

**DRAFT**  
**TOWN OF POUND RIDGE PLANNING BOARD**  
**MINUTES OF THE MEETING**  
**Thursday, February 23, 2012**

**Board Members Present:**    *Clay Fowler, Chairman*  
  *John Bria*  
  *Andrew Brodnick*  
  *Peter Efremenko*  
  *Sam Mlynar*

**Also present:**                    *Michael Landler, Planning Consultant*  
  *James Perry, Building Inspector*  
  *Karen Taft, Administrator*  
  *Gail Jankus, Conservation Board Liaison*

**Absent:**                            *Judy Kennedy*  
  *Steve Kushner*

Mr. Mlynar was Acting Chairman until the arrival of Mr. Fowler.

**Adoption of Minutes from the meeting of January 26, 2012**

Mr. Efremenko made a motion to adopt the minutes from the meeting of January 26, 2012, and Mr. Brodnick seconded the motion. All Board members present voted in favor.

**Brountas**, 6 Fancher Road, Block 9820, Lot 3. Application for residential site plan review to construct a 285 sq. ft. unheated kid's play cabin on the property that would exceed the maximum building and lot coverage thresholds for an R-2A zoning district. The property consists of 7.946 acres.

Previous meeting dates: 01/26/12

Board walked property: 01/28/12

Board members had walked the property on Saturday, January 28<sup>th</sup>. Mr. Ian Ashby, Architect, was present at the meeting. He said that at the time of the site visit, Board members had requested to see the location of the electrical service coming into the property, which he marked on the plan. There was also an inquiry as to the location of the pool boxes. Mr. Ashby said there are two, one of which is farther up the hill.

Mr. Ashby said that the cabin location had been relocated to be outside the 100' DEC buffer area. He said that they will be disturbing the ground when they install a conduit from the corner of the house to the cabin. It will be hand dug. Mr. Barbagallo had requested that additional silt fencing be installed.

Mr. Mlynar said that a neighbor had raised a concern about some mulch piled along the wetland. He was unaware of the current regulations. Mr. Perry said that the DEC had changed their regulations, and now there are no restrictions on mulch or chips within the buffer area.

Mr. Mlynar also mentioned the issue of the lighting that is currently in the trees along the driveway. He said that the neighbors don't have a major problem with the lights at the front at the gate. They requested that the other lights along the driveway be connected to a sensor and timer. Mr. Mlynar asked Mr. Ashby if it could be arranged. Mr. Ashby said that he will speak to his clients and suggest installation of a device to control all the lights.

Mr. Bria, as a resident on the same road, had no objection to the lighting, but believed that a timer would be better. Mr. Efremenko also had no problem, but was annoyed with people leaving their lights on the entire night.

Ms. Elyse Arnow, 12 Fancher Road, said that she understood that there will be electric conduits going to the shed and wondered if the lights will be on at night. Mr. Ashby said that they will not. There will be a mechanical switch.

Mr. Landler will draft a resolution of approval for next month's meeting.

**Levine**, 264 Salem Road, Block 10047, Lot 67.1. Application for residential site plan review to construct an inground pool, terrace, pool equipment and subsurface stormwater mitigation system for runoff and pool drawdown that would exceed the maximum lot coverage threshold for an R-2A zoning district. The property consists of 2.073 acres.

Previous meeting dates: 01/26/12

Board walked property: 01/28/12

The application was adjourned to the March 22, 2012 meeting.

**Wong**, 241 Stone Hill Road, Block 9817, Lot 7.2. Review and ratification of resolution of approval for residential site plan review to construct a screened porch and mudroom addition to the existing residence that would exceed the maximum lot coverage threshold for an R-3A zoning district. The property consists of 5.74 acres.

Previous meeting dates: 12/22/11, 01/26/12

Board walked property: 01/07/12

Mr. Landler had prepared a draft resolution of approval. Mr. Efremenko made a motion to approve the resolution, and Mr. Brodnick seconded. All Board members present voted in favor.

**London**, 82 Pound Ridge Road, Block 9452, Lot 80. Application for a two lot subdivision of an 11.435 acre property. Lot 80.1 will consist of 5.078 acres and contain an existing cottage. Lot 80.2 will consist of 6.357 acres and contain an existing residence and cottage. Further development is not proposed. The property is in an R-3A zoning district.

Previous meeting dates: Informal hearing: 09/22/11, 11/17/12

Board walked property: 10/01/11

Mr. Michael Campbell, Campbell Engineering, appeared on behalf of the applicant. He said that they had satisfied most of the requirements of the Town Engineer. Clarification of how electrical utilities are provided to dwellings on each lot will be illustrated. Mr. Campbell asked that a public hearing be set.

Mr. Mlynar questioned whether the statement that no further development is proposed should be changed to "there will be no further development". Mr. Campbell said that the reason for the subdivision is for estate planning purposes. He could not make the statement that was suggested. Mr. Perry said that at some point there may be development

on the property, although the current owners do not propose any. Mr. Campbell said that if any development is proposed in the future, they would have to come back to the Boards because of the wetlands.

Mr. Efremenko made a motion to set a public hearing for March 22, 2012, and Mr. Bria seconded the motion. All Board members present voted in favor.

**Oceanus Navigation Corp.**, Rolling Meadow Lane and High Ridge Road, Block 9320, Lots 13 & 83. Decision on application for preliminary approval for a proposed conservation/cluster subdivision of a 105.68 acre parcel into 15 proposed lots (12 residential, 2 open space parcels and one storm water parcel. There are two existing residences on the property. The property is located in an R-2A and R-1A zoning district.

Previous meeting dates: Informal hearings on 06/24/10, 09/23/10, 12/09/10 Board walked property: 04/12/11, 04/30/11  
Hearings on: 01/27/11, 02/24/11, 04/26/11, 05/26/11, 06/23/11, 09/22/11, 10/27/11, 01/26/12  
Public hearing on preliminary opened: 09/22/11 Public hearing on preliminary closed: 10/27/11  
Extension of time granted for decision: 11/17/11, 01/26/12

Mr. Mlynar postponed the hearing to after Mr. Fowler's arrival which was at 8:30 p.m. Mr. John Bria, as a member of the Open Space Committee, recused himself from the discussion.

Ms. Ruth Roth, Cuddy & Feder, said that she had reviewed the draft resolution. She said that one issue that they are recommending concerned Condition #4, pertaining to the the roads and infrastructure remaining in private ownership. Ms. Roth requested an alternative in case the Town makes the determination for public dedication. She suggested the following: "In the event there is a change in the status of the lots if they are acquired for conservation purposes by another entity, then the road would be made public." She said they wanted to make provisions in the event that the Town accepts dedication of the roadway and infrastructure. Mr. Fowler said that they can always come back to the Board.

Mr. Jim Ryan, John Meyer Consulting, said that he had met with the Fire District concerning the location of the tank. They discussed two proposed locations.

Ms. Roth said that she had a discussion with Mr. Tom Anderson, Open Space Committee, and Mr. C. C. Hsu, one of the owners of the property. Mr. Hsu will be in this country in June at which time he will have further discussions with Mr. Anderson concerning the purchase of some open space.

Mr. Efremenko proposed changing the wording of 4.j. as follows: "The Applicant shall prepare a note to be added to the Preliminary Plat, stating that the two (2) conservation parcels (Lots 4 and 15) are reserved for public use. This note shall be subject to the satisfaction of the Town Attorney as to form and content." Mr. Efremenko said that it should not be necessarily specified that it be open space forever. There are other potential opportunities that they would not want to foreclose.

Mr. Mlynar commented that if it is open space, it is open space forever. Mr. Fowler said that to leave it available would not foreclose the potential opportunities, subject to discussions and reviews, for uses that would benefit the public. Mr. Mlynar

believed that the open space concept would be in perpetuity. Mr. Fowler said that an alternative could be a cell tower. Mr. Perry suggested that the Board could prohibit residential use.

Ms. Roth said that they did not see this matter included in the resolution. She reiterated that it is private property and legally, it cannot be taken except by the right of eminent domain or condemnation for public purposes. There is no intention to dedicate the land. It will be forever undeveloped, for passive recreation. Ms. Roth said that the Town would be the third party beneficiary to enforce any of the restrictions that are imposed on that particular land. She said that they will create an easement and a conservation restriction on the two open parcels of land in perpetuity, recorded in land records.

Mr. Brodnick reiterated that title will remain in the name of Oceanus Navigation with a restriction in perpetuity on the two open space parcels with no development. Ms. Roth said that the one term they objected to is that it be used for the public. She said that walking trails would be prohibited. Mr. Mlynar said that a walking trail is considered passive recreation. Ms. Roth said that it is not a question of which activities; it is a question of who has the right to use the property. What she was taking an issue with is a question of whether the land becomes public in some aspect or remains as private ownership with a restriction on its use. She said that the two parcels will remain undeveloped properties.

Mr. Brodnick said that they had discussed the possibility of hooking up the parcel on the west with the Bye Preserve. Ms. Roth said that they had a discussion with the owners, and they want title to remain in Oceanus permanently restricted with no public access. Mr. Fowler said that if the land stays in Oceanus ownership, it would not come off the tax rolls. Ms. Roth said that she had previously made the statement that public access could be acquired, but it is not acceptable to one of the principals. She said he was not aware of the commitment that he had to make at that time, specifically, insurance, clearing of the land and keeping it in a safe condition for the public to be able to use.

Mr. Brodnick said that the Board has gone through the process, and now this matter is being taken off the table. He asked Ms. Roth if her client would consider donating the land to the Westchester Land Trust. Ms. Roth said that she could not make that commitment. She said that her client has not had discussions with the Westchester Land Trust. He intends to have the property exist the way it is now. Mr. Fowler said that concerning the matter of ownership and access, the Board believed that the public would have access for trails. He wanted to put a sentence in the resolution that would suggest that it be a preference for the applicant to consider public walking access on the westerly piece.

Mr. Fowler noted that the approval was for preliminary, and the applicant will come back for final approval with another public hearing. He said that it should be decided that evening or an extension requested. Ms. Roth noted that preliminary subdivision approval is a final determination for the purposes of an Article 78 proceeding. Mr. Efremenko said that he would move approving the resolution substituting his recommended language for condition 4.j. He said that the revised language proposed by the applicant for condition 4.m. could be added as well.

Mr. Fowler directed Mr. Landler to add a separate sentence that the applicant will consider public access on Lot 15 between now and the final subdivision. Mr. Mlynar and Mr. Brodnick agreed with the insertion. All other Board members present agreed as well.

Mr. Fowler said that he could accept eliminating any mention of development of Lot 4 for public purposes. He said that the applicant did not want a cell tower on that parcel in the future.

Mr. Brodnick suggested using another month to attempt to work out crafting the language concerning activity on Lot 15.

Mr. Efremenko asked what the next step would be after approval of preliminary. Mr. Fowler said that the applicant will then take their punch list and prepare for final approval. Ms. Roth said that they still have wetland issues with DEC and Health Department issues. Mr. Fowler said that they grant both preliminary and final approval concurrently only when all issues have been satisfied during the preliminary discussions.

Mr. Fowler did not want to extend the decision, but said that if the other Board members believed that they could get a better answer on Lot 15, then he would agree to extend. Mr. Efremenko suggested that more time be spent with the Open Space Committee. Mr. Ryan said that it doesn't help them for the Westchester Land Trust group to come forward if they are already committed to public access for Lot 15. They have forced them into a position where it is an absolute, and they have no leverage to negotiate. Mr. Fowler said that if it is a requirement, it's not donated.

Ms. Elyse Arnow said that some buildable lots are under discussion for purchase, but not the open space lots. Mr. Efremenko questioned why the Open Space Committee would be interested in buying the buildable lots if there is no access to the open space lots.

Ms. Roth granted an extension of time for decision until the next meeting. She will forward a written agreement of extension to Ms. Taft. Mr. Fowler said that, for the record, the Board is adjourning the decision by mutual consent until the next meeting.

**Pound Ridge Deli**, 78 Westchester Avenue, Block 9320, Lot 59. Referral from Town Board for review of special use permit to allow a delicatessen in the PB-A zoning district.  
Previous meeting dates: New application

Mr. and Ms. Cummaro, tenants at 78 Westchester Avenue were present before the Board. The application was referred to the Planning Board from the Town Board, who endorsed the application.

Mr. Mlynar asked Mr. and Ms. Cummaro if they had been in this type of business previously. Mr. Cummaro said that they had been involved in restaurants and diners.

Mr. Perry said that the only issues before the Board were to review signage and any possible lighting. Mr. Cummaro said that they will use the existing lighting. The signage will be the same size as the existing sign. Ms. Cummaro said that the color will match another building's dark blue shutters.

Mr. Cummaro said that the hours of operation will be from 6:30 a.m. until 4:00 p.m. Ms. Taft said that Mr. Fowler had suggested that it close later than 4:00 p.m. Ms. Cummaro said that it may be considered during the summer. Mr. Perry suggested that they ask the Town Board, as part of the special use permit, to approve later hours in case they decide to make that alteration. A public hearing will be held by the Town Board on March 8, 2012. They will request this as part of the special use permit.

Mr. Bria made a motion to approve the signage and the recommendation that the Town Board approve the application. Mr. Brodnick seconded the motion, and all Board members present voted in favor.

Ms. Taft will prepare a recommendation to be sent to the Town Board.

**Goldblum**, 20 Miller Road, Block 9318, Lot 1.33. Application for residential site plan review to construct an inground pool and spa and associated patio, walks, retaining wall and sitting wall that would exceed the maximum lot coverage for an R-3A zoning district. The property consists of 4.552 acres.

Previous meeting dates: New application

Mr. Fowler recused himself from this application.

Mr. Ken Thompson, Bedford Poolscares, was present at the meeting. Mr. Thompson explained that a pool is proposed on the property. He said that the greatest problem is a coverage issue, which is attributed to the long driveway.

The proposal is for a 20' x 42' pool with retaining walls around the pool. The area in front of the pool drops down slightly because the area was graded off for the septic system. Mr. Thompson presented a photograph indicating the basic layout of the swimming pool and retaining areas. At the greatest dimension, the retaining wall will be brick faced and approximately 7 feet high with a railing on top.

Mr. Thompson said that the location of the adjacent property is higher in elevation than the Goldblum property and difficult to see. He said that the neighbor has a pool and pool equipment that are in a direct line with the Goldblum's proposed pool. Mr. Thompson said that the pump he will install is considerably more expensive than the normal pool pump, and is energy efficient and quiet.

Mr. Mlynar said that the property will be walked. Mr. Thompson said that the pool location is staked.

Mr. Thompson said that one of the comments from Woodard & Curran concerned area disturbance. Their plan is to stay under the 5,000 sq. ft. threshold to avoid any further requirements.

### **Informal Hearing:**

**Vogelstein**, 227 Honey Hollow Road, Block 10526, Lot 7. Discussion of proposed 2-lot subdivision and possible modifications to existing driveway.

Mr. David Sessions, Kellard Sessions Consulting, appeared before the Board. He explained that the parcel has a portion of property that is in Lewisboro. There is an existing horse farm that is accessed from Boutonville Road. The driveway continues into Pound Ridge to an existing residence. Mr. Sessions further explained that there is an existing driveway off of Honey Hollow Road that used to access a former house. The property is approximately 95 acres in total, with approximately 55 acres in Pound Ridge; the remaining acreage lying in Lewisboro.

Mr. Sessions said that the Vogelsteins want to sell the property. They decided to subdivide the property in an effort to make it more saleable. The house would be accessed from the existing driveway. Mr. Sessions said that the driveway is somewhat steep in certain areas. He had previously consulted with Mr. Barbagallo. There is a section of driveway that is about 16% grade. If it were to be brought to code at 14%, there would be significant grading involved, creating land disturbance. Mr. Sessions asked if he could improve the existing driveway with certain pavement or stabilization.

Mr. Perry noted that the existing driveway and the former house predated the codes. By removing the structure, technically, the grandfathering is removed from the property. He said that the question is, without grandfathering, could a new driveway be built on the slope.

Mr. Fowler said that there seems to be a serviceable driveway, and he agreed that a 2% adjustment would be disruptive to the land. Mr. Session noted that the 16% grade portion consists of a short section of the driveway.

Mr. Perry wondered if the proposed access could be done. Mr. Fowler said it may be possible to obtain a variance or find another way to make it work. He noted that if the driveway is working now, it would be foolish to tear it up.

Mr. Fowler directed Mr. Sessions to file a formal application for next month. Board members will walk the property on Saturday, March 3<sup>rd</sup>. Mr. Sessions said that he would not be able to be at the site. Mr. Fowler said that it is self-evident.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Karen B. Taft, Administrator  
Planning Board