

**MEMBERS PRESENT**

Brian Callahan  
Tom Chang, Alternate  
Thomas J. Knips, Chairman  
Sheila Lahey, Vice Chair  
Joel Sasser, Alternate

**MEMBERS ABSENT**

Peg Birney  
Robert LaColla  
Robert Rahemba  
David Stenger

**OTHER PRESENT**

John V. Andrews, Jr., P.E., Town Engineer  
John A. Morabito, Town Planning Consultant  
Scott L. Volkman, Esq, Town Planning Board Attorney  
Dennis Walden, L.S.  
Jon D. Bodendorf, P.E.  
Jon Vitolo, P.E.  
William H. Povall III, P.E.  
Daniel P. Simone, P.E.  
Larry Wolinsky  
Larry Regan  
Dawn Kalisky  
A.J. Cappolla

The meeting was called to order by Thomas J. Knips, Chairman at 7:00 p.m. Mr. Knips appointed Mr. Sasser and Mr. Chang to fill in for Mr. Stenger and Mr. Rahemba this evening.

**FEBRUARY 8, 2007 PLANNING BOARD MEETING MINUTES**

Mrs. Lahey made a motion to adopt the February 8, 2007 Planning Board Meeting Minutes. Seconded by Mr. Sasser. Motion carried.

**NEW SUBMITTAL**

**IRAJ & DIANE ASSEFI - FOUR (4) LOT SUBDIVISION**

Mr. Walden stated that the applicants are seeking approval to subdivide a parcel totaling 4.07 acres into four (4) lots. Mr. Walden stated that Lot 1 will consist of 0.51 acres, Lot 2 will consist of 0.50 acres, Lot 3 will consist of 0.49 acres and Lot 4 will consist of 2.57 acres. Mr. Walden stated that the parcel for this proposal is located at 10 Vanvoorhis Drive in the R-20 and R-40 Zoning Districts.

Mr. Knips asked if a completed Application, EAF, Application Fees and Escrow Deposit have been received; Ms. Davis stated yes.

Mr. Knips stated the Chair would entertain a motion to accept the application and refer it to the Town Engineer, Town Municipal Development Director, Town Planning Consultant, Town Planning Board Attorney, Town Building Inspector, Dutchess County Department of Health, Dutchess County Department of Public Works, Town Highway Superintendent and the Rombout Fire District for their review and comments. So moved by Mrs. Lahey. Seconded by Mr. Sasser. Motion carried.

**NEW SUBMITTAL**  
**NELSON REALTY HOLDINGS, LLC - SITE PLAN**

Mr. Bodendorf stated that Mr. Nelson, the applicant is seeking Site Development Plan approval to demolish the two (2) existing structures located on the property and construct a new 12,000 square foot building of which 2,000 square feet will be used for office space and 10,000 square feet will be used for contractor storage. Mr. Bodendorf stated that the parcel for this proposal is located at 530 NYS Route 52, in the GB (General Business) Zoning District and consists of 1.11 acres.

Mr. Andrews stated that this Board reviewed this parcel about a year ago under the name of Terra Materials.

Mr. Bodendorf stated that the building will have approximately eight (8) employees and will have a new subsurface sewage disposal system.

Mr. Knips asked if access would be derived from NYS Route 52; Mr. Bodendorf stated yes. Mr. Andrews asked if there is a better definition of the type storage that will be in the building. Mr. Nelson stated that they run a snow removal company and will put the least amount of overhead doors on the building. Mr. Nelson stated that approximately six (6) overhead doors will be in the back of the building facing the railroad tracks and not facing NYS Route 52. Mr. Andrews stated that future submittals must show the proper turning radius. Mr. Nelson stated that, as much equipment as possible will be stored inside the building, as during the winter months the equipment is mostly off site. Mr. Andrews asked if fuel or similar materials would need to be stored on site. Mr. Nelson stated he would like to have at least 500 gallons of diesel fuel stored on the site. Mr. Andrews stated that this will need to be shown on the plans, as the Fire Department will need to be aware of this.

Mr. Andrews stated a contractor's storage facility in the GB (General Business) Zoning District requires that outside storage be adequately screened so a set aside area would need to be provided. Mr. Andrews stated that as this site plan is developed this issue must be addressed.

Mr. Knips asked if there is any need for product storage on the site. Mr. Nelson stated if it is required, it would be done inside but most of the product goes right to the sites, as this is a seasonal business.

Mr. Knips asked if a completed application, EAF, Application Fees and Escrow Deposit have been received; Ms. Davis stated yes.

Mrs. Lahey made a motion to accept the application and refer it to the Town Engineer, Town Municipal Development Director, Town Planning Consultant, Town Building Inspector, Dutchess County Department of Health, Dutchess County Department of Planning and Development, New York State Department of Transportation and the Glenham Fire District for their review and comments. Seconded by Mr. Callahan. Motion carried.

Mr. Sasser made a motion to change the order of agenda. Seconded by Mrs. Lahey. Motion carried.

**REVIEW**  
**LANDWORKS, LLC - SITE DEVELOPMENT PLAN**

Mr. Vitolo stated that he received the comment letter from the Rombout Fire Department which suggested emergency vehicle access be provided on both sides of the building. Mr. Vitolo stated they do not have access on both sides but do have 15' wide area around the one side. Mr. Vitolo stated if they need emergency access on both sides of the building, they could relocate the dumpster enclosure. Mr. Vitolo stated there is a ½ -foot-candle illumination along the property line. Mr. Vitolo stated the refuse enclosure is a simple board and cedar enclosure. Mr. Vitolo stated interior sidewalks and sidewalks along the front of the building are now provided. Mr. Vitolo stated there will be two (2) water tanks underground for fire fighting purposes.

Mr. Knips asked how much landscaping is in the parking islands. Mr. Vitolo stated they have provided some scattered trees and bushes in the landscaped islands

Mr. Knips asked if there is any advantage to sliding the dumpster enclosure just to the right of where it is now. Mr. Vitolo stated he believes where the refuse enclosure is located on the plans now is probably the best place as it is pretty hidden.

Mr. Andrews reviewed his memorandum to the Board dated February 22, 2007; a copy of this memorandum is attached to the original minutes.

Mr. Morabito reviewed his memorandum to the Board dated February 22, 2007; a copy of this memorandum is attached to the original minutes.

Mr. Vitolo stated he didn't believe that the Town Code is clear regarding the snow storage areas. Mr. Morabito stated this site is a little bit tight and when you consider snow storage areas, they should be in areas that are open for snow. Mr. Vitolo stated he can show how much snow can actually be stored in the snow storage areas. Mr. Vitolo stated that it is a tight site and he doesn't know what other options they have other than using the land-banked area. Mr. Morabito suggested that this is something that just needs to be looked at.

Mr. Andrews stated that the Board can begin drafting a Resolution of Preliminary Approval but needs to see another submittal for the stormwater.

Mr. Andrews suggested that Mr. Vitolo submit the stormwater details by March 1, 2007 in order for the Board to entertain a preliminary approval. Mr. Vitolo stated that is fine.

Mrs. Lahey made a motion that a draft Resolution of Preliminary Approval and a Negative Declaration be prepared and available for review at the March 8, 2007 Planning Board meeting as long as Mr. Vitolo submits the stormwater details required by the Town Engineer by March 1, 2007. Seconded by Mr. Sasser. Motion carried.

**PUBLIC HEARING**  
**LANDS OF CALLAHAN**  
**FRESHWATER WETLANDS/WATERCOURSE & WATER BODY PERMIT**

Mr. Callahan recused himself from this discussion and left the meeting room.

The public hearing was called to order by the Board at 7:51 p.m. Mr. Knips read aloud the Notice of Public Hearing.

Mr. Povall stated that Mr. Callahan owns an approximate 2.8 acre parcel on the south side of Maple Avenue and he is seeking a Freshwater Wetlands/Watercourse and Water Body Permit for the construction of a single-family residence in accordance with Town of Fishkill Town Code Chapter 82.

Mr. Povall stated that there is Central Hudson right-of-way on the property and an Army Corp Wetland. Mr. Povall stated that the wetlands have been delineated in accordance with the ACOE Wetlands Delineation manual. Mr. Povall stated that Mr. Callahan will need to fill just under a 1/10 of an acre in the lower area of the property to build a house and to have a useable lawn. Mr. Povall stated that because the wetland exceeds one (1) acre in size that Mr. Callahan needs to obtain a Freshwater Wetlands/Watercourse and Water Body Permit from the Planning Board.

Mr. Knips asked if there were any questions, comments or concerns regarding this proposal.

Mr. Viggiano stated one of his main concerns is the problem with the drainage. Mr. Viggiano stated that several months ago Mr. Callahan brought in several tons of fill. Mr. Viggiano stated over Veterans' Day weekend that 200 or 300 truck loads of fill were brought in and the Town had to stop him. Mr. Viggiano stated that the water table has raised 3 to 4 inches under his house. Mr. Viggiano stated he would like to know what is going to be done to bring the area back the way it was before this project can proceed. Mr. Viggiano stated if more fill is brought in, it is going to create a damming effect against his property and most of his neighbors' properties. Mr. Viggiano stated that this entire area floods when it rains heavily. Mr. Viggiano asked who is responsible for maintaining the roadway into this property.

Mr. Povall stated that the homeowner is responsible for maintaining this area. Mr. Roberts stated he is the attorney for Mr. Callahan and he owns the property along this area. Mr. Viggiano stated the tax map record he has shows that Mr. Callahan does not own the former Maple Avenue. Mr. Roberts stated that map Mr. Viggiano has indicates ownership before Mr. Callahan acquired the property. Mr. Roberts stated that Mr. Callahan does own what was known as Haight Highway.

Mr. Viggiano asked what the setbacks are. Mr. Povall stated that the front yard is 35' and the side yard is 15', which is required in the R-15 Zoning District. Mr. Povall stated that they are approximately 35' to 40' in the front to minimize the disturbance in the wetlands.

Mr. Viggiano asked how many trees are going to be removed from the property. Mr. Povall stated he has not done a tree study.

Ms. Sanford stated she owns a home at 64 Maple Avenue. Ms. Sanford stated that for a year or more this area has really filled up with water and it used to drain out in the past. Ms. Sanford stated that the earth is being dumped by Mr. Callahan and the area is all flooding.

**FINAL**

**PUBLIC HEARING**  
**LANDS OF CALLAHAN**  
**FRESHWATER WETLANDS/WATERCOURSE & WATER BODY PERMIT**  
**(CONTINUED)**

Mr. Povall stated that FEMA has already established a 100-year floodplain way before any events occurred on this property and any flooding in this area has been anticipated.

Ms. Sanford asked why is it so wet now; it wasn't wet before. Ms. Sanford stated she is against this project.

Mr. Ugolini stated that he owns the wetlands and that he maintains them. Mr. Ugolini asked what is going to be done when the water table rises and where all the water will go. Mr. Povall stated that with the new fill the drainage pattern now indicates that all the water makes it way to the wetlands and down to the culvert. Mr. Ugolini stated that the culvert is not maintained and isn't always open. Mr. Povall stated that by placing the fill the water is still going to be diverted. Mr. Ugolini stated that he stopped the fill as it was done without the proper permit.

Mr. Roberts stated that Mr. Callahan applied for and received the permit he was told to obtain and it was not discovered until after the fill was brought in that it wasn't the right permit. Mr. Roberts stated that it was a mistake, which was corrected by the work stopping and Mr. Callahan applying for the proper permits.

Mr. Berish asked if any of the stormwater from the roads is ending up in the wetlands now. Mr. Povall stated if it is this proposal would not impact that. Mr. Povall stated that they are looking for an approval to place the fill in this area. Mr. Andrews stated he will check on this with Mr. Scofield, Town Highway Superintendent.

Mr. Peifer stated that there is a storm drain in front of his house and there is a pipe that goes into the wetlands area and Mr. Scofield actually cleared it after he called him. Mr. Peifer stated that he is concerned if there are some drains that come off of Maple that are already filled in that it may be causing the water problem. Mr. Peifer stated maybe Mr. Scofield should be contacted as to where the pipes come out on Maple Avenue. Mr. Andrews stated as he indicated he will check with Mr. Scofield.

Mr. Viggiano asked where he goes to get the fill that's been put in taken out. Mr. Viggiano stated that his first concern is to get the water in his basement back to where it was before the fill was placed.

Mr. Biasotti stated that a year and half ago they had helicopters flying over their houses to look at the water backing up into their yards when the lower part all flooded out and they had to actually close the businesses in the area due to the flooding.

Mrs. Ugolini stated that they have lived in their house for about 30 years; there are three memorable times when they got high water in their backyard and two of them were last year and the third time was 15 to 20 years ago.

Mrs. Biasotti stated that she is concerned with mosquitoes in the area.

**PUBLIC HEARING**  
**LANDS OF CALLAHAN**  
**FRESHWATER WETLANDS/WATERCOURSE & WATER BODY PERMIT**  
**(CONTINUED)**

Mr. Andrews stated that this application has nothing to do with the removal of fill. Mr. Andrews stated that the intent here is to fill in the wetlands as regulated. Mr. Andrews stated that this approval is for a Floodplain Development Permit and a Freshwater Wetlands/Watercourse and Water Body permit. Mr. Andrews stated Mr. Callahan was given direction to stabilize the area and is under the impression that this was done but will check into this further.

Mr. Andrews stated the Planning Board issues the Freshwater Wetlands/Watercourse and Water Body permit and in this case the Town Building Inspector issues the Floodplain Development permit and you can't get the second permit until you get the first permit. Mr. Andrews stated this is in a 100-year floodplain zone and a study was done by FEMA in 1984. Mr. Andrews stated that FEMA has not seen fit to upgrade the study. Mr. Andrews stated that the basis of the study is that the elevation is defined and the whole theory of floodplain is that there are certain areas of the floodplain where you are allowed to fill in certain things. Mr. Andrews stated that the Town must follow the code and if the applicant meets the requirements of the code, they are entitled to the permit.

Mr. Andrews stated that the public's concerns will be investigated. Mr. Andrews stated he doesn't believe there are public hearing provisions for a single-family lot for a Floodplain Development permit under Chapter 82 of the Town Code. Mr. Andrews stated the issue at hand is the Freshwater Wetlands/Watercourse and Water Body permit, which this Board has the authority to issue.

Mr. Viggiano asked what his recourse is if his house floods because this project is allowed to go forward. Mr. Andrews stated he did not have an answer to this question at this time.

Mr. Knips asked if there are any further questions, comments or concerns regarding this proposal.

Mrs. Lahey made a motion to close the public hearing at 8:35 p.m. Seconded by Mr. Sasser. Mr. Callahan abstained. Motion carried.

Mr. Andrews reviewed his comment memorandum to the Board dated February 22, 2007; a copy of this memorandum is attached to the original minutes.

**REVIEWS**  
**WATERFRONT AT FISHKILL - PHASE V - OVERLOOK POINTE**  
**MODEL HOME CONSTRUCTION**

Mr. Knips stated he is recusing himself from this discussion, appointed Mrs. Lahey, Acting Chair and left the meeting room.

Mr. Andrews reviewed the Resolution of Approval for the construction of model homes on the site.

**FINAL**

**REVIEWS**  
**WATERFRONT AT FISHKILL - PHASE V - OVERLOOK POINTE**  
**MODEL HOME CONSTRUCTION**  
**(CONTINUED)**

Mr. Sasser made a motion that the Board adopt the Resolution of Preliminary and that the Chairman sign it. Seconded by Mr. Callahan. Mr. Knips abstained. Motion carried.

**REVIEW**  
**THE VIEWS AT ROCKY GLEN - SITE DEVELOPMENT PLAN**

Mr. Sasser stated he is recusing himself from this discussion and left the meeting room.

Mr. Andrews stated that this Board received comments from the Dutchess County Department of Planning & Development that decided there were significant concerns and they recommended an actual denial of the project in its form and substance at the time of their memo. Mr. Andrews stated, therefore this Board needs a super-majority vote, which is five (5) members - four (4) plus one (1) member. Mr. Andrews stated that this project can be entertained and discussed by this Board this evening, but that the Board cannot issue an approval until five (5) members are present or five (5) members of those present vote yes which is not the case this evening.

Mr. Andrews stated that the Town Board adopted a Negative Declaration at their meeting this morning that includes conditions relating to payment of certain funds to assist in the sewer for the Siscar Development. Mr. Andrews stated that payment to the Town is also to be used for an open space and preservation area and an additional payment is to be made to the Glenham Fire District. Mr. Andrews stated that these conditions on the Negative Declaration must be satisfied as this application moves forward in order to validate the Conditioned Negative Declaration adopted by the Town Board. Mr. Andrews stated that the Rezoning of this parcel was completed by the Town Board this morning. Mr. Andrews stated that this Board can entertain any approvals after the Town Board closes SEQRA and the rezoning has occurred once there are five (5) members present or five (5) members that will vote yes.

Mr. Knips asked if there is enough room to store the snow without wiping out the landscaping. Ms. Kalisky stated yes.

Mr. Wolinsky stated he will be turning this over to Ms. Kalisky and Mr. Cappolla.

Ms. Kalisky stated a concern was discussed that they increase the landscaping and they have revised it now. Mr. Kalisky stated a concern with the location of the basketball court was raised and the best they could do is to shift it about 30' from where it was originally. Mr. Kalisky stated the basketball court is a recreational facility and if the Board would like another type of facility that would be fine.

Mr. Knips stated he does understand the concerns of the neighbors but Mr. Andrews did actually state at the last meeting that developments have actually increased the number of basketball courts.

Mr. Kalisky stated there is a natural gas line that has been located and they will be tying into natural gas. Ms. Kalisky stated the emergency access road was increased to a 15' wide access area with a crash gate and lock box but this can be modified if necessary.

**FINAL**

**REVIEW**  
**THE VIEWS AT ROCKY GLEN - SITE DEVELOPMENT PLAN**  
**(CONTINUED)**

Mr. Andrews stated that there is a requirement that the emergency access way be a minimum 20' width unless the fire chief consents to a gate and a letter will be required from the Glenham Fire District stating that this will be acceptable.

Ms. Kalisky stated that they have shifted the parking to allow for the emergency vehicles to go through. Ms. Kalisky stated the pump station was shifted farther back from NYS Route 52 and the landscaping around it has been increased.

Ms. Kalisky stated that the drive widths were increased in accordance with the code and the parking spaces are in compliance with code.

Ms. Kalisky stated that the water and sewer mains have been located farther away from the buildings, all within the paved area and they have indicated a 30' wide utility easement that will be in favor of the town. Ms. Kalisky stated that the stormwater pollution prevention plan has been completed and the basins have been sized accordingly. Ms. Kalisky stated split-rail fencing is proposed around the ponds.

Mr. Cappolla stated that since the last meeting they have taken a look at the material selections and the landscaping around the buildings. Mr. Cappolla stated there are three (3) different buildings with three different complimentary types of materials that are a mixture of materials such as cultured stone, vinyl siding - a brown color theme, gray color theme and a brick theme with gabled ends will be used.

Mr. Knips stated he went through the landscaping plan he received and it didn't seem to agree with the elevation drawings. Mr. Cappolla stated that is correct. The drawings before the Board this evening are correct and will be updated again. Mr. Knips stated he believes that surrounding the buildings with this landscaping does address the county's concerns regarding a sea of asphalt. Mr. Cappolla stated the county hasn't seen this yet. Mr. Wolinsky stated their intent is to make this match the renderings before the Board this evening. Mr. Cappolla stated they will show a schedule on the architectural to make it easier for the Board.

Mr. Knips asked that the views from NYS Route 52 be shown. Mr. Wolinsky stated at the public hearing these were shown without the leaves on the trees. Mr. Cappolla stated that they did re-look at the view from NYS Route 52 but that he really believes this depiction is an accurate representation of what this project will look like from NYS Route 52.

Mr. Chang asked if the conditions imposed in the Negative Declaration as far as fees are part of the recreation fees. Mr. Wolinsky stated the fees in the Negative Declaration have nothing to do with recreation fees.

Mr. Andrews stated that the first fee is an amount of \$758,000.00 will be paid to the Dutchess Park Sewer District to provide sewers to the adjacent Siscar Development and if that does not occur it goes into the general fund to be used in other areas of the town to improve facilities.

**REVIEW**  
**THE VIEWS AT ROCKY GLEN - SITE DEVELOPMENT PLAN**  
**(CONTINUED)**

Mr. Andrews stated that \$225,000.00 will be paid to a fund to be established by the Town Board to offset project impacts and that \$50,000 will be paid to the Glenham Fire District to enhance their facilities and to use in a manner they see fit.

Mr. Knips asked if in the Rezoning Application the number of school children have was generated. Mr. Wolinsky stated a portion of this will be occupied by seniors.

Mr. Regan stated he would estimate 80 to 90 school children. Mr. Wolinsky stated he believes that this number is way too much but it is indicated in the EAF that was submitted to the Town Board as part of the Rezoning Application. Mr. Andrews stated there is a supplemental memo from their traffic engineer that indicates that no main line improvements are required. Ms. Kalisky stated as part of the SEQRA requirements the report was sent to NYSDOT and there is a letter that indicates they have preliminary approval for this project and that they found the traffic study to be acceptable.

Mr. Lynch stated he is representing the Glenham Fire District. Mr. Lynch asked if this is now changing to workforce and senior housing. Mr. Lynch stated that the Glenham Fire District wants to make sure this project is fully taxable. Mr. Wolinsky stated there is no ability not to pay the full fire district tax according to law. Mr. Regan stated seniors have always been included as part of the proposal. Mr. Andrews stated that this project was approved as 100% affordable and was not approved as a senior project only.

Mr. Wolinsky apologized to the Planning Board for not adequately indicating what the goal line date was and realizes now the Planning Board is aware of a funding application deadline of Monday and that this are competitive situation for funding. Mr. Wolinsky stated that part of what needs to be demonstrated to the state is the project's readiness. Mr. Wolinsky stated that unfortunately, because of the lack of a full board we cannot complete a review of a draft Resolution of Preliminary Approval. Mr. Wolinsky stated he didn't want any message to the Board that they consider this the end of the process and that there would be no more room for dialogue here.

Mr. Wolinsky stated they will never be able to do a horseshoe configuration due to the topography on this site and reducing the number of units is not acceptable, as it would destroy the affordability aspect.

Mr. Wolinsky stated that they will be submitting something on Monday to the state and suggested that the Board entertain a general letter of support that would say they have no objection to this site plan and then scheduling this at the Board's next meeting at which a Resolution of Preliminary Approval can be entertained.

Mrs. Lahey made a motion that the Board draft a Resolution of Preliminary Approval for review at the March 8, 2007 Planning Board meeting. Seconded by Mr. Callahan. Motion carried.

Mr. Knips stated that this new plan goes a long way and he is very happy with landscaping improvements of the project and it might be worth the effort to address the county's comments.

**REVIEW**  
**THE VIEWS AT ROCKY GLEN - SITE DEVELOPMENT PLAN**  
**(CONTINUED)**

Mr. Regan stated that after trying previously to address the county's comments that they are uncomfortable with this. Mr. Wolinsky stated they can make the effort but wouldn't want their lack of response by the next meeting to hold up the process.

Mr. Andrews stated in reviewing this the county's recommendations are just recommendations and suggested that if the applicant has resolved the Board's issue that it becomes incumbent on the Board to make sure this language is added to a Resolution of Approval.

Mr. Andrews asked the Board's feeling about crafting a letter of support and having it signed no later than Monday by the Chairman. Mrs. Lahey stated she likes the wording that we have general support to the project.

Mrs. Lahey made a motion that a letter is crafted generally supporting this project. Seconded by Mr. Chang. Motion carried.

Mrs. Lahey made a motion to close the meeting at 9:04 p.m. Seconded by Mr. Chang. Motion carried.

Respectfully submitted,  
Debbie Davis  
Planning Board Secretary

Attachments to the original minutes