

**TOWN OF MONROE PLANNING BOARD
WORKSHOP MEETING JANUARY 5, 2010**

The Town of Monroe Planning Board held a workshop meeting at 7:30 p.m. at the Monroe Senior Center, located at 101 Mine Road, Monroe, New York. Present at the meeting were Chairwoman Bingham, Members Finnerty, Etzel, Cappola and McWatters. Consultants present were Planner Dotson, Attorney Donnelly and Engineer Murphy

Bald Hill Subdivision – Steve Gaba, Esq. representing Town of Monroe Town Board and Town of Monroe Planning Board through the insurance company in a lawsuit. The lawsuit results from Town Board and Planning Board action in regard to a proposed development of the Bald Hill property. There was a settlement worked out and Mr. Gaba needs the planning board's consent to settle the action. The stipulation does not actually require the planning board to take any action. Mr. Gaba stated that the property owner Dubja Realty owns 70 acres of land on Route 105 and they propose to develop this land with multifamily dwellings in three commercial lots. In 2003, Dubja came to the Town Board requesting a zoning change from LI to URM and the Town Board granted the petition for a zoning change on condition that Dubja agree to limit the number of units to be developed to 112 units. As the plans went forward Dubja's proposal for access turned out to be two roadways off of route 105. The southerly more of the two roadways had large retaining walls which eventually would require repair and maintenance and by that time there was a question as to who would pay for this repair and maintenance. The applicant then came up with another plan. The other plan was instead of building a southerly road, they would build a connection to Larkin Drive north. In building that roadway the applicant would incur substantial additional costs. In order to offset the cost the applicant approached the town board and asked for the unit count to be raised from 112 to 138. The town board agreed in November 2007. Now at this point there were three alternative plans, (1) old plan with two roads one with high retaining walls (3) Larkin Drive Extension with 138 units (2) if they could not get the land to build it, they would have the ability to build two southerly roads with high retaining walls unless someone else comes in and builds Larkin Drive extension in which case since they did not pay for the construction of the road they would be limited to 112 units.

Member Finnerty commented that in the new comprehensive plans these side retaining walls cannot be built. Mr. Gaba stated that that may be the case but it is subsequent to this.

Mr. Gaba stated that Dubja was trying to obtain the land and they were having difficulties. They came back to the planning board and asked for approval of alternative no. 3 and no. 2. The planning board was ready to approve alternative no 3, but then the applicant was concerned they could not get the land and they really need no. 2 approved as well. The planning board approached the town board. We do not know if we could approve two plans and Dubja went before the Town Board and ultimately on June 2, 2008 the Town Board adopted a resolution rescinding its prior resolution bringing the

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count to 138 and unit count stays at 112, as they did not believe Dubja could get the land. A week later the planning board approved alternative no. 2 with conditions. There was a lawsuit filed by the applicant to overturn the town board resolution, overturn the planning board's resolution to modify it to provide for approval of alternative no. 3 and no. 2. and they also wanted money damages. Eventually the Court called both sides in and the court suggested they pursue settlement negotiations.

The proposed stipulation provides that instead of building the Larkin Drive extension, Dubja is going to pay in over \$1 million dollars to the town for construction of the roadway. The town is not obligated to build the road. If it turns out the roadway is not constructed, the town gets to keep the money. In return, the town will rescind the resolution that rescinded the original resolution which allowed for the construction of 138 units and modify that when Dubja paid the \$1 million dollars that it will have the right to construct up to 138 units.

There is a provision for vesting of rights when the money is paid and it will be considered exactly as if the roadway had been built.

It is agreed that Dubja has no obligation to pay \$1 million dollars to the town if it does not receive final site plan approval consistent with the terms of the settlement. It will be a condition of final approval that \$1 million dollars towards the roadway will be paid if that be the same as constructing the roadway as a condition of final approval.

As far as the planning board, the stipulation of settlement has been made conditioned upon some actions by the planning board. First, of course is agreement to this stipulation. Another is that looking at alternative 3, the planning board was ready to grant preliminary approval back in 2007, now it has to be granted by February 9, 2010. If preliminary approval is not granted, then a condition of the settlement will have failed and the parties will go back to Court. By March 9, 2010, with regard to SEQRA, the determination must be made in regard to certain changes that will be proposed by the applicant on the revised plan and a resolution will be prepared amending the prior resolution in order to comply with SEQRA. These determinations must be made by March 9, 2010 or Dubja has the right to revoke the settlement.

Member Finnerty stated that what we are being asked to approve at the meeting in February is the prior plan which had already been approved by this board. Any changes will happen subsequent. Mr. Gaba agreed. Mr. Gaba also stated that if there is a problem coming up with the SEQRA determination in March, Dubja is not obligated to cancel the stipulation of settlement, it can afford the planning board more time. If you need more information, and you state the reasons why they can afford you more time.

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He is seeking a resolution from the board accepting the settlement and authorizing the chairperson to sign off on it.

Member Finnerty stated that after Mr. Gaba is finished the applicant will be making a presentation.

Attorney Donnelly stated that the board would like to talk about future changes. Mr. Gaba stated this should be completed first. There was discussion as to whether the discussion with the applicant should be before or after the stipulation is signed. Planner Dotson stated she believes the planning board wants to hear the presentation prior to agreeing. One of the members asked if the settlement says that the board is giving them preliminary approval. Attorney Donnelly stated it does not, it says that if they do not get preliminary approval that they could back out of the settlement. Engineer Murphy stated that the plan 3A is already done. The next plan 3B (or 4) which is due the following month will need to be discussed and the water testing is the biggest issue. Member Finnerty stated that part of the stipulation is that part of the lawsuit in which they will be allowed to conclude the water between preliminary and final. Attorney Donnelly stated that they always conclude water between preliminary and final, what is different about what this envisions is that the environmental analysis of the water would occur between preliminary and final instead of before preliminary because the water would always be a component that required other agency approvals that would not come until final. Member Finnerty understands that the March plan enables the planning board to set forth issues that have to be answered between preliminary and final. We do not have to go with the plan by March. The plan between preliminary and final is when some of the details will possibly be ironed out. Attorney Donnelly stated that the board would have to spell out what would need to be done before final. Member Finnerty stated that a condition of the stipulation is that they get preliminary on the current plan that has been reviewed and the second preliminary at which point the board would identify the areas that have to be done and they would have between that time and final to complete. Mr. Gaba agreed. Planner Dotson stated that they are retaining flexibility because they would like to be cooperative with the planning board but they do not want to get bogged down. Engineer Murphy asked about the submittal of the plans in this time line. Member Finnerty stated they were received today.

With regard to escrow, we received \$5,000.00 today and the consultants have to come up with a reasonable estimate of costs.

Member Cappola asked if SEQRA needs to be redone. Planner Dotson stated not on alternate 3. The only question on SEQRA is on the modifications of the plans and the water supply. Attorney Donnelly stated that SEQRA would have to be covered. What the stipulation envisions is that the on site ground water supply is an environmental issue

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that was not addressed in the EIS and the planning board will need to address it, preferably between preliminary and final approval and really by the DEC who will require that type of review.

A motion was made by Member Cappola authorizing the chairperson to sign the Stipulation of Settlement, seconded by Member McWatters. The vote was 5/0.

Attorney Donnelly stated that at the February meeting the planning board has to re-approve alternative 3 and by March 9th, set forth the parameters before giving final approval to alternate 4 (or 3b). Member Cappola asked if there will be another public hearing. Attorney Donnelly stated that the board has to decide whether or not that proposal is in substantial conformity. It's only the subdivision part that would require that and he does not know if there is any change in the subdivision that would mandate a new hearing. That does not have to be decided tonight. If what was already approved is not substantially different than what is presented you need not hold a public hearing. You could hold a public hearing. Member Finnerty stated that the preliminary approval does not include the wells. Attorney Donnelly stated that the stipulation says that on March 9th, the planning board will adopt a resolution amending the preliminary approval resolution for 3 to incorporate the modifications and set forth any conditions of final site plan. You will need to issue an amended preliminary approval and if there is further review required included SEQRA type review environmental review, it would have to be spelled out in the resolution exactly what the parameters of the additional review would be and this has to be included in the amended preliminary approval resolution by March 9th unless extended by the applicant.

Engineer Murphy stated that the original plan which was approved be re-approved as alternate 3. Between now and March 9th, alternate 4 (or 3b) and figure out what additional conditions if any need to be placed on that plan. Planner Dotson stated that Chris Landes does have a good idea what criteria the board has established for the layout in terms of things like driveway lengths, walkways, etc. and how the new plan met the criteria. Member Finnerty stated that the plan has been presented to emergency services and they are reviewing the turn ratio for the fire and emergency vehicles. The highway superintendent has looked and he does not have a problem with it.

Attorney Donnelly stated that the plan shows the potential locations of the wells. Planner Dotson stated that they have to have more than one well. Member Cappola asked whose obligation is it to bring all this information by that date. Attorney Donnelly stated that obviously if the applicant does not, the board will not issue the resolution and then it will be up to them.

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Chris Landes refers to plan 4 (3b) The most significant change from 3 to 4(3b) is the elimination of the Larkin Drive extension/connection to the Bald Hill site. The road width reduction is from 30 feet to 26 feet. Planner Dotson concerned with parking on roadways. Chairwoman Bingham stated that a homeowners association could set up an enforcement agency. Attorney Lithco said that will be the attempt. Member Finnerty stated that there is a requirement for two access points. The road below the Rosachi property was dug for the well testing. Without any retaining walls, that would be proposed as an emergency exit. There was some discussion with regard to this. This will be reviewed.

Mr. Landes stated that the buildings have been rearranged. Some six unit buildings have been split into two three unit buildings. Member Finnerty asked for an overlay. Mr. Landes stated it is in the package presented today. With regard to parking they have tried to provide 25 feet (minimal 20 feet). Member McWatters questioned parking for extra cars. There was some discussion with regard to the cars and parking.

Engineer Murphy suggested doing a typical building layout establishing all of the minimal dimensions for setbacks for roadways and do it at a 20 scale.

Member Finnerty asked about the phasing part of the adult units. Mr. Lithco stated that the current concept is to phase the overall development.

Attorney Donnelly stated that they would have to find a reasonable basis to require the phasing.

Engineer Murphy asks about the phasing plan. Mr. Landes stated that they refer to it as the sectioning plan. This plan relates to the way the condominium associations are filed. There will be an overall Homeowners Association (HOA) for the common roadways and there will be sub associations proposed and filed with the Attorney General's office. Mr. Lithco stated that what this basically does is allow the 138 units overall development be broken up into separate condominium filings. The purpose is to facilitate the process through the Attorney General's office which has to approve the condominium plan. They require a certain number of units be sold before the plan can be implemented. Member Finnerty stated that on the planning board's behalf that we have to look at how the phasing impacts what infrastructure has to be put in place.

A motion was made by Member Finnerty to extend the preliminary approval until July 15, 2010, seconded by Member Etzel. The motion was granted 4/0. (Member Cappola was out of the room.)

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Member Finnerty commented that the decisions made on this project are to end the pending lawsuit and not to start a precedence.

Status and Readiness of Pending Matters

1. **Shirazi Sudivision – requesting public hearing** – Engineer Murphy stated that the well testing is not complete; not ready for public hearing; he will contact applicant about being put on the agenda after the well testing has been conducted.
2. **Henry Farms –Highview Phase- Lakes Road, Tax Map 29-1-29.52-** applicant is seeking preliminary approval –still needs well testing in conjunction with Health Department– applicant will appear to grant 62-day extension subsequent to closing of public hearing.
3. **Raywood Cemetery – Raywood Drive, Tax Map 43-3-7, 8, 9** Engineer Murphy stated that there was a discussion with the engineer Petrzak & Pfau on December 21. The applicant redefined the boundary of phase I and defined a line along the same access as the plots that were being laid out. This would clearly show what was in each phase. There will also be a fence. There is minimum grading and deep test holes were dug so that there is a good indication of cuts and fills and rock issues. There is major earth work going on. Planner Dotson is concerned about the houses. Planner Dotson is concerned about the two houses on the site. The applicant will be removing both houses on the site on phase I. Engineer Murphy stated that the current plan is workable. Planner Dotson will have resolution prepared for the meeting next week.
4. **Shea Meadows Subdivision – Rye Hill Road, Tax Map 31-1-1.1-** Applicant is requesting conditional final approval. Member Finnerty met with Brian Smith, John Karl and John O'Rouke with regard to Village of Monroe water and has asked them for a letter to be part of the file. Engineer Murphy stated that there are procedural steps to be concluded before there is a final sign off.
5. **Polak Farm Subdivision – Berry Road and Rye Hill Road – Tax Map 31-1-18.31, 19.2 & 29 and Fini Subdivision – Rye Hill Road, Tax Map 31-1-25.42, 27 728** Planner Dotson stated that there needs to be an amendment in Phase II of Polak as they were going to enlarge the basin and relocate one of the lots. Engineer Murphy stated that what is shown on the Polak plan is how the Fini drainage is going to tie together at a point, be piped down the line and be brought into the stormwater retention basin. Joint drainage agreed to by both projects.

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Attorney Donnelly stated that the resolution should indicate that the pond has to be completed. Whoever builds pond has to bond it. Lot has to be offered to town. This is a standard public improvement.

- 6. Quick Check Site Plan – Route 17M and Orchard Drive, Tax Map 25-1-14.1**
Planner Dotson stated that she believes there should be some minor changes, for example the bottle return center off of the loading zone should be moved. A landscaping plan is needed for storm water basin. This should be added as a condition of approval.

- 7. Glenwood Site Plan - Route 17, Tax Map 1-2-10.21-Engineer Murphy** stated that everything laid out on the plan looks good. There is still no landscaping plan, no architectural plan . Planner Dotson concerned about cutting and stabilizing trees. There are questions with regard to the trees. They should provide a tree survey. Member Etzel stated that there should be a delineation where property ends.

- 8. Vintage Vista Subdivision – Tax Map 1-2-2&9 - Engineer Murphy** stated that they want to strike another deal for an interim developer’s agreement for Phase II. He wants to know what is going on with Phase I.