

**Ancram Planning Board
Meeting Minutes – September 4, 2008**

Present:

Madeleine Israel, Vice Chair
Barbara Docktor
Dennis Sigler
Terry Boyles
Donald MacLean
James Stickle
Colleen Lutz
Suzanne Bressler, Clerk

Also Present:

Jonathan Shramko, Westfall Road, Tagkhanic
Maureen Mueller, Westfall Road, Tagkhanic
Mark Graminski, Westfall LLC
Paul McCreary, Town Engineer

Absent:

Jamie Purinton, Chair
*In the absence of the Chair, Vice Chair Israel presided.

The Vice Chair called the meeting to order at 7:40 PM. Board members reviewed the previous meeting's minutes. Mr. Sigler motioned to approve the minutes and Mr. Boyles seconded the motion. All were in favor, the motion passed and the minutes were approved.

Westfall Road LLC

Sketch Plan Minor Subdivision

196.00-01-59

The Vice Chair announced the continuation of a two-part public hearing that began at the August Planning Board meeting. She then re-opened the public hearing, with Mark Graminski of Westfall LLC presenting new maps and resubmitting the first part of the Environmental Assessment Form (EAF), in response to Town Engineer Paul McCreary's recommendations and the Board's requests.

Mr. Graminski said the first part of the long form EAF was complete, and that newly submitted materials provided detail regarding the stream crossing, calculations for bridge height and drainage, and information on Army Corps of Engineers (ACE) wetlands in areas pertaining to the proposed development and the bridge. He said Westfall LLC noted ecological considerations on the EAF, and showed on the map that the proposed development was located outside of ACE wetland areas, so there would be no wetland disturbance, and thus no permits required by ACE.

Mr. Graminski said Westfall LLC also finished conducting deeps (deep test pits) and perks on the property and found sandy soils suitable for onsite sewage disposal, providing shallow depths of six feet, with rock present at about seven feet. He submitted a letter stating this for the file.

Mr. Graminski also said the attorney provided a driveway maintenance agreement showing a separate easement for lot one over lot two. Mr. Boyles asked if the easement would prevent the lots from being subdivided in the future. Mr. Graminski said it wouldn't -- it simply provides legal means for lot two to enter in off the common driveway. Mr. Stickle asked if the easement also enabled utility access. Mr. Graminski said both agreements cover the right for ingress, egress and a common driveway, shared maintenance, and the implementation and operation of utilities.

Vice Chair Israel asked if a designated area wide enough for vehicles to pull over on either side of the bridge crossing were shown on the map, as the Board had discussed the need for such at previous meetings. Mr. Graminski said the area of concern within the right of way was fifty feet wide, providing ample room. Mr. Boyles and Vice Chair Israel reiterated that an area for safety and emergency vehicles and/or equipment to pull over would have to be shown on the map. Mr. Graminski said it would be reflected on the map.

Two residents of Westfall Road in the town of Tagkhanic then examined the map and proposal and asked questions of Mr. Graminski, which he answered alongside them at the map.

The Vice Chair then asked Mr. McCreary for his insight on the new submission. Mr. McCreary stated concern over future considerations in light of compliance with SWPPP regulations.

Background: “SWPPP” (pronounced “swip”) stands for Storm Water Pollution Prevention Plan. Generally, storm water runoff is rain water or snow melt that runs off the land into streams, rivers, and lakes. When storm water runs through sites of industrial or development activity it may pick up pollutants, or move soil or debris as it travels, causing erosion and transport into waterways, potentially affecting fishing, swimming, and public health. The Environmental Protection Agency (EPA) developed a program under the federal Clean Water Act to help diminish cases of storm water pollution. In New York State, the Department of Environmental Conservation (DEC) issues discharge permits to accomplish the goals of this program, and industrial or development entities must submit an Notice of Intent (NOI) to determine whether they are eligible for a general permit. Such entities show how they will handle storm water in specific plans – SWPPPs -- that outline prevention, administration, training, and detention strategies, and more. The DEC sets forth regulations that tell developers how extensive their plans should be, depending partially upon the degree of disturbance of the soil at the proposed location. In this case, Westfall LLC submitted its NOI and developed a SWPPP in accordance with requirements of its development permit.

Mr. McCreary had voiced concern over storm water strategies in previous meetings. At this meeting, he explained that if more than one acre of soil is disturbed, the applicant prepares and complies with what is called a *basic* SWPPP, and if more than five acres are disturbed, the applicant does a *full* SWPPP. The basic SWPPP covers soil erosion and sedimentation. The full SWPPP covers those and also storm water collection, treatment, and detention.

Mr. McCreary said the applicant will disturb about three acres, which puts them in the basic SWPPP category. As these are large lots, they might be subdivided at some future date. While it’s not necessarily likely that will happen, the application came before the Board previously with a greater number of lots and is now trimmed to two, so one might surmise that future subdivision could be the intent of the applicant.

Mr. McCreary suggested that the Board consider that if there is the intent to go to three lots at some future date, the full SWPPP requirement could be triggered. He recommended to the Board that a SWPPP document be prepared delineating areas of disturbance, which would limit those areas in the future. He said that also would give the Town’s code enforcement officer a useful tool in ensuring SWPPP compliance.

Mr. McCreary also said the Board’s attorney could run through scenarios of potential future subdivisions and notations for the map that would address SWPPP-regulated acreage, as the attorney would already be involved with the driveway issue and right of way between lots. He said that an area of disturbance could be delineated on the map and suggested the applicant could even increase that by a quarter of an acre or so to allow future homeowners some flexibility, being that restricting them is not the intent of the SWPPP regulations.

Mr. Boyles asked whether the SWPPP issue would have to be revisited again after construction and settlement is completed, if homeowners sought to add onto their homes. Mr. McCreary said that technically it wouldn’t be revisited because SWPPP considerations would be in the building permit needed at that time.

Mr. MacLean noted that if the proposed minor subdivision was completed and further subdivision were to occur, there would be a cumulative effect in terms of soil disturbance. Mr. McCreary said that in terms of soil erosion there would, due to how quickly storm water runs to the stream, as there would be more hard surfaces on site then.

Mr. MacLean summarized that if further subdivision occurs over time and there is no larger plan for greater runoff against a backdrop of more existing driveways, storm water could rush to the stream at a pace and intensity not experienced before – or not being experienced now, during consideration of this proposal. Also, if there were to be further subdivision down the line, the Town might bring in engineering advice that determines additional SWPPPs are needed, which would involve driveways and roadways that have existed for long periods of time, perhaps on other people’s property outside the currently proposed subdivision area.

Mr. McCreary said he would draft language on behalf of the Board regarding notations on the map in order to help address some of these potential future issues now. He added that, since the DEC hasn’t constructed the regulation to enable the agency much enforcement capability, finding violators requires people in the community to inform authorities of neighbor noncompliance, and then DEC sends out enforcement. Thus, by having the applicant delineate the disturbance area on the map, it alerts the code enforcement officer to the limitation, and the need to issue violations to those who eschew it. It becomes a mechanism by which one can stake out the territory more visibly.

Mr. Graminsky offered that the Board could require that part of a building permit application include submission of a plan that shows layout and area of disturbance. Then the town would be on record alerting applicants to all this, and the landowner would be responsible for compliance with state regulations and property limitations.

Mr. MacLean said the Board could combine the presented ideas, place a note on the map with suggested language concerning areas of disturbance limitations and SWPPPs, but that the map might not include a delineated area of disturbance -- instead it could become a building permit condition.

The Vice Chair asked if the present members of the public wished to ask any questions. Mr. Shramko asked if changes to the road are anticipated due to the projected increase in traffic posed by two new homes and construction, and also asked if there were any plans for the paving or widening of Westfall Road in light of potential future development that might stem from this proposal.

Vice Chair Israel replied that the Board was officially informed by the Town that the Town is responsible for the road and its maintenance, and that there were no plans to pave or widen it at this time.

Mr. MacLean said one of the problems with the road is that the Town does not own right of way (as with roads throughout Ancram), and that property lines on both sides meet in the middle of the road, so if the Town wants to widen a road, it encroaches on the property on both sides of it. Mr. Sigler explained that the road is called a "user road", which the Town is allowed to maintain but not necessarily improve.

Vice Chair Israel asked if there were any more questions from the public. Seeing none, she closed the public hearing to move on to other issues concerning the application.

The Vice Chair then reminded the Board and the applicant of the issues of securing a bond from Westfall LLC for restoring the road after construction, and of imposing seasonal limits on the construction to help preserve the road. These were issues raised in earlier meetings.

Mr. Graminski responded that Westfall LLC believes the road condition is up to the residents and the Town, as it would be difficult to determine who has damaged the road while many parties are using it, including residents and those hired to maintain their properties. The Vice Chair said there are constant patterns from year to year in the road condition during different seasons, and it would be easy to tell if there was a dramatic difference due to added construction traffic and an unusual number of vehicles during construction periods. Mr. Graminski maintained that it would be hard to tell who was responsible for any change in the road. Mr. Stickle said he had seen instances before of trucks damaging a road after being commissioned by residents not involved in construction projects on the same road, so what Mr. Graminski was saying was conceivable. Mr. Boyles agreed.

Mr. MacLean raised the question of the origins of the bond issue. Ms. Bressler referred back to the March 2008 meeting, at which Westfall Road resident Nancy Rudder, who works for Key Bank, suggested obtaining a bond from the applicant. Mr. Graminski stated for the record that Ms. Rudder was a resident of Tagkhanic. Mr. Stickle and Mr. Boyles concurred that any contractor would, by way of common sense, and at times through written agreement, treat property traversed during construction or service with care.

The Vice Chair said that while it seemed the consensus was that the Board need not require a bond, it would need to discuss seasonal limitations. Mr. Graminski said Westfall LLC could consult on that with the highway superintendent at specific times of year when it becomes questionable to proceed with construction, or when the road may be at more of a risk. He said set seasonal limitations might not match actual conditions as anticipated, so it might be more appropriate to address limitations as the need presents itself.

Mr. MacLean then asked if Westfall LLC would develop the lots, or if there were two individual parties that would be deciding when they wanted to build on the lots. Mr. Graminski said he did not know, but that the LLC may not be the developer. Mr. MacLean asked if Westfall LLC was responsible for the development of at least the driveways, and Mr. Graminski said he thought the LLC would at least have to provide access to the lots at a

minimum, but again, the purchaser could be responsible. Mr. MacLean asked if the maps presented would be followed regardless of who did the developing. Mr. Graminski said the developers would have more specific drawings, regarding the bridge in particular. Mr. McCreary said there are no detailed plans for the bridge.

Mr. MacLean asked Mr. McCreary if he thought the existing specs were enough information for buyers to hire their own engineers to do the project and still be in conformance with the maps and plans presented.

Mr. McCreary said there is not enough information on the plans, as there is no notation on the map regarding wetland protection or how to build the bridge before anything else since it is the way into the construction area, and that there's a lot more information needed on the map to enable the code enforcement officer to determine whether certain guidelines have been followed.

Mr. Graminski said perhaps a construction narrative could accompany the map, if notations were not made on it. Mr. McCreary said he would list some items that should be addressed either on the map or in narrative form.

It was established that phasing in construction is not necessary for so few lots. This strategy was raised when the project was deemed a major one.

Mr. Graminski pointed out that he had also submitted a letter to the Board to be entered into the Westfall LLC application and file, authoritatively stating that there were no known threatened or endangered species of wildlife within the proposed development site.

The Board then reviewed the EAF long form, Part I, submitted by Westfall LLC. Mr. McCreary said he had reviewed the EAF and was fine with it, considering no more than 3.3 acres of soil would be disturbed.

After some Board discussion and questions, Mr. Graminski said he would change certain answers to questions on the form – one to reflect that construction is expected to take 24 months and another to show that the site can be described as a hunting and fishing site. Vice Chair Israel made the changes on the submitted form.

Mr. McCreary instructed the Board and the Board then completed Part II of the EAF long form, answering 20 questions. In answering the questions, the Board essentially issued comment on its gut-reaction to various areas of concern, including:

- how the proposal would affect the physical site, land forms, protected and unprotected water bodies, quality and quantity of surface and ground water, water sources, plants and animals, agricultural, archaeological, aesthetic, historic and general resources, existing open space or recreational opportunities, critical environmental areas, existing transportation systems, and community sources of fuel or energy;
- whether the proposal would involve large wells, chemical or petrol storage, excessive (over 1,000) vehicle trips, or large-scale incineration;
- whether the proposal would contaminate water supply, cause excessive erosion or vibrations, or adversely affect silt, drainage flow and surface runoff patterns, air quality, public safety, community character, or more than five percent of the population of the Town;
- whether there is a significant environmental impact due to the project; and
- likelihood of public controversy related to adverse environmental impacts.

The Board answered no to most questions, stating it anticipated a small to moderate impact on silt and overall quality or quantity of surface or groundwater, and slight alteration in drainage flow or patterns of surface water runoff.

Mr. MacLean then moved that the Board accept the answers to the 20 questions on Part II of the EAF long form as it went through them and as written. Mr. Boyles seconded the motion. All were in favor, the motion passed, and the answers were unanimously accepted.

Mr. Sigler then moved that a negative declaration be adopted regarding the Westfall LLC's environmental assessment. Mr. Boyles seconded the motion, all were in favor, and the negative declaration passed, which effectively means the proposal passed SEQR.

Mr. Graminski then requested that the Board consider granting a conditional final approval to the Westfall LLC proposal. Mr. Sigler stated he was not comfortable doing so without the input of the Board's attorney. He asked about bridge maintenance provisions. Mr. Graminski said the bridge would be inspected by a licensed engineer annually, that the provisions were specified in the maintenance agreement and that he would forward copies to Mr. McCreary and the Board.

Mr. MacLean stated he felt comfortable with forgoing the bond from the applicant, and Mr. Sigler said the contractors would have insurance in case of any issue with the road, but suggested the Board review the matter with its attorney going forward and determine the general appropriateness of requesting a bond in future cases. Mr. MacLean agreed.

The Board set forth the following conditions in light of which it could grant conditional final approval:

- That a notation be added to the plan/map, provided by Mr. McCreary, regarding delineated areas of disturbance, and that may be accompanied by a construction narrative in order to provide assurance for compliance with SWPPP regulations;
- That some framework be set for limiting travel on Westfall road by construction and work vehicles during weather conditions that would exacerbate damage to the road, and that such framework could provide for limits to be assessed at appropriate times by either the highway superintendent or the town engineer;
- That bridge specifications be provided in the plan;
- That the bridge maintenance agreement be provided by the applicant to the Board and the town engineer, entered into the file, presented to other pertinent responsible parties, and complied with.

Mr. Boyles made a motion for conditional final approval. Mr. MacLean seconded the motion. All were in favor and the motion passed. The Westfall Road proposal was approved, provided the abovementioned conditions are favorably met.

BARAZ

Area Variance Application (Recommendation)

**197.1-1-71
50 Cherry Lane, Lower Rhoda**

Julie and Jerry Baraz would like to put up a new home for year-round living on their nonconforming lot which occupies approximately a quarter of an acre, and in doing so, would encroach upon existing zoning setback requirements. The applicants were denied a building permit due to this, and were advised to seek an area variance by the Town's ZEO. The Zoning Board of Appeals (ZBA) has asked the Board to review the application and make a recommendation, which the ZBA may then consider in its deliberations or not. The Board is not required to issue a recommendation, but the ZBA is required to ask for its input.

Vice Chair Israel, being familiar with the lot in question and the surrounding community character, described the proposed structure and encroachment, and the nature of the community, to members of the Board. Three possible building scenarios were presented, one being preferred by the applicants. The Vice Chair reviewed the applicants' answers to questions posed in the application.

The well and the septic were pointed out in answer to questions from Mr. Sigler and Mr. Boyles. The balancing test outlined in the application for an area variance, and which the ZBA will apply in its deliberations, was described as proving favorable in this case for the applicant. Mr. Boyles asked if the proposed home would be larger than others in the area. Vice Chair Israel said no.

