

Ancram Planning Board
Meeting Minutes – April 2, 2009

Present:

James Stickle, Chair
Dennis Sigler
Terry Boyles
Madeleine Israel
B. Docktor
Don MacLean
Jamie Purinton
Suzanne Bressler, Clerk

Absent:

Colleen Lutz

Also Present:

Perry Miller
Art Bassin
Donna Hoyt

The meeting was called to order at 7:40 PM. Mr. Boyles made a motion to approve the minutes of the previous meeting with discussed changes, Mr. Sigler seconded the motion, all were in favor and the minutes were approved with changes.

Ms. Israel asked whether the Board had received any correspondence related to training materials. The Clerk confirmed that the Board had not. The Chair suggested consulting the New York State Planning Federation website, and navigating to the “Members Only” section for possible training opportunities as well as other information that might be useful for Planning Board members.

PERRY MILLER PROPOSED SUBDIVISION COUNTY ROUTE 7 South of Ancram Center

The Chair recused himself from the discussion because he plans to purchase this property and Vice Chair Sigler led the meeting during this item. Mr. Miller showed a sketch plan of his property and explained that he wants to subdivide off his excavation shed and horse barn from the rest of the property. He stated that he would not put any other buildings at the site, but that he wishes to sell the shop section.

Mr. MacLean said the Board should be looking at the site as though it could be residential. The current use doesn't require a perc test, but the Board would have to see one for the subdivision process, Mr. Sigler noted. Ms. Purinton pointed out where setbacks need to be. Mr. Boyles said that the property survey would show where the driveway should be. Mr. Sigler said Mr. Miller never had a driveway permit for that property administered through any process involving the Board, and that if Mr. Miller were to have a 300' road frontage, that would suffice.

Ms. Israel asked if there wasn't another structure on the other side of the pond. Mr. Miller replied that the structure in question was not on the property. Mr. Sigler said Mr. Miller would need a driveway permit to get to the barn and Mr. MacLean said a driveway permit would be needed at this point for what would be the remaining land. Mr. Boyles concurred. The Board looked at the existing driveway location on the sketch plan. Mr. MacLean noted that the remaining land has a driveway, septic, and residence. Ms. Docktor asked about the location of the two log cabins. Mr. MacLean asked if the new parcel would use the well. Mr. Miller confirmed it would not. Mr. MacLean said if the Board was considering the property as a buildable lot, the new owner would be drilling a new well, or if the same well were to be used, there would have to be a right of way to show legal arrangements for that to take place. Mr. Boyles said Mr. Miller would have to do a perc test.

A motion was made to waive the two-foot contour lines requirement by Mr. Boyles; Ms. Purinton seconded the motion, all were in favor, and the motion passed.

Mr. Boyles made a motion for sketch plan approval, Ms. Israel seconded the motion, all were in favor, and the motion passed.

Mr. MacLean added that the same or similar business as currently exists on that property can be continued on the site, as that use goes along with the property itself. In other words, someone couldn't buy the property and put in a new kind of business.

COMPREHENSIVE PLAN COMMITTEE APPEARANCE

Art Bassin, Comprehensive Plan Committee Chair, mentioned he'd like to come to the next Board meeting with the committee to provide information on the Comprehensive Plan and where it stands at this point. The Clerk will put this item on the next meeting's agenda.

SOFTWARE/GIS MAPPING UPDATE

The Clerk will consult with Baxter Stickle, the Town Hall computer administrator, to arrange installation and training (with him and Don Meltz present), so that the Board can outfit its equipment for use during and in preparation for meetings with the mapping system used during the Comprehensive Plan process. This will facilitate decision making and enable Board members to view property details that aren't as easy to determine in meetings at this point. Two computers will be outfitted with this software and two individuals, one being the Clerk for the Board, will be trained to use it. A Board member inquired as to whether the Board's budget has enough cushion beyond salaries to cover the cost of this installation and training, and the Chair confirmed that it does.

OPEN AREAS DEVELOPMENT LAW (OADL): Discussion

Mr. MacLean said he spoke with Town Attorney Jason Shaw, and that at the end of the conversation, they had both decided it wasn't necessary to put something in writing at this point. Mr. Shaw had stated that after reading Town Law 280A and the Town Resolution passed in 1999, he sees real problems with the way both were written. The main issue for him is that Town Law 280A says that lots that are subdivided have to be on "approved and improved streets," yet there's nothing that says that a said street cannot be contained within a 50-foot right of way. Mr. Shaw said the Board could approve subdivisions where the street is contained within a 50-foot right of way, but the street has to be named and improved.

Mr. Shaw suggested the Board go over the OADL Resolution the Town passed and change it so the Board would be allowed to approve subdivisions in which the streets are contained within the 50-foot right of way. Mr. Shaw and Mr. MacLean agreed that a flaw in the OADL Resolution now is that it mentions Town Law 280A and certain aspects about driveways, but that 280A refers to nothing about driveways, it speaks only to "streets". Mr. MacLean said the Resolution should address approved and improved streets that could be contained within a 50-foot right of way, which would allow the Board to approve subdivisions without creating the more costly Homeowners Association.

Mr. MacLean suggested, based on his conversation with Mr. Shaw, that the Board recommend a change in current law to increase the number of lots allowed under those circumstances, and set guidelines for how streets would be improved and what kinds of roadway maintenance agreements would be required. Mr. Shaw could write something legal for the Board to present to the Town Board.

Some discussion of how this would affect Mr. Morey's proposal ensued. A Board member said that the OADL now states you can only have one residence on the property, and Mr. Morey would like to have somewhere between three and five. Ms. Purinton asked if Mr. Morey could do a major subdivision now. Mr. Sigler and Mr. MacLean agreed that Mr. Morey could not because he'd have to do too much to make that happen.

Mr. MacLean said one obstacle is that if the Board were to go through this process of suggesting the law change – and he believes it should, then it would be practically useless (Ms. Purinton agreed), as the Law and Resolution are not currently written to coincide in implementation. But, Mr. MacLean added, if the Board were to go through this process, and come up with something that works that is not onerous and that the Board believes still protects the Town, it could work. Mr. MacLean said the Town should avoid allowing a subdivision that doesn't have good access, and that a few years down the line has its residents demanding the Town take the road over, making the Town feel obligated to take on a new Town road with issues.

Mr. MacLean said that in Mr. Morey's case, the process may potentially be difficult to afford, but that might just be a fact of life. He added that when the Board says "approved and improved streets," Mr. Morey would have to come up to some level of the subdivision regulations, as the Board can't just go around waiving those regulations. Thus, someone proposing such a project may be facing financial difficulty in order to get the street to go back just far enough so that the driveways are serviced.

Mr. Sigler said the street would have to be done to get Certificates of Occupancy. Mr. Boyles asked why Mr. Morey couldn't be permitted to do a major subdivision. Mr. MacLean said that if the law change is passed by the Town Board, the Board could then say one is permitted to do this and that person would need to produce a right of way and road maintenance agreement, but the Board would still have to require some level of improvement to the street.

Mr. Boyles said that this has already been done this in the Town and the Town has seen road agreements from pertinent parties. Mr. MacLean said that may be true, but the Town has actually done some that were not done well or responsibly. He said there are some that exist where there was basically a little gravel road and there was no road maintenance agreement -- just a 50-foot right of way, and everyone's driveways came together. The issue then becomes that one person ends up taking care of the road all the time and when a lot is sold, the new person comes in and takes no responsibility for its maintenance.

Mr. Stickle asked if the Highway Superintendent could give his approval. Mr. MacLean said the Board has never used the Highway Superintendent for that kind of activity. Mr. Sigler added the Highway Superintendent might not want to take on that kind of liability. Ms. Purinton suggested that the Town Engineer could potentially offer approval. Mr. MacLean offered that the Board couldn't really do anything with this issue at this meeting, as it would have to get the Town to adopt a suggested new OADL, which, bringing it back to Mr. Morey, would be the first step before he could begin any process regarding his proposal. The Chair then asked the members of the Board to review both the law and the resolution more carefully, and consider the thoughts presented at this meeting, and offer more ideas at the next meeting.

A suggestion was made to ask Nan Stoltzenberg, a consultant to the Town, for her opinion on what could be done. Another suggestion was made to confer with Patrice Perry in County Planning.

Mr. MacLean said that in his conversation with Mr. Shaw, he had stated that the Town had this one OADL but the Town also had the authority to approve other Open Area Developments based on current subdivision regulations. Mr. Shaw had said the Town already passed its OADL, and that's it – thus, the Town can't then go off to another subdivision and call it another Open Area Development. Mr. Sigler said that was due to the fact that all parcels in Ancram are covered under the Resolution passed by the Town. Mr. MacLean said the OADL the Town passed allowed for one parcel to have one right of way over another. But Town Law 280A says the Town can pass Open Area Developments, and Mr. MacLean said his understanding was that left the Town the opportunity to create other Open Area Developments, but it

could also create another in one little place that had specific requirements for only that place. However, he said, Mr. Shaw says that shouldn't happen. According to Mr. Shaw's interpretation of the current Town Law, the Town is not authorized to go off and create other ones because the whole town is one Open Area Development.

Mr. Shaw had said the five-lot subdivision can't be addressed by creating another little Open Area Development, and that the only thing that can be done is to change the law to increase it to make it more than one, change the language about streets, and expand it enough to include the types of subdivisions that should be permitted. Mr. MacLean said he would suggest making it a higher number of lots because even at five or six, there can still be one right of way with offshoots from which several other lots share the said right of way. Ms. Israel suggested that Barrington Road may be an example of this in West Copake. Mr. MacLean said that might be considered a dead end street.

Mr. Boyles said the Board should look at this issue in the context of the entire town and what could happen in many places. Ms. Purinton said the town has been stuck with an ineffective law and the resolution of this issue is a major undertaking to be carefully considered. Mr. MacLean said the Board should require that all residents be partners in a road maintenance agreement, and that pre-existing property owners could find this troubling.

Ms. Purinton asked why the Board couldn't use the major subdivision regulations for Mr. Morey and try to help keep the process economical for him. There was mention of the Board's need to obtain a legal opinion on what to do with pre-existing situations, and that the Town may have no legal right to join an agreement.

Mr. Sigler said the burden should be on the subdivision applicant to get a road maintenance agreement, or find another way to accomplish their desired goal. Mr. Boyles suggested the Board members individually call Mr. Morey and visit to have a look at his site.

It was decided that the Board will do more research and revisit this issue at the next meeting, or at a set meeting in the near future.

Mr. Boyles made a motion to adjourn the meeting, which Ms. Israel seconded. All were in favor, and the meeting was adjourned at 9:08PM.

Suzanne Bressler, Clerk