

TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL
WEDNESDAY, FEBRUARY 3, 2010

MEMBERS PRESENT:

Peter Goss, Chairman
William Fiederlein
James Jeffreys
Lauren Kingman
George Lawrence

MEMBERS ABSENT:

Jeffrey Anagnos
Douglas Cook

ALSO PRESENT:

David Byrne, Town Board Liaison

Chairman Goss opened the meeting at 7:00 p.m. There were no public hearings scheduled.

Administrative Items:

- Approval of Minutes: Mr. Jeffreys motioned to approve the minutes of January 6, 2010 as presented. Mr. Lawrence seconded.

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

Motion carried 5-0

- Correspondence:

From NYS DEC to William Gallagher, Milan Supervisor and Raymond Statts, Clermont Supervisor, dated January 25, 2010, re: Roe-Jan Mine Modification (Red Wing Properties, Inc.) Towns of Milan, Dutchess County and Clermont, Columbia County, DEC Application ID No. 0-9999-00144/00001

Applications:

1. **Oyen Subdivision** – Maggie Oyen, Applicant, and Richard Hanback, L.S., were present for this proposed three lot minor subdivision of property located on Willow Glen Road, tax grid number 6573-00-648251. Mr. Hanback said we have made many revisions to the plans since the last meeting based on Mr. Paggi's, Mr. Harper's, and the Fire Department's comments and are presenting these updated maps for discussion. Mr. Hanback also submitted the driveway maintenance agreements. He said he added a note to the map about the private driveways being 10 feet, the paved common driveway aprons, culverts being five feet past the driveway edge, etc. The improvements on common drive 1 will be on the right side due to the embankment so they can only extend the culvert five feet on the right side. The drives all conform to the 35 foot internal radius and the E911 signs are shown on the map. They do not have a sprinkler system proposed for the house. Mr. Kingman said Mr. Paggi, in his letter of January 15, 2010, stated his opinion that the grading work for Common Drive 2, which will require a Town

Highway Work Permit, should be done and demonstrated as complete prior to the Chairman signing the map as well as the access ways for both common drives completed and demonstrated as completed prior to the Chairman signing the maps so these items will be conditions of final approval. Also, on the map, it needs to be made clear that the apron detail applies to both common drive 1 and common drive 2. Mr. Hanback said he thinks they have addressed all of Mr. Paggi's comments in his letter dated January 10, 2010 and Mr. Harper's letter dated January 22, 2010, although he questioned the intent of no. 15 under Final Plat Map. Mr. Kingman said he thinks that is referring to the fact that there are existing easements and that there will be driveway maintenance agreements. Mr. Hanback said the deed references to the Mokotoffs' easement are noted on the map. Mr. Hanback asked if both sheets have to be filed. Mr. Kingman said we will not need updated maps for the public hearing. Once you receive conditional final approval, you will have to satisfy the conditions of approval prior to the Chairman signing the map. Whatever is done prior to filing can be taken off the detail map. For instance, both accesses will be done and the entrances will be improved so that detail can be removed. Mr. Hanback said they are going to try to squeeze everything onto one sheet. They will add a note to the map to be filed in the County Clerk's office which will refer to the map that will only be on file in the Planning Board office which will show the proposed location of the septic systems. Mr. Kingman asked if, based on the area of disturbance, they will need to obtain a DEC permit. There will have to be an indication on the map of what the total amount of disturbance is for the whole project, "disturbance" being anywhere where the soil is going to be touched. Mr. Morrison will need to provide that information.

Mr. Kingman said there are a number of items that need to be added to the map, i.e. a do not subdivide clause. Overall, the impacts of this project are minimal. The negative declaration will need to include a statement for the recreation fees, no further subdivision, a statement that the responses from the interested and involved agencies were nothing of substance, a statement that the habitat assessment was done, statements that the 100 foot wetland buffer will be maintained, there are sediment controls in place, amount of disturbance, and list what is protecting the wetlands. Everything in Mr. Harper's memo, of which Mr. Kingman had several corrections, would not need to be included in the neg dec; rather, the neg dec would refer to this amended memo.

Mr. Lawrence motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board sets the date for the public hearing for the Oyen Minor Subdivision to be held at the March 3, 2010 meeting. Mr. Fiederlein seconded.

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

Motion carried 5-0

Mr. Jeffreys motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board forwards the Oyen Minor Subdivision application to the Town Planner to create drafts of the Negative Declaration, resolution to approve the Negative Declaration, and a conditional final resolution. Mr. Fiederlein seconded.

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

Motion carried 5-0

2. **DelPercio/Cassata Lot Line Adjustment (Minor Subdivision):** Michael DelPercio was present for this lot line adjustment between three existing lots located on Round Lake Road, tax grid numbers 6470-00-120811 (Parcel II)/123723(Parcel I)/156718 (Parcel III)-00. Parcels II and III are owned by the DelPercios, and Parcel I is owned by the Cassatas. Parcels I and II have existing dwellings and Parcel III is vacant. The Dutchess County Department of Public Works has approved the entrance in a memo dated December 29, 2009. The notes required by the DPW are on the map. Once the Planning Board grants conditional final approval, the DPW will issue a highway work permit, the access work will need to be completed, and the DPW will provide a letter of completion prior to the Chairman signing off on the map. Mr. DelPercio explained to the Board that the new boundary line is too close to the existing house but he is renovating the house, and once the renovations are complete, the house will meet the required side setback. The drawings are complete and he has hired a contractor. Mr. Kingman said the two existing barns in the front yard appear to be located within the front setback. Even though they are existing, since the lot is changing, Mr. DelPercio will need to apply to the ZBA for a variance for the barns. His surveyor will need to put the existing setbacks on the map for the ZBA to see exactly how far they are from the front line.

Mr. Kingman motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board agrees the DelPercio/Cassata Lot Line Adjustment application has met the requirements for sketch plan endorsement. Mr. Lawrence seconded.

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

Motion carried 5-0

Mr. Kingman explained that once Mr. DelPercio receives conditional final approval, he will have to satisfy all of the conditions before the Chairman can sign the final map.

Mr. Kingman motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board forwards the DelPercio Lot Line Adjustment application to the Zoning Board of Appeals for the existing building or buildings located within the front yard setback and the Planning Board recommends the Zoning Board of Appeals grant the requested variance(s). Mr. Jeffrey seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
William Fiederlein	Aye		

Motion carried 5-0

Mr. Kingman motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has scheduled the public hearing for the DelPercio/Cassata Lot Line Adjustment for the March 3, 2010 meeting. Mr. Lawrence seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Absent	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
William Fiederlein	Aye		

Motion carried 5-0

- Willms Site Plan Amendment:** Kristina Dousharm appeared on behalf of Karen Willms to present an adjustment to the driveway of a subdivision that was approved in July of 2009 and is filed map number 5501A in the Dutchess County Clerk’s office. The property is located on Academy Hill Road and is newly created tax parcel number 6571-00-190894. They are proposing to adjust the location of the driveway and house but the house will still be within the defined building envelope. The driveway will still come off of the existing driveway but will come up in front of the house rather than behind the house. The reason for the relocation is that the back of the house opens up to a view so it is just the preference of the property owner. The location of the septic has not changed. The Board agreed that this proposal looks fine. Mr. Kingman said since the original map has been filed, the action will be approving a change to the filed map, a site plan amendment. We will compare the original map to the amended map, amend and re-approve the declaration of significance and then make a motion to approve the change. We can use the original paperwork for reference. The Board agreed there is no need for a public hearing; the action is completely within this lot. We can approve sketch endorsement tonight and then at the next meeting, grant the formal approval. In the interim, there does not seem to be any reason the Building Inspector could not issue the building permit so they can get started.

The Planning Board was in agreement that this site plan amendment meets the requirements for sketch plan endorsement.

This application is on the Planning Board agenda for the March 3rd meeting with the goal of amending the existing negative declaration and granting approval of the site plan amendment.

4. **Mancini Subdivision:** Ann Mancini was present for this proposed three lot subdivision of property located at 34 Louise Terrace, tax grid number 6371-00-932745. They submitted updated maps prepared by Timothy Ross, P.E., sheets 1 of 2 and 2 of 2, dated January 29, 2010. Mr. Kingman pointed out that the “Not in Application” needs to be removed from the Mancini lot, Lot 4, as that is the lot that is being subdivided. “Not in Application” needs to be moved to the adjoining lot with the garage. Mr. Kingman said one of the requirements will be the legal documents and the wording of the note that will prevent the 1.045 acres on the west side of Louise Terrace that is part of Lot 4 to ever become separated from the 2.033 piece on the east side of Louise Terrace. A condition of the subdivision is that the 1.045 acre piece is to forever remain with the 2.033 acre piece and will never become a separate building lot. The Planning Board attorney will provide the Planning Board with the appropriate method and verbiage to accomplish this and will then have the applicant’s attorney review it. Since this will require attorney review, the escrow account will need to be replenished to \$1,000 since the only expense will be the attorney fees. Another consideration is whether or not the cul de sac should be constructed since there will be another access onto it from Lot 3C. Glenn Butler, Highway Superintendent, was present and he said he does not see any need for the full cul de sac to be constructed but would like to reserve the right for the future by a note on the map. There is a turnaround area existing now. The Board agreed the Fire Department will need to do a site visit to see if there are any improvements that will be required for emergency vehicle access. The Clerk will forward the information to Bob Haack of the Fire Department and he will coordinate a site visit with Mr. Butler.

The Planning Board agreed that the Mancini Subdivision application meets the requirements for sketch endorsement.

Mr. Lawrence motioned that the Planning Board approve the following resolution: Be It Resolved, the Planning Board sets the date for the public hearing for the Mancini Subdivision for the March 3, 2010 Planning Board meeting. Mr. Fiederlein seconded.

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

Motion carried 5-0

Discussion Items:

- George Carrothers appeared before the Board to discuss the Highway Business zoning district which currently does not allow residential and commercial uses on the same lot.

Mr. Carrothers said he is planning to petition the Town Board to change the current zoning to allow residential and commercial uses on the same lot in the Highway Business zoning district. He said currently, there are only two or three properties in the Town that don't have a mix of residential and commercial from Rock City to Lafayetteville so pretty much all of Highway Business is in violation. On the flip side, there are a considerable number of properties in Town that are zoned residential that have a commercial use on the property as well which fall under the home business category. Mr. Carrothers said that is one of his issues. His next issue is related to the dance hall. According to the fire code, he needs to install a sprinkler system but the Town does not have municipal water. He needs to provide 9,000 gallons of water. He said he petitioned the State to allow him to use a dry system but that is not allowed in a building of public assembly. Mr. Carrothers said that leaves him with two options: the first option is to put up a water tower but he does not think a water tower along Route 199 would be visually appealing. His second option, there is a mobile home on the property that has been there since 1971 and is residential. He feels it is the desire of the Town that the mobile home be removed from the property. Years ago, he proposed removing the mobile home and building a stick built structure that would be more in keeping with the dance hall building and the other Morehouse Lane properties. Mr. Carrothers is now proposing that the Planning Board consider moving ahead with allowing him to remove the trailer and build a stick built building that would accommodate one apartment to provide income and within that structure, he would construct a water storage system that would feed the dance hall. He said we would be getting rid of the mobile home and would have a structure that looks appropriate to the area and would remove the need to have a water tower or a tank out in the field which would be visually unattractive. Mr. Kingman said when you say commercial, we don't have commercial, we have Highway Business and Hamlet. We do not allow in HB a mixed Residential and HB. Mr. Jeffreys said we do permit business use of a residence in very limited circumstances, i.e. lawyers, etc. Mr. Jeffreys said the Greenway Connections have suggested a more viable district to mix HB and Residential. Mr. Kingman said Greenway suggested that for the Hamlet, not for Highway Business. Mr. Jeffreys said but in a rural environment, even HB is rural. Mr. Carrothers said HB and Residential together is consistent in surrounding towns and would lend itself to affordable or work force housing. He could meet the setbacks if he removes the mobile home. The dance hall is 30 feet high. He can't bury the tank because he can't go that deep due to bedrock. The tank is about 12 foot in diameter and 15 feet high and has to be enclosed because it is not a flow through system. It is single wall steel; plastic won't work. The tank sits on a concrete slab. The structure would have to be 14 x 14 to house the tank. Mr. Carrothers is proposing to enclose it in the structure that would replace the mobile home. He said he would be making it less non-conforming by meeting the setbacks and he would meet the height allowance. When Mr. Carrothers was asked how he would he make the structure proportionate to the water tank and he said the building would be 30 feet deep and 40 feet wide. Going back to the zoning change for Highway Business, Mr. Byrne, Town Board Liaison, said it would probably be considered a correction to the code and the Town Board could opt to fund it. Mr. Kingman said

Commercial and Residential was never allowed in the zoning code. When Mr. Carrothers said there are references to it in the old zoning code, Mr. Kingman said Residential is permitted in the Highway Business district. You can build a house in HB but not mix it with Commercial. An accessory apartment is allowed in HB, but as an accessory use to the principal use. Mr. Jeffreys asked Mr. Kingman if there is a way to make the structure in the back an accessory to the principal use, or how can Mr. Carrothers accomplish what he wants to accomplish. Mr. Kingman said under the current code, an accessory apartment in HB must be attached to the principal structure. A water tower would be an accessory structure. In his opinion, the easiest and least complicated way for Mr. Carrothers to accomplish removing the mobile home and building a stick built structure would be to subdivide. He has the necessary acreage to do that. Mr. Jeffreys agreed that subdividing did sound like the simplest solution.

- Chestnut Mart voucher from Morris Associates: A voucher was received dated 12/17/09 from Morris Associated regarding the work done for Chestnut Mart after John Morabito left and Richard Harper replaced him which was excessive and Morris Associates agreed to send a reduced voucher. The second voucher was dated 1/12/10 and while it was reduced by \$98, it did not address the excessive charges in the first voucher. Mr. Kingman provided the background to the Planning Board and a proposed resolution recommending the Chairman not approve the voucher for payment until either the invoice is revised or the town planner shows justification for the current charges. The Board discussed the resolution. Mr. Jeffreys suggested some wording changes to the motion since he did not want it to appear that the Planning Board was suggesting it should know how long it should take the Planner to accomplish his work.

Mr. Kingman motioned that the Board approve the following resolution: Be it resolved, the Planning Board accept the resolution and vote on it as it has been presented. Chairman Goss seconded.

Peter Goss, Chairman	Aye
Douglas Cook	Absent
William Fiederlein	Abstain
James Jeffreys	Nay
Lauren Kingman	Aye

Motion failed 2-1-1

The Board agreed on reworking the fourth “Be It Further Resolved” removing the amount of money at the end.

Mr. Kingman motioned that the Planning Board approve the following resolution: Be It Resolved, the Milan Planning Board approves the following recommendation to the Chairman regarding the Town Planner November 2009 charges for services related to the Chestnut Mart Site Plan;

WHEREAS, Chestnut Mart of Milan has submitted an application for site plan approval for a convenience store and gas station to be located at parcel grid no. 6570-00-536267; and

WHEREAS, Chestnut Mart of Milan has submitted an application for site plan approval for a convenience store and gas station to be located at parcel grid # 6570-00-536267; and

WHEREAS, Ciro Interrante is the applicant (APPLICANT) for the Chestnut Mart site plan; and

WHEREAS, Morris Associates, PLLC is the Milan Town Planner (TPLNR) as duly appointed by the Milan Town Board for both 2008 and 2009; and

WHEREAS, TPLNR assigned John Morabito to the Milan Planning Board (PB) as planner (PLNR1) for 2008 and 2009; and

WHEREAS, the site plan received preliminary approval from the NYS DEC in July of 2009; and

WHEREAS, previous to the PB work session held October 29, 2009, PLNR1 reviewed the APPLICANT's "all inclusive" site drawing and all relevant consultant and agency reviews, comments, and reports prior to preparing a SEQR Determination of Significance; and

WHEREAS, prior to the October work session PLNR1 provided to the PB draft copies of the SEQR Long Environmental Assessment Form (EAF) comment memos, SEQR Determination of Significance (NEG DEC), PB resolution supporting the NEG DEC, Special Use Permit approval, and Conditional Site Plan Approval; and

WHEREAS, the approval of the NEG DEC was anticipated for the December PB meeting; and

WHEREAS, TPLNR replaced PLNR1 with Richard Harper (PLNR2) in November 2009; and

WHEREAS, the replacement of PLNR1 with PLNR2 was a wholly discretionary decision by TPLNR without involvement of, or consultation with, either the PB or APPLICANT; and

WHEREAS, prior to the November 19, 2009 PB work session, PLNR2 reviewed the revised EAF and site drawing submitted by applicant, compared the submission to the previous comment letters provided by PLNR1, and provided the PB with an amended/updated comment letter; and

WHEREAS, at the November PB work session APPLICANT was requested to make a few minor amendments to the EAF and submit the new signed EAF in advance of the December 2, 2009 PB meeting; and

WHEREAS, at the November PB work session PLNR2 was requested to make minor clarifications to the NEG DEC and resolution regarding the car wash and provide final copies for the December 2, 2009 PB meeting; and

WHEREAS, TPLNR submitted invoices, including PLNR1 charges, totaling 22.2 hours (\$2,175.60) for meetings and calls with the Town Engineer and APPLICANT and for reviewing all applicable documentation and preparing draft copies of the SEQR Long Environmental Assessment Form (EAF) comment memos, SEQR Determination of Significance (NEG DEC), PB resolution supporting the NEG DEC, Special Use Permit approval, and Conditional Site Plan Approval ; and

WHEREAS, TPLNR submitted an invoice dated 1-12-10, including PLNR2 charges, for 12.8 hours (\$901.60 – 3.6 hrs were not charged) for reviewing APPLICANT's submissions, preparing a revised comment letter, and revising the NEG DEC and resolution drafts to final form;

NOW THEREFORE BE IT RESOLVED, that the APPLICANT's submissions prior to October 2009 had been thoroughly reviewed by PLNR1 and his comments summarized in two letters; and

BE IT FURTHER RESOLVED, that PLNR1 provided substantially final drafts of the EAF and resolution to the PB prior to the transfer of responsibility to PLNR2; and

BE IT FURTHER RESOLVED, TPLNR was paid for the work of PLNR1 from the APPLICANT's escrow fund; and

BE IT FURTHER RESOLVED, APPLICANT's charges for PLNR2 should not exceed those that would have reasonably been charged by PLNR1 to perform the November work; and

BE IT FURTHER RESOLVED, that the Planning Office estimates that the time required to perform the November work is two (2) hours to review the submission and PLNR1 letters and revise the comment letter, 0.1 hours to review the revised EAF, 0.4 hours to revise the NEG DEC and 0.4 hours to revise the resolution for a total of 2.9 hours; and

BE IT FURTHER RESOLVED, the PB recommends that the Chairman not approve the TPLNR voucher until either 1) the invoice is revised to show charges consistent with the above PB estimates or 2) TPLNR provides justification for the current charges and the PB agrees and rescinds this recommendation by resolution of the Board.

WHEREUPON, this Resolution was declared adopted by the Planning Board of the Town of Milan: Seconded by Chairman Goss.

Peter Goss, Chairman	Aye
Douglas Cook	Absent
William Fiederlein	Aye
James Jeffreys	Aye
Lauren Kingman	Aye

Motion carried 4-0.

(Note: Jeffrey Anagnos and George Lawrence cannot vote on this motion as this application predates the seven member board.)

The Planning Board agreed to forward this resolution to the Town Board.

Chairman Goss motioned to adjourn the meeting at 10:30 p.m., Mr. Lawrence seconded.

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

Motion carried 5-0

The next workshop will be held on Thursday, February 25, 2010 at 7:00 p.m. The next regular meeting will be held on Wednesday, March 3, 2010 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board