

MEMBERS PRESENT

Thomas Adams, Alternate
Brian Callahan
Lex Harvey
Mary Hendricks
Thomas J. Knips, Chairman
Felix Lopez, Alternate
Robert Rahemba
David Stenger

MEMBERS ABSENT

Sheila Lahey, Vice Chair
David Stenger

OTHERS PRESENT

John V. Andrews, Jr., P.E., Town Engineer
Ronald Leenig, Councilman
John A. Morabito, AICP, Town Planning Consultant
Scott L. Volkman, Esq., Town Planning Board Attorney
John Scarpelli - Subdivision
Jon Bodendorf, P.E. for the Lands of Iraj & Diane Assefi - Subdivision
Dr. Iraj Assefi for the Lands of Iraj & Diane Assefi - Subdivision
Joseph Mosca for Van Wyck at Merritt Park Residential Development - Site Development Plan
Stephen Burns for Dutchess Land Development, LLC - Subdivision
John Klarl, Esq. for Dutchess Land Development, LLC - Subdivision
Daniel P. Simone, P.E. for Waterfront at Fishkill Phase V - Overlook Pointe - Site Plan & Subdivision

The meeting was called to order by Thomas J. Knips, Chairman at 7 p.m. Mr. Knips appointed Mr. Lopez and Mr. Adams to fill in for absent members this evening.

NOVEMBER 13, 2008 PLANNING BOARD MEETING MINUTES

Mr. Callahan made a motion to adopt the November 13, 2008 Planning Board Meeting Minutes as amended. Seconded by Mr. Harvey. Motion carried.

REQUEST FOR EXTENSION
LANDS OF SCARPELLI - SUBDIVISION

Mr. Andrews recommended that the Board grant a ninety (90) day extension of the Resolution of Final Approval.

Mrs. Hendricks made a motion that the Board grant a (90) day extension of the Resolution of Final Approval, that Ms. Davis be authorized to prepare the letter and sign it. Seconded by Mr. Rahemba. Motion carried.

REVIEW
LANDS OF IRAJ & DIANE ASSEFI - SUBDIVISION

Mr. Andrews reviewed his memorandum to the Board dated January 8, 2009; a copy of this memorandum is attached to the original minutes.

Mr. Morabito reviewed his memorandum to the Board date January 8, 2009; a copy of this memorandum is attached to the original minutes.

Mr. Bodendorf stated that he would look into the tree line as mentioned in Mr. Morabito's memorandum dated January 8, 2009.

Dr. Assefi stated that the tree line that is next to the stonewall has unfortunately been taken care of by nature and in the summer it looks more protected than it is does now.

Mr. Callahan made a motion to waive the final public hearing. Seconded by Mrs. Hendricks. Motion carried.

Mr. Callahan made a motion that a Resolution of Final Approval be prepared for review at the February 26, 2009 Planning Board meeting. Seconded by Mrs. Hendricks. Motion carried.

REVIEW
VAN WYCK AT MERRITT PARK RESIDENTIAL DEVELOPMENT
SITE DEVELOPMENT PLAN

Mr. Mosca stated that one of the new types of homes they are requesting the Board's approval for has a master bedroom on the first floor and the other type is a more affordable unit. Mr. Andrews stated that these new types of homes are semi-attached single-family homes.

Mr. Callahan asked if the Walden type homes would be ADA compliant. Mr. Mosca stated yes. Mr. Andrews stated that this is not the first time that Toll Brothers has added additional types of units.

Mr. Andrews stated that both he and Ms. Davis could prepare an Amended Resolution of Final Approval to accommodate these new homes for the Chairman's signature.

Mr. Callahan made a motion that Ms. Davis and Mr. Andrews prepare a Amended Resolution of Final Approval and that the Chairman sign it when it is ready. Seconded by Mr. Rahemba. Motion carried.

DUTCHESS LAND DEVELOPMENT, LLC
SUBDIVISION

Mr. Burns stated that this project was before the Board sometime ago and that they have experienced some snags with the Department of Health and that they did let their approval expire in December of 2007 and did not come back to the Board to request an extension of this approval.

FINAL

DUTCHESS LAND DEVELOPMENT, LLC
SUBDIVISION
(CONTINUED)

Mr. Andrews reviewed his memorandum to the Board dated January 8, 2009; a copy of this memorandum is attached to the original minutes.

Mr. Morabito stated that he did speak with Ms. Davis in regard to the time frame as to when the preliminary approval expired. Mr. Morabito stated that it seems that a substantial amount of time has passed since the preliminary approval expired and that he understands the dilemma with the Department of Health but we need a clear process for this.

Mr. Rahemba asked if the new stormwater and sediment control law that the Town has now would pose a problem now. Mr. Andrews stated that it would not pose a problem as only boiler plate modifications will be required and that they deal with the technical aspects of the report itself.

Mr. Volkman stated that the Town Code does indicate that a preliminary approval is valid for six (6) months and that it expires unless it is extended by the Planning Board and that this language is included in all subdivision resolutions adopted by the Planning Board. Mr. Volkman stated that neither Town Code nor Town Law has any provisions with respect to extensions of such a deadline. Mr. Volkman stated that in prior years, there has not been a request for a readoption of a preliminary approval for subdivision and it is not like a readoption of a final approval for subdivision. Mr. Volkman that stated that there is no precedent for the Board to consider a readoption of a preliminary approval. Mr. Volkman stated the Board has granted readoptions for final approval but not for preliminary. Mr. Volkman stated that the point of a preliminary approval is to allow the Project sponsor to proceed to get final approval that complies with the preliminary subdivision plat. Mr. Volkman stated that the Board may require a new application or can entertain the request for a readoption of the preliminary approval but that if a readoption is granted it will set a precedent for future requests for other applicants.

Mr. Klarl stated that Mr. Volkman is correct and in the past his firm has dealt with this issue by issuing a reapproval assuming there are no significant changes in the project. Mr. Klarl stated that Mr. Volkman is right and understands that this Board has not readopted preliminary approval subdivision resolutions in the past. Mr. Klarl stated that he doesn't believe he should go back to an original application and asks that the Board give them a reasonable extension to complete the items on the Resolution of Preliminary Approval.

Mr. Knips stated that in the year and half there have been no items worked on but the Department of Health. Mr. Burns stated that a lot of the items are dependent on the Department of Health. Mr. Burns stated that when they foiled the information from the Department of Health that it didn't match what was actually there on the site. Mr. Klarl stated that the Project Sponsor did not communicate this with the Board.

DUTCHESS LAND DEVELOPMENT, LLC
SUBDIVISION
(CONTINUED)

Mr. Volkman stated that it is clear, according to the Town Code that the extension must be granted by the Planning Board before the expiration of the preliminary approval. Mr. Volkman stated that he can sympathize with the applicant and understands Mr. Klarl's position.

Mr. Volkman stated that this is not a routine occurrence with this Board, so if we do it now we will need to rewrite this position as part of the Town Code.

Mr. Callahan stated that the item that bothers him is that the project sponsor did not communicate with the Board. Mr. Klarl stated that Mr. Callahan is absolutely correct.

Mr. Andrews stated that a reapplication or a readoption is going to require the same documentation be submitted. Mr. Andrews stated if Mr. Burns feels that he's three (3) months away from Department of Health approval they haven't really lost anything by reapplying.

Mr. Andrews recommended that the applicant reapply for subdivision approval. Mr. Rahemba agreed with Mr. Andrews and there is a time period for an approval for a reason.

Mr. Rahemba made a motion that the applicant reapply for subdivision approval. Seconded by Mrs. Hendricks. Motion carried.

PUBLIC HEARING
WATERFRONT AT FISHKILL - PHASE V - OVERLOOK POINTE TOWNHOUSES
AMENDED SITE DEVELOPMENT PLAN

Mr. Knips stated that he is recusing himself from these projects, appointed Mr. Rahemba, Acting Chair and left the meeting room.

The public hearing was called to order by the Board at 7:44 p.m. Mr. Rahemba read aloud the notice of public hearing.

Mr. Simone stated that this is a request to amend the existing Site Development Plan approval that was readopted by the Town of Fishkill Planning Board on October 25, 2007 for the construction of a 256 townhouse development of which 18 units are designated and set aside as affordable in full compliance with the Town of Fishkill Affordable Housing Law together with all necessary and customary appurtenant site features, to include accessory recreation and open space. The purpose of this amendment is to shift and/or relocate units in order to satisfy the setback requirements of the Dutchess County Department of Health with respect to the new Rombout Sewage Treatment Plant. The parcel for this proposal is located on the west side of Route 9D, between Brockway Road and Firethorn Drive across from the Dutchess Stadium in the RMF-5 Zoning District and consists of 52 ± acres.

PUBLIC HEARING

FINAL

WATERFRONT AT FISHKILL - PHASE V - OVERLOOK POINTE TOWNHOUSES
AMENDED SITE DEVELOPMENT PLAN

Mr. Simone stated that that it was recommended that they come back to the Board for an amendment to the Site Development Plan approval due to the revisions required by the Department of Health.

Mr. Simone stated that the roadway and infrastructure remains identical to what was previously approved by the Board.

Mr. Rahemba asked if there were any questions, comments or concerns regarding this proposal. There were no comments from those in general attendance.

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

Mr. Callahan made a motion to close the public hearing at 7:47 p.m. Seconded by Mrs. Hendricks. Mr. Knips abstained. Motion carried.

Mr. Callahan made a motion to waive the final public hearing. Seconded by Mrs. Hendricks. Motion carried.

Mr. Callahan made a motion that a Resolution of Preliminary and Final Approval be prepared for review at the February 26, 2009 Planning Board meeting. Seconded by Mrs. Hendricks. Mr. Knips abstained. Motion carried.

PUBLIC HEARING
WATERFRONT AT FISHKILL - PHASE V - OVERLOOK POINTE TOWNHOUSES
AMENDED SUBDIVISION

The public hearing was called to order by the Board at 7:46p.m. Mr. Rahemba read aloud the Notice of Public Hearing.

Mr. Simone stated that this is a request to amend the existing subdivision approval that was readopted by the Town of Fishkill Planning Board on February 8, 2007 to create 256 fee simple townhouse lots, together with all necessary and customary appurtenant site features to include accessory recreation and open space parcels. The purpose of this amendment is to shift and/or relocate units in order to satisfy the setback requirements of the Dutchess County Department of Health with respect to the new Rombout Sewage Treatment Plant. The parcel for this proposal is located on the west side of Route 9D, between Brockway Road and Firethorn Drive across from the Dutchess Stadium in the RMF-5 Zoning District and consists of 52 ± acres.

Mr. Simone stated that the plat has been finalized and is under review by the Mr. Andrews and he is ready to go back for the Department of Health signature within the next week or so. Mr. Simone stated they that will be preparing the easements and descriptions and submitting them within the next week or so to the Town.

FINAL

PUBLIC HEARING
WATERFRONT AT FISHKILL - PHASE V - OVERLOOK POINTE TOWNHOUSES
AMENDED SUBDIVISION
(CONTINUED)

Mr. Rahemba asked if there were any questions, comments or concerns regarding this proposal. There was no response from those in general attendance.

Mrs. Hendricks made a motion to close the public hearing at 7:55 p.m. Seconded by Mr. Callahan. Mr. Knips abstained. Motion carried.

Mr. Callahan made a motion that a Resolution of Preliminary and Final Approval be prepared for review at the February 26, 2009 Planning Board meeting. Seconded by Mrs. Hendricks. Mr. Knips abstained. Motion carried.

ZBA REFERRAL
APPLICATION NO.: ZB09-001 - 11 BRIARWOOD DRIVE

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

It was the consensus of the Board with the abstention of Mr. Knips that the ZBA grant the variance.

ZBA REFERRAL
APPLICATION NO.: ZB09-002 - 70 VAN WYCK LAKE ROAD

It was the consensus of the Board that the ZBA grant the variance.

Mr. Rahemba made a motion to close the meeting at 8:05 p.m. Seconded by Mr. Callahan. Motion carried.

Respectfully submitted,
Debbie Davis
Planning Board Secretary

Attachments to original minutes

FINAL