

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL  
WEDNESDAY, FEBRUARY 9, 2011

MEMBERS PRESENT:

Peter Goss, Chairman  
Lauren Kingman  
James Jeffreys  
Joan Wyant

MEMBERS ABSENT:

Jeffrey Anagnos  
William Fiederlein  
George Lawrence

Chairman Goss opened the meeting at 7:05 p.m. There were no public hearings scheduled.

**Administrative Items:**

- Approval of Minutes: Mr. Kingman motioned to approve the minutes of January 5, 2011 as presented. Mr. Jeffreys seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Absent	George Lawrence	Absent
William Fiederlein	Absent	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 4-0

**Applications:**

1. **Town of Milan/Misti Nolan Lot Line Adjustment:** Jay Paggi, Town Engineer, was present on behalf of both applicants for this lot line adjustment application between Misti Nolan, 924 Salisbury Turnpike, tax grid number 6571-00-117158 and the Town of Milan as part of the easement area along the Salisbury Turnpike Bridge. The property is located in the A3A zoning district. There is a letter of consent in the file from Misti Nolan for Mr. Paggi to act on her behalf. Mr. Paggi said currently, part of the easement area for the bridge, 974 square feet or 0.02 acres, is on Ms. Nolan's property. Since the Town will be replacing the bridge in the springtime of this year, it made sense to combine that 974 square feet with the road deeded right of way. Mr. Paggi explained that Salisbury Turnpike used to be a state road which was, at some point, abandoned to the Town. There are a couple of bridges on Salisbury, this being the center one built in the mid-twenties. In 2008, the Town Board asked us as the Town Engineers to assess the condition of the four existing bridges in the town, this being one of them. Thus far, they have replaced the first two and repaired the one in Rock City. This is the last bridge that needs replacement. Mr. Paggi submitted pictures of the bridge taken two years ago and he said if anything, due to the severe winter weather this year, the conditions will have worsened. Some of the problems with the bridge are the curb is down in the stream, the reinforcement in the bridge deck is exposed and dangling down and on the north side, the deck has fallen off in three locations. This bridge needs to be replaced this year or by the middle or third quarter of year, the road would need to be closed. Mr. Paggi said the easement area on Ms. Nolan's property is about 725 feet from the house at the extreme northwest of the 5 plus acre parcel. Once this .02 is transferred to the Town, Ms. Nolan's

lot will be 5.05 acres. Per John Greco, Town Attorney, Ms. Nolan has agreed to turn over the land. Ms. Nolan does have a mortgage on the property so this transaction required the mortgage holder's approval and in the middle of this transaction, she refinanced and changed institutions so that did slow things down somewhat but Mr. Greco just got final authorization from Chase Morgan. They did have to do an appraisal which reflected no reduction in the appraised value of the property. Mr. Paggi said the reason we are proposing this lot line adjustment is to place the new bridge totally on Town property. Currently, the bridge encroaches on properties in the northeast and southwest corner, one of the properties being Ms. Nolan's. When we replace the bridge, we want to realign the road, increasing the radius of the curve, move the pavement 6 to 7 feet to the south, and thirdly, the stream hits the southeast corner of the abutment and formed a sand bar so we are moving the southeast corner of the bridge about 3 or 4 feet to allow the stream to run its natural course and removing the part of the bridge that encroaches on that neighboring property. The Town Board is in approval of the bridge portion of this proposal, the Planning Board will approve the lot line adjustment, and the Town Attorney is in concurrence with everything we are doing this evening. Mr. Paggi said we want to schedule the work to be done this summer for two reasons. One, the DEC permit required to protect the stream says we need to be out of the stream by September 30<sup>th</sup> and, secondly, we want to do the work when school is closed to minimize disruption. In order to follow that time line, we need to be out to bid by mid-March so that we can award the bid in May and start construction the third week in June. The road will be closed for the duration of the project with appropriate barriers in place. We applied for the DEC permit the week before Christmas. They have just started to look at it but we will have the permit in time to go out to bid in mid-March. Mr. Paggi said he is here tonight to get the public hearing set for the March meeting. He said the Town Board, two years ago, completed SEQRA on the overall bridge replacement but that did not include the land taking so we submitted a subsequent short form as part of this application packet.

Mr. Kingman said Mr. Paggi had a discussion with Mr. Greco as far as what to call this small triangle of property that is being conveyed. Currently, it is shown as Lot 2 on the map which implies we are creating a lot. Mr. Paggi said there is a note on the map stating "Lot Line Re-alignment of lands NF Misti Nolan. Proposed Lot 2 (R.O.W. taking) to be transferred to the Town of Milan to become part of the Salisbury Turnpike road right-of-way. Lot 2 is not a 'build-able' lot. Lot 2 has a total area of 974 +/- square feet / 0.022 acres." He said Mr. Greco is in agreement with that language and does not think the map needs to be changed with regard to Lot 2. Mr. Paggi said he would rather not change the map as they already have Ms. Nolan's signature on the map. Mr. Greco told Mr. Paggi to convey to the Planning Board that all his concerns have been addressed and there is a letter from Mr. Greco to the Town Board stating he has all the legal documents necessary. Mr. Kingman said his other concern was calling this a right-of-way taking and he wanted in the record that this is a taking in fee in which the Town is acquiring the property, this is not an easement.

The Board members agreed that this application meets the requirements for sketch endorsement.

Mr. Kingman motioned that the Planning Board set the date for the public hearing for the Town of Milan/Nolan Lot Line Adjustment to be held at the March 2, 2011 Planning Board meeting. Ms. Wyant seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Absent	George Lawrence	Absent
William Fiederlein	Absent	Joan Wyant	Aye
James Jeffreys	Aye		

Motion carried 4-0

- Oyen Subdivision:** Maggie Oyen was present to discuss the driveway maintenance agreement for common driveway number 2 for the Oyen subdivision of property located on Willow Glen Road, tax grid number 6573-00-648251. She said currently, the deeds and the agreement for common drive number 1 have been approved by the Town Attorney. She said they added two items to the CD #2 agreement. One was a dispute resolution protocol and second, both lots are unimproved and vacant so they added that neither party is responsible for building a driveway for the party that isn't building a dwelling, i.e. if Mr. Mokotoff decides to build a house, he does not need to pay for my driveway. Ms. Oyen said the problem she is having is that Mr. Mokotoff has not responded to any of her attempts to contact him regarding this easement agreement. As a result, her attorney, Peter Klose, and the Town Attorney, John Greco, suggested Ms. Oyen talk to the Board and find out if Mr. Mokotoff needs to sign off on the agreement. Ms. Oyen said the common drive area is our land and Mr. Mokotoff has an easement since 1963 to use it to access his land locked property. Ms. Oyen said she thinks the problem is that until he showed up at the Planning Board meeting months ago, Mr. Mokotoff was under the belief that he owned that strip and he now knows that the property is owned by us. It's possible he does not understand he will never lose full access. So, Ms. Oyen asked the Board if Mr. Mokotoff's signature is necessary on the CD #2 driveway maintenance agreement. Mr. Jeffreys said we are not injuring Mr. Mokotoff by him not signing this document; he still has full rights. Mr. Jeffreys said he would have no problem with this if Mr. Greco reviews this and agrees that Mr. Mokotoff's rights and privileges are preserved and the agreement serves mainly to answer the requirement in the subdivision regulations. There is no liability to Mr. Mokotoff at this point. Mr. Kingman said if one party is volunteering to take on the full responsibility, then that meets the legal requirements and he does not think a maintenance agreement needs to be in place. Ms. Oyen said if Mr. Mokotoff chooses to build on his land and we have not yet, we are not responsible to build his driveway for him. Mr. Kingman said he does not know how enforceable an agreement will be if Mr. Mokotoff does not sign it. What needs to be put in place is a one sided document, not an agreement since there is no one to agree with but since there is an ODA, someone has to be responsible at the time of development to make sure the driveway meets the subdivision

requirements. If the owner of Lot #3 builds first, the driveway would go all the way to the back and they would be 100% responsible. Ms. Oyen said that is what the agreement says. Mr. Kingman said if Ms. Oyen does this “non-agreement”, she would agree to make sure there is access and that the driveway is kept in reasonable shape, passable, etc. He suggested that if she is going to do that, her attorney should put in a clause that states that the sole person responsible is the sole person to determine what is considered adequate maintenance. The key concern of this board is that an entity has the responsibility and in this case, the entity would be the owner of Lot number 3. This Board will need Mr. Greco’s approval of the agreement. Mr. Kingman suggested they may want to clarify that the agreement is open to re-negotiation. She should convey to Mr. Greco that the Board feels that as long as we have a legally binding maintenance agreement and if the Oyens are willing to take that on, that will satisfy the Planning Board’s requirement

Ms. Oyen said the conditional final approval for this subdivision is scheduled to expire at the end of February. She said she is in contract and has paid for the sight line work that needs to be done but due to personal circumstances, the work could not get done prior to the winter weather setting in and now it will have to wait until spring. Mr. Kingman said we have encountered this problem in the past. The code does not allow any extensions beyond one year. What the Board usually suggests is that the applicant wait until the work is almost complete, then re-apply which will involve payment of the application fee and a second public hearing, and then close it out. If she re-applies in March, then the Board could schedule the public hearing for April.

Mr. Jeffreys motioned to adjourn the meeting at 7:45 p.m. Ms. Wyant seconded.

Peter Goss, Chairman	Aye	Lauren Kingman	Aye
Jeffrey Anagnos	Absent	George Lawrence	Absent
William Fiederlein	Absent	Joan Wyant	Aye
James Jeffreys	Aye		
Motion carried 4-0			

The next workshop is scheduled for Thursday, February 24<sup>th</sup> and the next meeting is scheduled for Wednesday, March 2<sup>nd</sup>. Both meetings are held at the Town Hall and start at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board