

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL  
WEDNESDAY, JUNE 2, 2010

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Douglas Cook

ALSO PRESENT:

William Gallagher, Supervisor  
Roberta Egan, Town Board Member  
David Byrne, Town Board Member  
Glenn Butler, Highway Superintendent

Chairman Goss opened the meeting at 7:00 p.m.

Administrative Items:

- Approval of Minutes: Mr. Anagnos motioned to approve the minutes of May 5, 2010 as amended. Mr. Fiederlein seconded.

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

Motion carried 4-0-2

**Applications:**

1. **Glucksman Subdivision:** Marie Welch, L.S. was present for this two lot subdivision of property located on Academy Hill Road, tax grid number 6572-00-081196. Ms. Welch said the applicant, Loretta Glucksman, is proposing to subdivide out a lot around existing improvements (house, pool, driveway) with a flag strip to provide road frontage and they are proposing cross easements because most of the land is hayfields and is used for agriculture production. The family owns the property and the mother is conveying the smaller lot to her daughter so that she can build another house. Ms. Welch said they made the building envelope large enough so that they can add a garage, etc. and she has contacted an engineer to do soils testing but he has not contacted her back yet. They are assuming they can get a septic and well in with no problem due to the size of the lot. Ms. Welch has sent information to the Dutchess County Department of Public Works to let them know we are changing the access from a single to two family use. Steven Gill from the DPW said someone had visited the site and did not see a problem with it but they have not received anything in writing yet. This road has a 40 mph posted speed limit, and Ms. Welch said they exceeded sight distance requirements in each of the four criteria. The building file is in order with the existing house. As far as the slope of the driveway, Ms. Welch said she thinks they will be able to regrade down to 10%, the allowed percentage. Mr. Fiederlein said it averages about 7% from top to bottom. Ms. Welch

said the shared portion of the driveway is about 2,000 feet to the intersection where it splits and then about 520 feet to the proposed new house. Mr. Kingman said he asked the Clerk to do a check of the soils, wetlands, and archeological location for the site since the Board would be doing a SEQRA circulation and he wanted to make sure the short EAF would be adequate. There is a small portion of NWI wetlands on the property but it is nowhere near the building location so there are no concerns with that. As per the state map, this property is not located in an archeologically sensitive area. As per a soils map from Dutchess County Soil and Water, this property has prime ag soils but they are using the same drive and the proposed house is close to the existing house so most of the ag land will be undisturbed so this is not a concern. Based on this information, there is no need for a long EAF.

The Board unanimously agreed that this application has met the requirements for sketch plan endorsement.

Mr. Jeffreys motioned that the Planning Board declare its intent to be Lead Agency and to send this application to the Dutchess County Board of Health, Dutchess County Department of Public Works, and the Town of Milan Town Board for the SEQRA circulation. Mr. Lawrence seconded.

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

Motion carried 6-0.

Mr. Lawrence motioned that the Planning Board set the date for the public hearing to be held at the July 7, 2010 Planning Board meeting. Mr. Jeffreys seconded.

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

Motion carried 6-0.

- Cross Country LLA/Subdivision:** Mark Graminski, P.E./L.S. appeared on behalf of the applicant regarding re-approval of the Cross Country Subdivision and Lot Line Adjustment of property located on Salisbury Turnpike, grid numbers 6471-00-929291 and 6471-00-940375. Mr. Graminski said they are back for a second re-approval because the applicant was in the process of finalizing all of the conditions of approval but was unable to complete everything before the approval date of May 31<sup>st</sup>. He said the applicant is planning on completing the requirements and filing the subdivision plat as soon as possible. He gave a brief overview of the project for the benefit of the new Board members. The common driveway has been constructed since 2007 and its final surface was inspected by the town engineer today who provided a comment letter to the Board. The Board of Health is ready to sign off on the plans. The paved entrance has been installed and approved by Mr. Butler, Highway Superintendent. There is a notation on the map regarding the maple tree that the applicant did not want to remove. Mr.

Graminski said the Town Engineer has inspected the improvements and has found them to be generally acceptable and installed in accordance with the plans. Outstanding items include the town attorney's approval of the Declaration of Covenants and Restrictions and a final engineering report which will be submitted by Mr. Graminski. Mr. Jeffreys asked who is responsible for the tree that was not removed; is it lot 4 or the association? Mr. Butler said it is all four lots and that is noted on the map. When asked if the applicants will be living in the subdivision, Mr. Graminski said in the beginning, it was the intention of Mr. Gelburd to live here but at the present time, none of the applicants will be living here. Mr. Paggi, in his June 2<sup>nd</sup> letter, referenced the fact that he had recommended that a guide rail be installed along the east edge of the common drive. Mr. Graminski said this Board made a motion to approve the applicant's request that he not be required to install a guide rail and the motion carried back in December of 2007, and he said the road way is quite big. Mr. Jeffreys added that cars won't be going that fast and agreed a guide rail is not necessary. Mr. Kingman said the map is showing a guide rail in the detail but it is not being installed so he thinks Mr. Paggi is requesting that be taken off of the detail. Mr. Graminski said it is shown "as required" but he agreed to remove it from the detail. He needs to label the common drive on sheet 3 as being an as built. There was some discussion on driveway number 4 which shows a slope of 11%. In Mr. Paggi's June 2<sup>nd</sup> letter, he notes that on sheet no. 3, there has to be a note stating if the steep section of the individual drive for lot no. 4 remains at 11%, it must be paved. If it can be regraded in the field to 10% or less, it need not be paved. Mr. Lawrence asked if all Board members agree that a grade of 10% or more has to be paved. Mr. Jeffreys said either paved or oil and stone. Mr. Anagnos said he thinks it is the town's requirements to pave over 10%. Mr. Butler said he believes paving is required for any grade steeper than 10%; oil and stone comes in for private roads but here you are talking about stabilizing a common drive. Mr. Kingman said it is not a town law. Mr. Lawrence said we are requiring people to do something with no law in place. Mr. Kingman said Mr. Paggi, the Town Engineer, thinks from a safety point of view it should be done and the Fire Department agrees. Mr. Lawrence said from the Fire Department, it is only a recommendation. This has never been said; it is just being imposed. Mr. Goss said it is what we have done it in the past; we have to be consistent. Mr. Lawrence said we don't want to be consistently wrong. Mr. Jeffreys said while he would probably concur with Chairman Goss, the issue becomes we are trying to enforce something that is not a requirement; the Town Board never adopted it as a law. Mr. Lawrence said we are a rural town and the Fire Department should have the equipment to go up the driveways that exist in this town. Mr. Kingman said there are a set of goals and requirements in the subdivision and zoning regulations and when you took the Oath of Office, you agreed to uphold those requirements and to make sure that the action that is taken will be safe and will protect the environment. There was some additional discussion as to the requirement for paving over 10% and then the Board moved back to the application on the table.

Mr. Graminski said there has been a slight name change to the road. The original name we proposed was Winding Creek Way. According to E911, there is a Winding Creek Way in Stanfordville so we had to change the name to Winding Creek Lane.

Mr. Kingman motioned that the name for the Common Drive for the Cross Country Development Subdivision will be Winding Creek Lane as per E911 approval. Mr. Jeffrey seconded.

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

Motion carried 6-0.

Mr. Kingman mmotioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the application of Cross Country Development LLC for re-approval of a lot line adjustment/subdivision of property located on Salisbury Turnpike and NYS Route 199, tax grid numbers 6471-00-929291 and 6471-00-940375;

WHEREAS, this project received conditional final approval by the Town of Milan Planning Board on May 7, 2008 and the approval expired; and

WHEREAS, this project received conditional final re-approval by the Town of Milan Planning Board on April 24, 2009 and the approval expired; and

WHEREAS, there have been no substantive changes to the application since the April 24, 2009 re-approval;

NOW, THEREFORE, BE IT RESOLVED, the Planning Board grants conditional preliminary and final approval for the Cross Country Development LLC lot line adjustment and subdivision with the following conditions and authorizes the Chairman to sign the map once these conditions are satisfied:

- Resolution of all outstanding items in the Final Plat Report as amended on 5/7/08.
- Resolution of all items in the Town Engineer's letter dated June 2, 2010.
- Board of Health approval is obtained.
- Appropriate deed restrictions and map notes need to be included and approved by the Town Attorney to protect the environmentally sensitive areas that were protected under the conservation easement in the original application.

Mr. Jeffrey seconded.

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

Motion carried 6-0.

Mr. Kingman reminded the Board that one of the items the Planning Board agreed to take up once this subdivision was filed was to make a proposal to the Town Board that they change the zoning of all of these parcels to A5A. Currently, the front part is A3A and the area on the south side of the stream is A5A. One reason they should all be contiguous as

A5A is to prevent any future subdivision; Mr. Jeffreys pointed out that due to the topography of the property, any more subdivision seems unlikely.

3. **Dolores Russo** – Ms. Russo were present for this discussion with the Board regarding two of her properties located at 47 Mountain Road, tax grid number 6571-02-675671 (Block 67) and 14 Summer Lane, tax grid number 6571-02-722677 (Block 68). Mr. Jeffreys read the Planning Board minutes from May 7, 2002 when Ms. Russo first appeared before the Board but then had to put the application on hold due to illness. The minutes say the guest cottage is on the third lot, but the guest house and garage are on the same parcel. Ms. Russo said currently, her house is on 67 and the garage and the guest cottage are on 68. She would like to break off a piece of 68 with the garage and attach it to the house parcel and then sell the remaining piece of 68. Mr. Kingman said the problem is this property is located in what is commonly known as the Lafayetteville grid. It is adjacent to the church property. The roads surrounding each parcel are “paper roads” and don’t really exist. Ms. Russo has her driveway off of Mountain Road. This subdivision was done in 1928 and through a series of historic events, the banks and companies involved went out of business before the roads were actually built. Supposedly someone does own all of the paper roads and was issuing quit claims here and there in the past. In essence, what she wants to do is take a chunk of property with the garage and associate it with her house lot so she could sell the lot with the cottage which Summer Lane goes through. One of the challenges is the strip of land separating these two lots. However, we had a similar situation with Mancini and we were able to find the language to tie the two pieces of property together. We could utilize the same language. Another challenge is this area is five acre zoning even though the biggest lot is 2.5 acres. Lot 67 is 0.96 acres and lot 68 is 2.30 acres so both are pre-existing, non-conforming lots which says they are valid building lots which have to meet the bulk requirements but not area. If we cut off a piece of 68 and add it to 67, the total of two lots would stay the same, one would be a little less conforming and one would be a little more conforming but there is nothing that can be done to make it conforming anyway as we can’t combine the parcels due to the paper roads. Mr. Kingman said one way to do this would be to chop off the piece with the garage, i.e. 1,200 square feet, and do a lot line adjustment to assign it to the house lot, but there would be variances required. If everyone was in agreement with this proposal, we would need to refer this to the ZBA for area variances for lot area, for the garage, possibly for the dwelling, etc. There would probably have to be some restrictions on the garage, such as it can never be turned into a dwelling and would always remain an accessory structure. If the ZBA were to grant those variances, then Ms. Russo could come back to this Board for the lot line adjustment making sure all proper legal language is included. Mr. Jeffreys suggested she file a quit claim to acquire those two strips of land and then go for the lot line adjustment and he explained the quit claim process to Ms. Russo. The paper roads are 25 feet wide. Mr. Kingman said she would still need variances and would need a metes and bounds description from the surveyor.

Mr. Kingman motioned that the Planning Board approve the following resolution: BE IT RESOLVED, Dorothy Russo (applicant) is an owner of lot 1 (tax grid number 6571-02-675671 and lot 2 (tax grid number 6571-02-722677) and both lots are located off

Mountain Road in a section of the Town of Milan common referred to as the “Lafayetteville Grid”; and

WHEREAS, both lots are located in the A5A zoning district which requires a minimum lot size of five (5) acres; and

WHEREAS, lot 1 is 0.96 +/- acres and lot 2 is 2.3 +/- acres and both lots are pre-existing and non-conforming; and

WHEREAS, lot 1 contains the applicant’s dwelling; and

WHEREAS, lot 2 contains a garage on the west side which is used by the applicant and a rental cottage is on the east side; and

WHEREAS, lot 1 and lot 2 are separated by a “paper road”; that is, a strip of land of unknown ownership; and

WHEREAS, applicant wants to sell lot 2; and

WHEREAS, applicant wants to subdivide from lot 2 a small parcel (approximately 1,200 square feet) containing the garage and connect it with lot 1; and

WHEREAS, the total acreage of both lots would not change as a result of this action; and

WHEREAS, this action would be a lot line alteration; and

WHEREAS, the small parcel with the acreage can be permanently connected to lot 1 with the appropriate map notes and deed restrictions; and

WHEREAS, the lot line adjustment is not possible without the ZBA granting area and setback variances for the existing dwelling on lot 1 and the garage on the parcel proposed for the lot line adjustment.

NOW, THEREFORE, BE IT RESOLVED, applicant is referred to the ZBA for appropriate area and setback variances for existing conditions and the proposed lot line adjustment of the small parcel; and

BE IT FURTHER RESOLVED, the Planning Board recommends the ZBA approve the variances requested for the small parcel and connection of the parcel to lot 1 under at least the following conditions:

- Variance approval depends upon Planning Board approval of the lot line adjustment action within 12 months of ZBA approval.
- The Town Planning Attorney pre-reviews variances and lot line adjustment actions.
- No dwelling is permitted on the parcel.
- Structure footprint may not be enlarged.

- Lot line adjustment approval is conditioned on appropriate map notes and deed restrictions to ensure the small parcel's connection to lot 1 in perpetuity.

Seconded by Mr. Jeffreys.

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

Motion carried 6-0.

Mr. Kingman said the letter from John Greco, Town Attorney, that was received by the Board for the Mancini application which includes suggested language for map notes and deed restrictions should be attached to this motion when it is distributed.

**Discussion:**

- There was Board discussion about the letter that was sent to Paul Doherty, Applicant, and Robert Ihlenburg, L.S., from Karen Buechele, Planning Board Clerk dated May 6, 2010 referring to Lauren Kingman, Acting Chairman of the Planning Board. Mr. Jeffreys said there is no official title of "Acting Chairman" and no one has been appointed as "Acting Chairman" so should not have been used. Mr. Jeffreys also suggested that when correspondence is sent to applicants which provide directives and/or information that impacts an application, it should be done by the Board as a whole. Chairman Goss pointed out that Mr. Kingman was acting as Chairman at his request and the letter was sent as a direct result of a conversation with the applicant at the meeting held on May 5<sup>th</sup> at which time the applicant was told he would be forwarded this information the next day by the Planning Office. There was some additional Board discussion regarding Board protocol.

Mr. Anagnos motioned to adjourn the meeting at 8:40 p.m. Mr. Jeffreys seconded.

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

Motion carried 6-0.

The next workshop will be held on Thursday, June 24, 2010 and the next regular meeting will be held on Wednesday, July 7, 2010. Both meetings start at 7:00 p.m. and are held at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

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cc: Catherine Gill, Town Clerk  
Town Board