

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL
WEDNESDAY, MAY 4, 2011

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None

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

Public Hearings:

- **Jacoby/Mazoh Lot Line Adjustment:** John Marvin, attorney for the applicant, was present for the public hearing for this lot line adjustment of property owned by Stephen Mazoh located on Pink Lane, tax grid number 6470-00-975423 and property owned by the Jacoby Leland Family LLC located at 465 Field Road, tax grid number 6470-00-975782. Mr. Marvin said at the last meeting the Board requested they show the area of the existing improvements on the map so that has been added. Chairman Goss read the legal notice that was posted in the paper and sent to neighboring landowners. There was no public comment and the Board agreed this application meets the requirements for conditional final approval.

Mr. Kingman motioned that the Planning Board declare itself lead agency for this lot line adjustment. Ms. Wyant seconded.

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

Motion carried 7-0.

Mr. Jeffreys motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the lot line adjustment application of Stephen Mazoh and Leland Jacoby Family LLC between two properties located on Field Road, tax grid numbers 6470-00-975423 and 6470-00-975782 in the A5A zoning district; and

WHEREAS, a Short Environmental Assessment Form was submitted on March 7, 2011; and

WHEREAS, an environmental review was conducted in accordance with 6 NYCRR Part 617 which resulted in no identifiable concerns being raised.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board declares a Determination of Non-Significance (Negative Declaration) for the Jacoby/Mazoh Lot Line Adjustment (Minor Subdivision). Mr. Lawrence seconded.

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

Motion carried 7-0.

Chairman Goss completed and signed the short environmental assessment form.

Mr. Jeffreys motioned to close the public hearing. Ms. Wyant seconded.

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

Motion carried 7-0.

Mr. Anagnos motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Town of Milan Planning Board has considered the application from Stephen Mazoh and the Leland Jacoby Family LLC for a lot line adjustment (minor subdivision);

WHEREAS, an application packet was submitted to the Planning Office on March 16, 2011 and a site plan prepared by John H. Decker, L.S. dated January 12, 2011 and last revised April 11, 2011 has been submitted for the requested lot line adjustment between two properties located at 17-19 Pink Lane, tax grid number 6470-00-975423 (Mazoh) and 465 Field Road, tax grid number 6470-00-975782 (Leland Family LLC) in the A5A zoning district; and

WHEREAS, the proposed action will convey 5.70 acres from the lands of Jacoby to the lands of Mazoh; and

WHEREAS, both parcels are improved with single family dwellings, wells and septic systems; and

WHEREAS, a public hearing was held on May 4, 2011 with no public comment; and

WHEREAS, the Planning Board declared a Negative Declaration for this action on May 4, 2011.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board grants conditional final approval to the requested lot line adjustment and authorizes the Chairman to sign the mylar once the following conditions are met:

- Dutchess County Board of Health permission to file is obtained
- Owner’s consent to file block signed
- Payment of publication fee in the amount of \$102.10

Seconded by Ms. Wyant.

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

Motion carried 7-0.

Chairman Goss reviewed the conditions with Mr. Marvin. The Board agreed to not require the agricultural data statement for this action so that was removed as a condition. One of the neighboring property owners came in to look at the map and said he did not have a problem with the lot line adjustment. Mr. Marvin questioned the requirement of filing a mylar and said it was not necessary for a lot line adjustment. Mr. Kingman explained that under NYS law and under our code, a lot line adjustment is considered a subdivision and part of the requirements of a subdivision is the timely filing of a mylar. “Any minor subdivision plat not so filed or recorded within 60 days of the date upon which such plat is approved.....shall become null and void, as specified in Section 276 of New York State Town Law.”

Mr. Jeffreys motioned that the Town of Milan Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board has considered the lot line adjustment application of Stephen Mazoh and Leland Jacoby Family LLC between two properties located on Field Road, tax grid numbers 6470-00-975423and 6470-00-975782 in the A5A zoning district; and

WHEREAS, an environmental review was conducted in accordance with 6 NYCRR Part 617 which resulted in no identified concerns and a Determination of Non-Significance (Negative Declaration) was approved by the Planning Board on May 4, 2011; and

WHEREAS, a public hearing was opened and closed on May 4, 2011; and

WHEREAS, this application complies with all of the provisions of the Town of Milan Code Chapters 177 (Subdivision) and 200 (Zoning); and

WHEREAS, all conditions for Final Approval are detailed in the resolution for Conditional Final Approval which was approved by the Planning Board on May 4, 2011.

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board finds that the approval of the Mazoh/Jacoby Lot Line Adjustment (Minor Subdivision) is in compliance with the Town of Milan Subdivision Regulations (Chapter 177). Seconded by Mr. Lawrence.

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

Motion carried 7-0.

Conditional final approval expires in 180 days (**October 31, 2011**). When the final map is prepared, it is suggested the applicant submit a paper copy to the Planning Office for review. Once it is determined that all of the conditions have been met, the **mylar plus six paper copies** must be submitted to the Planning Office for the Chairman's signature for Town files, along with any paper copies the applicant would like signed.

Once the mylar is signed by the Chairman, the applicant (or the applicant's representative) must file it in the office of the Dutchess County Clerk within 60 days of the date of signature or the lot line adjustment becomes null and void.

Administrative Items:

- Approval of Minutes: Mr. Lawrence motioned to approve the minutes of April 6, 2011 as presented. Mr. Fiederlein seconded.

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

Motion carried 7-0

- Correspondence:
(1) Memo from Stephen Gill, Dutchess County Department of Public Works, dated May 2, 2011 regarding Case Farm Subdivision

Applications:

1. **North Road Treasures Auctions:** Don Johnson was present to discuss his application for site plan approval for an auction to be held twice a month on his property located at 26 North Road, tax grid number 6571-00-957459. There is an existing 36 x 36 garage on the property and Mr. Johnson would like to hold auctions there. The property is located in the Hamlet Zoning District. As directed by the Planning Board, Mr. Johnson filed a request for an interpretation to the ZBA to see if this use falls under an allowed use per

the zoning code. At the ZBA meeting on April 27th, the Zoning Board agreed that this use falls under Miscellaneous Retail Business. Chairman Goss gave Mr. Johnson a copy of the Driveway Access Approval sign off sheet that had been completed by Glenn Butler, Highway Superintendent, after Mr. Butler did a site visit to the property to determine if there was adequate sight distance for a commercial use. On the form, Mr. Butler stated the access does not meet the required sight distance and he provided mitigation measures that would be necessary in order to achieve the required sight distance. Mr. Johnson's next step will be to meet with Mr. Butler to see how he can move forward, if possible. The Board did agree to set the date for the public hearing for the June meeting assuming Mr. Johnson can work out a solution with Mr. Butler so as not to hold up the applicant.

Mr. Kingman motioned to set the public hearing for North Road Treasures Auctions for the June 1st Planning Board meeting contingent upon receiving approval for the access from the Highway Superintendent no later than May 17, 2011. Mr. Anagnos seconded.

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

Motion carried 7-0

If Mr. Johnson can work out the problems with the access, he will need a surveyed map for site plan approval. Mr. Johnson said he has been in contact with Marie Welch, L.S. The Board told Mr. Johnson to work out the access situation with Mr. Butler before he spends any money on a survey.

- **Oyen Three Lot Subdivision** – Maggie Oyen and her mother were present regarding the three lot subdivision of property located on Willow Glen Road, tax grid number 6573-00-648251. One of the conditions of final approval for this subdivision was that the apron for Common Drive #2 be prepared in accordance with the Town Highway Superintendent's specifications and approval which includes excavation to meet sight distance. Ms. Oyen has had some difficulty getting a reasonable quote for the job but she thinks she is on track now. She asked the Board if she can take the excavated material and put it back in on her property where the driveway is since nobody uses that driveway. Mr. Mokotoff has a right of way; he has access rights but not vehicular access rights. He did not build the driveway. Ms. Oyen would like to put the excavated rock right in the driveway to keep people from trespassing since they have a problem with trespassers right now. Mr. Kingman said assuming the design and work is done and approved, you can close up the non-driveway if you want to – not in the apron area but back up in the driveway area a bit. There is no house back there now. It would become a concern when someone wants to build. Mr. Fiederlein said Ms. Oyen should consider, though, that if there is rock across the road, there is no fire access. He said he had his land burn last year because he had no access for emergency vehicles.

Since Ms. Oyen was unable to have the work done in the time allowed per the conditional final approval so the approval has lapsed. She will re-submit the subdivision application, pay the application fee, have this work done, and then bring in an updated map. The Board agreed to set the date for the public hearing for the June 1st meeting and if the access work has not been completed yet, it will remain a condition of approval. Mr. Butler, Highway Superintendent, and Mr. Paggi, Town Engineer, will need to approve the work.

Mr. Kingman motioned that the Planning Board set the date for the public hearing for the Oyen subdivision to be held at the June 1st Planning Board meeting contingent upon Ms. Oyen submitting her new application this week. Mr. Lawrence seconded.

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

Motion carried 7-0

Discussion Items:

- Peggy Licitra and Marge and Bruce Coons appeared regarding the right of way over the Licitra property to the Coons property. Mr. Coons said we have had this problem for many years – the driveway to the Coons’ property traverses over the far back corner of the Licitra property. The Licitras are trying to sell their house and feel that this right of way is turning possible buyers away. Mr. Coons said he is not moving the driveway; it has been there forever; we need an agreement where we can fix this. The surveyor, Marie Welch, said it would not be possible to do a lot line adjustment to convey that back corner to the Coons’ property because of the 50 foot strip between the two properties; she said the best way to handle this is with an easement. Mr. Kingman said there are two approaches; the simplest and most straight forward would be an easement. No one here can give permission to cross the paper roads but the guy who owns the paper roads isn’t complaining and you have certain rights since you have been going over that property for at least 10 years. You would need an attorney and a surveyor to prepare the easement. The other possibility would be a lot line adjustment. Normally when a road splits a property, we don’t permit the property to be connected but we recently had a situation where the town attorney said with the appropriate legal restrictions, it would be okay to hook a piece of property even though there is a paper road in between. The right of way could be connected to your property or any other property adjacent to it. That action would require a lot line adjustment. For a lot line adjustment, you would go through the process here with the Planning Board and it would still require a surveyor and an attorney to prepare the deeds and then to file with the County. If you go the easement route, you would not have to come before the Board but you would still require a surveyor and an attorney. The deeds would be attached to the survey and a maintenance agreement

would have to be filed stating the owner of the property over which the easement crosses would have no responsibility to maintain it. Mr. Kingman said in his opinion, the easement is the cleanest, quickest way to take care of this and it would unencumber the Licitra property. Mrs. Licitra said we have had people interested in the property until they hear about the encumbrance. We have been trying to sell for over five years and it is a real financial hardship. She thinks the ideal way is a lot line adjustment to make the property more saleable. Mr. Kingman said in Milan, easements and common driveways are very common. When we do a subdivision, we try to do common drives to minimize cuts so easements are common place. If someone is reluctant to buy the property anyway, encourage them to go to the bank and take a look at it. Mr. Kingman said he thinks a lot line adjustment could be burdensome and this easement really shouldn't be a problem. It's such a small piece of property which sits on top of a cliff and is located way in the back of the Licitra property. As far as taxes, whether the lot is 2.2 acres or 2 acres, it won't make a difference in land price and taxes. Mr. Jeffreys said once the easement is legal and in your deed, it is an exempted consideration when the bank goes to finance and someone goes to buy it. It's not right next door, it's way up on the mountain. Mr. Kingman said if you have an easement and a driveway maintenance agreement, it is legally covered that your neighbor has permission to use that corner of the property and it will be an agreement that you are not responsible to maintain that area. Mr. Jeffreys said he agreed that the easement is the best and shortest method of achieving what everybody wants and won't affect the sale of the house and will probably improve it once this is a legal right of way.

Mr. Anagnos motioned to adjourn the meeting at 8:15 p.m. Mr. Lawrence seconded.

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

Motion carried 7-0

The next workshop is scheduled for Thursday, May 26th and the next meeting is scheduled for Wednesday, June 1st. 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