

A Public Hearing and Planning Board Meeting were held May 11, 2009 at 7:00 pm in the Tannersville Village Hall.

Present: Lee McGunnigle, Mayor
Linda Kline, Trustee
Gregory Landers, Trustee (absent)
Anthony Lucido, Trustee
Mary Sue Timpson
Mark Hyer, Planning Administrator
Catherine Palmieri, Deputy Clerk

Also present: Mary Beth Bianconi, Bobby Goodrich, Sandra Governor, Elsie Jensen, Roger Murman, Ed Nihill, Danny Powell, Jeff Prince, Karen Terns

The Mayor opened the **Public Hearing for the Terns Subdivision** and asked if the appropriate neighbors have been notified of the hearing. Ms. Terns stated that Mr. Hyer has the letters in his file.

Mr. Hyer explained that Byron and Karen Terns are each looking to create one more residential lot on their properties. They are presently restricted by the Setback Ordinance of 20 feet from the side and back and 40 feet from the front.

The Mayor asked if anyone had come to speak on the subject. Mr. Danny Powell stated that he lives directly across from Mr. Terns' property and has had a long standing dispute with Mr. Terns over the right of way on which Mr. Terns purchased a paper road between his property and Mr. Powell's property. Mr. Powell further stated that Mr. Terns has denied Mr. Powell access to the back of his own property and that he and his aunt, Elsie Jensen, have been denied access to this road which was at one time a Village road, maintained by the Village. It is Mr. Powell's contention that previous Village Boards made decisions that were not legal to make. The Mayor asked whether Mr. Powell ever brought this concern to the present Board. Mr. Powell said he brought it only to the previous Board's attention.

Mr. Powell stated that he believes the Village has an ordinance which provides for one water hook-up per parcel and it is his belief that the Terns are requesting two residences on one parcel, is this correct? Mr. Hyer replied that "what is being requested is the creation of two parcels from one parcel. If subdivision approval is granted there will be two separate lots, each one standing as its own legal entity. They can then apply for whatever rights and privileges the Village allows." This does not mean that it will be granted but if it is they can apply for separate water hook-ups on the newly created lots.

Mr. Powell submitted photographs showing drainage problems caused by the fact that the driveway was built across a ditch, causing water to be diverted to his and a neighbor's property.

The Mayor recommended that the board members visit the properties in question in an attempt to obtain more information to reach a solution unless the board feels they can act on it now. Consensus was to table the project until the board can take a first-hand look and discuss the subject at the next Planning Meeting.

The Mayor asked that the fact that a letter of opposition was received today from Mrs. Leona P. Wollenberg, a neighbor, be entered into the minutes.

Mr. Hyer told Mr. Powell that he is welcome to submit written comments prior to the next Planning Meeting as the minutes are not verbatim but a summary of what is said. The Mayor made a motion to close the Public Hearing portion of the meeting and to put the Terns Subdivision on the agenda for the next Planning Meeting. The motion was seconded by Linda Kline. All in favor, motion carried.

The Mayor closed the Public Hearing portion of the meeting and opened the Planning Meeting for the:

Review of Public Comments on Zoning Document – Roger Murman, Fraser:

Mr. Murman stated that he would like to make a few introductory remarks and then deal with the comments that were raised at the Public Hearing and in writing. He mentioned that he did submit a written document last week that addressed those comments.

Mr. Murman stated that his company has been doing preparatory work for the Zoning Document since the year 2002, when Fraser was asked to develop an Economic Revitalization and Strategy Action Plan for the Village. What came out of this was the decision that the Village of Tannersville should have a Master Plan. In 2004, Fraser prepared a Master Plan for the Village. There was a great deal of community participation in its preparation and much public input. The Master Plan acknowledged that the Village needed to grow in a responsible manner. In 2006 Fraser prepared the Build Out Analysis and this is the document which formed the basis for the current Zoning Document.

The Mayor asked if Mr. Murman would address the comments received from people who were in attendance at tonight's meeting. Mr. Murman discussed some concerns raised by Mr. Prince. Mr. Prince then brought up another concern of his...his ongoing project of the last 2 years, CC Lots. As his project has preceded zoning, he questions why the land in that area remains one acre zoning as opposed to illustrating the plans that have been before the Board for the last two years. Mr. Prince said they are presently preparing an EIS and his concern is that the Board could say we are adopting zoning and, as your project does not conform, that is going to be a problem and will hold it up. The Mayor asked if Mr. Murman would address this issue. Mr. Murman said this project and any other project that is currently before the Board has every right to pursue it under the current regulations. Trustee Timpson said her understanding was that the map could not reflect what Mr. Prince was planning because it has not happened yet.

Mr. Hyer asked of Mr. Murman:

- 1) If Mr. Prince's application does not get approved before zoning is adopted, is he "grandfathered in?" and,
- 2) If Mr. Prince gets approved because his application was in before the Zoning Document started, do his lots then become 'nonconforming lots' and therefore subject to the 'nonconformance section of zoning?'

Mr. Murman replied that he would recommend that the advice of counsel be sought as he could not answer the questions. Sandra Governor, Mr. Murman's associate, weighed in as follows: although she recalls a law in the New York State Statutes that addresses the issue, she is not able to recall the particulars at this time. It would need researching.

The discussion continued among the parties with Mr. Prince talking about his desire to see the zoning in the CC Lots area changed to accommodate his plans for the 84 units on ½ acre to 2½ acre parcels. He stated that he scaled down his project to what he believes the Village could sustain and he is now trying to get continuity between his project and the zoning document that is going to be approved with the hope that he will not wind up as a ‘nonconforming’ project. He would like CC Lots to be a conforming project to any zoning document that would be passed.

Mr. Prince stated that he has to leave for a previously scheduled appointment and asked that the next Agenda item which was to follow, entitled **CC Lots Access – Prince and Delaware Engineering**, be tabled until the next Planning Meeting in June.

After Mr. Prince left, the board had a discussion with Mr. Murman and Mr. Hyer regarding possible interpretation of different scenarios. Trustee Timpson asked ‘where do we go from here?’ Mr. Hyer replied he would suggest that the Board come back to the next meeting having read all of Mr. Murman’s comments. Go over all the comments in your file, page by page, sentence by sentence, break out the maps and be prepared to go through this as a board in a yeoman like manner.

Trustee Timpson asked if she understood correctly that the Board will be expected to review the answers, review the zoning and come to next month’s Planning Meeting prepared to discuss zoning. Mr. Hyer continued “the board’s next step is to go through each one of the pages. All board members are not going to agree with every page...it’s going to be a majority vote, for or against. But before we do that I think the board has to really understand what we are voting for and the only way to do that is to take the time at a meeting, or two or three meetings, and go through the document page by page until we get to the final page and then put it to a vote, or make changes, and put it to a vote.”

The Mayor asked Mr. Murman if he would be able to come back down if the board members needed him to, or can the board members call and/or email him for clarification? Mr. Murman said he would make himself available for any assistance.

In response to concern expressed by board members, Sandra Governor, Mr. Murman’s associate, attempted to alleviate some of the worry by stating that they at Fraser feel they have put together a zoning law which is pretty broad, pretty general and pretty short as zoning codes go. Ms. Governor continued that, “If the proposed zoning code is adopted, it can always be amended by a simple majority of the board’s vote if things do not work or certain provisions are problematic. There is flexibility and it can be modified as needed.”

The Mayor thanked Mr. Murman and Ms. Governor, and they in turn thanked the board. The Mayor recommended to the board that as they go through the document and have specific questions, clarify them right away, email them, get the answers they need so we will not have to rehash them all at the meetings.

CC Lots Access – Prince and Delaware Engineering: Mr. Prince had to leave for a previous engagement. Ms. Bianconi attempted to bring the Board up to date on the issue. She said that Mr. Prince wants to include his wells in the water system. Ms. Bianconi

said she had asked Mr. Prince and Mr. Bates, prior to doing that, to make sure that they provided Delaware Engineering with a plan showing the location of the wells and the protocol of how they would test those wells as they would have to go on residential properties in the area and obtain permission to put a measuring unit down the side. Ms. Bianconi said she had strongly suggested to them that they get that protocol to us, to the Department of Health and DEC before they go too far down the road, spend a lot of money, and one of us finds a problem. To date, she has received nothing.

Ms. Bianconi said that about a week or so ago Mr. Hyer indicated to her that they were asking for permission to access the site. It was felt that it was a little premature as no one has reviewed the plans. Ms. Bianconi said what she has asked Mr. Prince and Mr. Bates to do is provide us with a sheet of paper on which is noted “here is where we want to build a well, here is how we intend to get there with a well drilling rig, etc.’ They need to indicate how it is being done. Are they building a temporary road? Is it a road that they intend to use as a permanent road later on, so that there are standards to which it has to be built?”

Ms. Bianconi continued, “if they are going on Village property, they will need permission of the Village. If they are going on the Bike Path there will need to be a maintenance agreement so that it will be restored as before. There is a possible need for fencing. So it would seem that they have a way to go get in order to provide the Board with enough information to make a decision with regard to access or anything else.”

Ms. Bianconi said the Scoping Document requires them to conduct testing so the Board has to consider their request for access. They need to provide plans describing what they plan to do. And while the work is going on, there would be checks to see that it is going according to plan.

Ms. Bianconi continued “another issue has come up with respect to the need for a bridge. Even if it were to be a kind of single span concrete bridge as you can see on the Thruway, the abutment to the bridge would be within 50 feet of the banks of the stream and this requires a Stream Disturbance Permit, an Article 15 Permit, issued jointly by the DEC and the Army Corps of Engineers. If an application went to them today, it might be September or early October before they got the permit. It is a lengthy process. What is needed for them to do is provide the detailed information that has been asked for and make sure that they send us a copy of any correspondence with any other agencies that they are coordinating with. The Village has to know what is going on.”

Fairway Commons – Subdivision Update: Mr. Hyer said when we left off with the project, Mr. Nihill was applying for laterals for each one of his townhouses. Mr. Nihill said this was correct. Mr. Hyer said the Board is waiting for the DEP to give Mr. Nihill six lateral hook-ups before we move forward. Mr. Nihill stated that they are not going with the Transportation Corporation. What Mr. Nihill is looking for, Mr. Hyer said, is contingency approval based on the laterals being approved by DEP and his getting water hook-ups from the Board of Water Commissioners for the way he has them laid out. Mr. Hyer asked if the metes and bound descriptions have been done on each house. Mr. Nihill replied ‘yes.’

The Mayor said he recommended tabling the issue until next month as Mr. Nihill may hear from DEP by that time. The consensus was to handle it in that manner. The Mayor said if Mr. Nihill gets DEP approval sooner, he can be heard at the next regular board meeting.

Approval of April Planning Board Minutes: Trustee Lucido made a motion to approve the minutes from the April Meeting. Trustee Kline seconded the motion. All in favor, motion carried.

The Mayor made a motion to adjourn the meeting. Trustee Timpson seconded the motion. All in favor, motion carried.

Minutes submitted by Catherine Palmieri, Deputy Clerk