road, tax grid number 6571-00-183937. Chairman Goss opened the public hearing and read the legal notice that was posted in the paper and sent by certified mail to neighboring landowners.

There was no one present for the public hearing so Mr. Kingman motioned to close the public hearing for the Willms-Foote subdivision. Ms. Hoffmann seconded.

Chairman Goss	Aye	Ms. Hoffmann	Aye
Mr. Anagnos	Aye	Mr. Kingman	Aye

Motion carried 4-0.

Mr. Kingman motioned that the Planning Board refer the Open Development Area application for this subdivision to the Town Board with a positive recommendation for approval. Ms. Hoffmann seconded.

Chairman Goss	Aye	Ms. Hoffmann	Aye
Mr. Anagnos	Aye	Mr. Kingman	Aye

Motion carried 4-0.

The Board reviewed the conditions that were part of the final motion with Mr. Foote. One of the conditions was that the Zimmerman map needs to be the same scale as the Ross map (1" equals 40'). Mr. Foote said the size of Mr. Zimmerman's map was discussed at a previous workshop and his recollection was that the Board agreed it was okay. Mr. Zimmerman's maps are hand drawn so to change the size would be a large undertaking. Mr. Foote said they have been moving forward all this time with the assumption that the map size was okay and he would like to know why at this point does it need to be

changed. Mr. Kingman said it was a request by Jim Jeffreys that both maps be the same scale to avoid confusion but he would be willing to strike that requirement if the rest of the Board was in agreement. Chairman Goss, Mr. Anagnos, and Ms. Hoffmann agreed to strike the condition that Mr. Zimmerman's map be the same scale as Mr. Ross' map from the list of final conditions. Mr. Foote addressed another condition, "The maps are only showing the existing access way – the Board's understanding is that the access will change. That needs to be shown on the map." Mr. Foote said the driveway will be widened as per the DCDPW access but it is in the same location. The Board members agreed to strike that condition but Mr. Foote still needs to show the detail of the driveway access.

Mr. Kingman motioned that the Town of Milan Planning Board approves the following resolution: BE IT RESOLVED, the Planning Board has considered the application of Luzia Willms for a two lot subdivision;

WHEREAS, a formal application for the approval of a two lot subdivision was submitted to the Town of Milan Planning Board on March 17, 2009 for +/- 15 acre parcel of land in the A5A zoning district owned by Luzia Willms located at 211 Academy Hill Road, tax grid number 6571-00-183937; and

WHEREAS, this approval is based on a map submitted by Timothy Ross, P.E. dated May 28, 2009 entitled Driveway Plan for Willms-Foote Academy Hill Road and a map submitted by Robert Zimmerman, L.S. dated November 17, 2008 and last revised on 06/11/09 entitled Minor Subdivision Land of Luzia Willms, Page 1 of 2; and

WHEREAS, this subdivision will create one new building lot, Lot 2, of 5.026 acres as there is currently a existing single family dwelling on the parcel which will be on Lot 1, 10.49 acres; and

WHEREAS, a site visit was held on March 30, 2009; and

WHEREAS, access to Lots 1 and 2 will be via a common drive which will break off into two single drives; and

WHEREAS, there are steep slopes on the property as well as a DEC Class B stream running through Lot 2 and mitigation and protection measures have been clearly defined in the Negative Declaration; and

WHEREAS, this application received Sketch Endorsement on April 1, 2009; and

WHEREAS, the applicant wishes to reserve the future right to further subdivide Lot 1; a conceptual subdivision plan for Lot 1 was submitted and considered as part of the environmental evaluation; and

WHEREAS, the Planning Board, after considering the impacts that could reasonably be expected to result from the action against those in Part 617 of 6NYCRR of the State Environmental Quality Review Act, determined that the action will not result in any potential significant adverse impacts and adopted a Negative Declaration on June 3, 2009; and

WHEREAS, a public hearing was held on July 8, 2009 at which time there were no objections raised; and

NOW, THEREFORE, BE IT RESOLVED, that the Town of Milan Planning Board grants conditional final approval to the two lot Willms-Foote Subdivision; and

BE IT FURTHER RESOLVED, that the Chairman of the Planning Board is hereby authorized to endorse approval on said plat after compliance by the applicant with the following conditions:

BE IT FURTHER RESOLVED, that the Chairman of the Planning Board is hereby authorized to endorse approval on said plat after compliance by the applicant with the following conditions:

- S The Zimmerman=s map is labeled Page 1 of 2; the Ross map needs to be labeled Page 2 of 2.
- S Both maps need to have the same title reflecting the subdivision name: Willms-Foote Minor Subdivision. Both titles need to match.
- S The Zimmerman building envelope needs to match the Ross building envelope (the envelope shown on the Ross map is correct).
- S The Zimmerman map needs a chart which shows the original lot=s acreage and the acreage of the two lots being created.
- S The Ross map needs to be dated and show revision dates.
- S The following notes need to be added to the maps:
  - A common driveway has been approved for the subdivision and a maintenance agreement has been filed in the Dutchess County Clerk=s office.
  - As per New York State Town Law Section 280-a, Lots 1 and 2 of the Willms-Foote subdivision are designated as an Open Development Area by resolution approved by the Town Board on \_\_\_\_\_.
  - If the proposed house or driveway locations are changed from the final approved subdivision map, the property owner must obtain site plan approval from the Planning Board.
  - A conceptual plan for the future subdivision of Lot 1 was submitted for SEQR evaluation and is on file at the Milan Planning Office.
- S A new E911 address is provided

- S Dutchess County Department of Health approval is provided
  - S Town of Milan Town Board approval of an ODA which will require a declaration of common driveway easement and maintenance agreement and fire department sign off prior to being reviewed by the town attorney and approved by the Town Board.
  - S Approval access permit from the Dutchess County Department of Public Works must be provided prior to the issuance of a Building Permit.
  - S The Building Inspector must verify that the finished common drive and private drives conform to the site plan prior to the issuance of a Certificate of Occupancy.
  - S Payment of all fees as follows:
    - Final Fee: \$200.00
    - Recreation Fee: \$600.00
    - Publication Fee: \$ 87.47
- Please provide two checks, both made out to the Town of Milan, as follows:
- One for \$600.00 for the Recreation Fee
  - One for \$287.47 for the remaining fees
- The Planning Board reserves the right to require additional changes, modifications or revisions to the final plat and plans during the time period between the adoption of the resolution of approval and the signing of the final plat by the Planning Board Chairman in the event that:
    - New information is brought to the attention of the Board that necessitates revision;
    - Site conditions are at variance with those shown on the plat to be approved;
    - Changes are necessary due to field conditions
    - It is determined that the applicant/developer has made changes that are not in accordance with the plat to be approved.

Ms. Hoffmann seconded.

Chairman Goss	Aye	Mary Ann Hoffmann	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye

Motion carried 4-0.

Conditional final approval expires in 180 days (January 4, 2010) of the date of adoption of this approval. When the final plat is prepared, the applicant is requested to submit a paper copy to the Planning Board Office for review. When it is determined that all of the conditions have been met, the applicant shall submit to the Town Planning Board one (1) copy of the mylar, and five (5) paper copies of the map set for the signature of the Planning Board chairman along with any additional copies the applicant would like to have signed.

Subsequent to the signing of the plat by the Chairman, the applicant shall file the plat in the Office of the Dutchess County Clerk within sixty (60) days of the date of the signing of the plat for the subdivision or the approval will be deemed null and void.

Mr. Kingman motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the Willms-Foote Two Lot Subdivision application; and

WHEREAS, an environmental review was conducted in accordance with 6 NYCRR Part 617 of the State Environmental Quality Review Act which resulted in a Determination of Non-Significance (Negative Declaration) being approved by the Planning Board on June 3, 2009; and

WHEREAS, this application complies with the provisions of the town of Milan Code Chapter 177 (Subdivision) and Chapter 200 (Zoning); and

WHEREAS, all conditions of final approval are detailed in the resolution of Conditional Final Approval adopted by the Planning Board on July 8, 2009.

NOW, THEREFORE, BE IT RESOLVED, that the Milan Planning Board finds that the conditional final approval of the Willms-Foote subdivision application is in compliance with the Town of Milan Subdivision Regulations and Zoning Code. Mr. Anagnos seconded.

Chairman Goss	Aye	Mary Ann Hoffmann	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye

Motion carried 4-0.

**Administrative:**

Approval of Minutes: Ms. Hoffmann motioned to accept the minutes of the June 3, 2009 regular Planning Board meeting. Mr. Kingman seconded.

Chairman Goss	Aye	Mary Ann Hoffmann	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye

Motion carried 4-0.

**Applications:**

1. **Oyen Subdivision** – Maggie Oyen’s spouse was present along with Rodney Morrison, P.E., regarding Ms. Oyen’s three lot subdivision application of property located at 265 Willow Glen Road, tax grid number 6573-00-648251, in the A5A zoning district. Mr. Morrison said Estelle and Nicholas Hebra who live at 301 Willow Glen Road have agreed to the clearing necessary to achieve sight distance. Mr. Kingman said according to Mr. Paggi, the Town Engineer, we will we will need a sight line easement from the property owners

for continual maintenance. Mr. Morrison said you can do a simply described easement or a formal easement as in meets and bounds which would require a survey. Mr. Kingman said he would prefer to keep it simple. Mr. Butler, Highway Superintendent, and Mr. Paggi did a sight visit and Mr. Paggi submitted a comment letter dated July 8, 2009. The speed is 30 mph. Mr. Paggi and Mr. Butler agreed that 300 feet would be an appropriate sight distance to achieve in the westerly direction. Mr. Butler said there is vegetation and slope blocking sight distance so the vegetation would need to be removed and the slope needs to be pushed back but that is a different land owner than the Hebras which has raised the question of who is the owner, is it a town line or would it require another easement? Mr. Morrison said the surveyor found a steel pipe and on other side, it says iron bar found which indicates it is a right of way of some kind. Mr. Morrison showed the Board a map that specifically locates a right of way which scaled to 50 feet. The map references filed map #6627. He said he will look into it further but it does appear to be a right of way. Mr. Kingman suggested they first establish how to get that 300 feet and see where it falls to make sure it is fairly straight forward or if there could be further complications. Mr. Morrison said the only way to do that is to go out 300 feet, take some shots, get the real existing conditions, and then do a sight line profile. Mr. Butler said he thinks about half that bank will have to be cleared. Mr. Morrison asked if we can't get the 300 feet and we end up with a different number, where do we go from there and Mr. Butler said we'll deal with that if it happens. Mr. Butler said for driveway #2, the easterly side is fine with 280 feet with the incline and the neighbor to the easterly side is agreeable to the clearing. Driveway #2 is a deeded right of way; Mr. Mokotoff's deed should reflect an easement. The Oyens will be the appropriate party to get the driveway permit. Mr. Butler said the other driveway was fine.

Mr. Kingman said the key item we were looking for from this meeting was enough confidence that sight distance can be achieved. Mr. Butler said we would be looking for a maintenance agreement that includes a line of sight easement. Mr. Kingman said he has also spoken to Mr. Paggi to let him know we will be seeking his input on the actual drives and the positioning of the house and septic to make sure it can be done outside the buffer area. Mr. Morrison said they did the soils testing last week.

The board unanimously agreed that the Oyen three lot subdivision application has met the requirements for sketch plan endorsement with the understanding there is still an open issue of sight distance.

Mr. Kingman motioned that the Town of Milan Planning Board declare its intent to be lead agency for the purposes of SEQRA and that this unlisted, coordinated action be circulated to the following agencies:  
Involved agencies: Town of Milan Town Board, Town of Milan Highway

Interested agencies: Dutchess County Board of Health, Dutchess County Soil & Water

Mr. Anagnos seconded.

Chairman Goss	Aye	Mary Ann Hoffmann	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye

Motion carried 4-0.

Four complete packets including the map, application and EAF need to be submitted to the Planning Office to start the circulation.

The official name of the subdivision is the Oyen Subdivision.

Mr. Kingman asked the board members if they would like another site visit. He said he was on the previous site visit, we know the concerns, so he does not feel another site visit is required and board members agreed that at this time, another site visit is not required.

2. **Chestnut Mart Site Plan/Special Permit** – Ciro Interrante, Project Architect, sent an email dated July 2, 2009 updating the Board on the progress with the DEC and requesting the Planning Board postpone the positive declaration vote for this project until the August meeting.

Mr. Kingman motioned that the Planning Board table the vote on the positive declaration for the Chestnut Mart application until the August 5, 2009 Planning Board meeting. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye	Ms. Hoffmann	Aye
Jeffrey Anagnos	Aye	Mr. Kingman	Aye

**Discussion Items:**

- **Verizon** updated their antennas without a building permit some time ago on their tower located on Salisbury Turnpike. AT&T has a tower located on the same site and came in and followed proper procedure to update their antennas and AT&T was assured that Verizon would be required to follow the same steps. Since no response has been received by the Planning Office following several communications, Mr. Kingman suggested sending them a letter stating it is the Planning Board's understanding, based on information received from our RF Engineer, that Verizon has made a technical upgrade on this tower which required a Building Permit which was not obtained and also requires an update of the Special Use Permit. Consequently, the Verizon tower is in violation of the Town of Milan zoning code and it is required they submit a Special Use Permit/Site Plan application to the Planning Board. Then, if nothing is submitted, this can be turned over to the Town Attorney.

David Groth should be able to provide the name of the appropriate person to send this letter to.

Mr. Kingman thinks there is an order the ZEO can issue which would subject Verizon to a \$250 a day fine.  
Chairman Goss motioned that the Planning Board authorized Mr. Kingman to draft a letter similar to what is stated above in the minutes to Verizon, send to the Town Attorney for his approval, then send it to Verizon to get this matter officially in front of them.  
Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye	Ms. Hoffmann	Aye
Jeffrey Anagnos	Aye	Mr. Kingman	Aye

Motion carried 4-0.

Ms. Hoffmann motioned to adjourn the meeting at 8:20 p.m. Mr. Anagnos seconded.  
All aye. Motion carried 4-0.

The next Planning Board workshop is scheduled for Thursday, July 30, 2009 and the next regular Planning Board meeting is scheduled for Wednesday, August 5, 2009. Both meetings start at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board Members