

**THE VILLAGE OF PAWLING PLANNING BOARD MINUTES**

<b>Date:</b>	November 14, 2007
<b>Present:</b>	Michael Grogan, Chairman Michael Cerny, Member Taren Tanner, Member Stan Mersand, Member Dr. George Coulter
<b>Also Present:</b>	Larry Tomasso, Building Inspector Michael Hayes, Village Attorney Curt Johnson, Agent for Jacobs Properties Gene Richards, Stantec Engineer Robert Morini, Owner of Pawling Commons Shannon McKinney, Owner of McKinney & Doyle John Boyle, Owner of Allison Close Estates Bruce Major, Owner of Allison Close Estates Mr. & Mrs. Morgan, Neighbors Michael Keupp, ZBA Chairman

**APPROVED BY**  
**VILLAGE OF PAWLING**  
**PLANNING BOARD**  
11/23/07

On Wednesday, November 14, 2007 at 7:00 PM, the Planning Board met in the Village Hall at 9 Memorial Avenue. The meeting was called to order by Mary Heubel and began with the roll call as above indicated and conducted by the Planning Board Secretary, Mary Heubel.

**CONCEPT DISCUSSION:****Allison Close Subdivision – Final Plat Plan**

Mr. Grogan asked Mr. Hayes to review his memo with the Board. Mr. Hayes informed the Board that the ZBA has granted the applicant an area variance for the frontage on Lot 2 of the subdivision. Lot 2 will have frontage of 102' and the building will face the Allison Drive extension cul-de-sac. He suggested the parcel identified as "R.O.W." on the plat be revised to read "Private Road (paper street)".

The next point in Mr. Hayes's memo deals with the Bog Turtle Survey. The DEC has advised the Planning Board and the applicant that the endangered bog turtle has been recorded near the site.

The applicant submitted to the Planning Board Engineer a letter from the applicant's wetlands consultant, Richard Jacobson, concerning the bog turtle's habitat assessment. The US Fish and Wildlife Services (USFWS) had set up standards and criteria as to bog turtle's habitat assessment. The initial habitat assessment is a Phase 1 survey and should include the following information:

Minutes from the 11/14/07 Planning Board Meeting

- USGS topographic map
- Project design map
- Wetlands map
- “Designated survey area” map depicting those areas of the wetlands that meet the soils, hydrology and vegetation criteria for potential bog turtle habitat
- Color photos of the site
- Date of visit
- Description of the hydrology, soils & vegetation
- Opinion on potential/not potential habitat

The Phase 1 survey says this site is a potential suitable bog turtle habitat. Most applicants go forward designing their plans so the possible habitat will not be disturbed by conducting a Phase 2 survey.

Mr. Hayes believes Mr. Jacobson’s letter falls short of meeting the minimum standard for a Phase 1 survey. The letter does contain a recommendation for the wetlands to “be protected with an easement or open space to allow the wetlands to continue to provide habitat and other functions”. The final subdivision plat does not provide the easement or open space protection. The conclusions and recommendations should be the result of consultations with the DEC or the USFWS.

Before final approval by the Board, the applicant must:

- Complete a Phase 1 survey that meets the USFWS Bog Turtle Recovery Plan and Revised Guidelines,
- Submit that report to DEC and USFWS for review and comment,
- Incorporate bog turtle habitat protections into the proposed final plat, and
- Demonstrate that the project will completely avoid all direct and indirect effects on the wetlands in consultation with the USFWS and DEC (or alternatively conduct a Phase 2 survey)

Mr. Hayes, briefly, spoke about the “Modified Sediment Forebay” long-term maintenance proposed to be constructed on Lot 4. He suggested the Board consider requiring the applicant to enter into a written agreement with the Village Board covering the title and dedication of the forebay before approving the final plat.

Mr. Hayes, then, discussed the MS-4 compliance with regard to the project. The Village Board has adopted a Local Law (LL) implementing the MS-4 regulations and these regulations become effective the week of November 18<sup>th</sup>. Because Allison Close Subdivision has received preliminary approval before the LL was approved, the question

arises as to whether the requirements of NYSPDES General Permit (GP) 02-01 apply to the project or does the new requirements of MS-4 (General Permit 02-02) apply. Is this project “grandfathered” as to the requirements? The project meets the GP 02-01 requirements but not the MS-4 requirements. Because of the phrases “conditional approval” and “approval” in the MS-4 regulations and “preliminary approval” and “final approval” in the current subdivision law, there is confusion as to whether this project will be exempt from the MS-4 regulations. Mr. Hayes said the Planning Board can make a determination because the Board played a part in the formation of the MS-4 LL.

Mr. Cerny asked Mr. Hayes how the bog turtle issue impacted SEQRA. Mr. Hayes explained that the issue can be handled on the final plat and the Board could amend the negative declaration (neg. dec.) by stating the issue was handled with no negative impact.

The Board discussed what was needed to move this project along. A Phase 1 report by a qualified bog turtle surveyor that was submitted to the DEC for review and comment is an essential condition; for SEQRA – a resolution amending the neg. dec. and finally a determination as to the grandfathering of the GP 02-01.

Mr. Grogan asked Mr. Richards to review his memo with the Board. Mr. Richards stated the requirements noted in the memo were self-explanatory as well as the construction plans. He said the Stormwater notes that would apply depends on whether the Board was going to hold the project to the GP 02-01 or the MS-4 regulations. He said the project does meet the GP 02-01 regulations. Ms. Ryan stated the easement information will be added, if necessary, at the end of the project when the DEC recommendations have been completed.

Mr. Richards said the performance guarantee will be studied when the project design has been finalized.

Mr. Mersand made a Motion that, it be resolved that the Planning Board in its recommendation to the Village Board on the MS-4 Law intended for “conditional approval” or preliminary approval” to stand for the term “approval” as it was passed and is eligible for the exemption. Dr. Coulter seconded the Motion and all Members except Mr. Tanner (who excused himself do to a conflict) were in favor.

Ms. Ryan said the applicant will be back for the 12/14 Meeting with an extension of the approval deadline.

Pawling Commons Site Plan

Mr. Hayes excused himself do to a conflict.

Mr. Morini reviewed the project of erecting a 12,600 SF rectangular building on East Main Street. He said that from the recommendations after the site walk, the building was pushed back 10' to be more in line with the Duffy's house. This will reduce the actual square footage of the building. The architect came up with another version for the side of the building facing East Main Street. The building will be pushed back 10' on the Duffy side, 15' in the center and 5' on the north side. Mr. Cerny asked for a balloon test to see how the building would look from across the street. Mr. Tanner, also, asked for the footprint to be changed. Mr. Morini said they will return for the 11/28 meeting.

McKinney & Doyle Amended Site Plan

Mr. Tomasso reviewed the project. Mr. McKinney wishes to install a walk-in refrigerator in the back of the property and to install concrete wall for protection. Since the business had an original site plan, Mr. Tomasso suggested Mr. McKinney come before the Board to amend the site plan. The project is small. Mr. Mersand said the project was 69%, well within the 75% allowed by code.

The Board had a few questions concerning egress from the back of the store and if SEQRA was necessary. Mr. Hayes said it was a Type 2 action and exempt from SEQRA.

Mr. Cerny made a Motion to waive the public hearing. MR. Tanner secinded the Motion and all Members were in favor.

Dr. Coulter made a Motion to approve the amended site plan and that the project of erecting an accessory structure of less than 4000 SF was exempt from SEQRA. Mr. Mersand seconded the Motion and all Members were in favor.

Jacobs Property Site Plan

Mr. Tanner excused himself from voting on this project do to a conflict.

Mr. Johnson reviewed the project. The bank once occupied the ground floor of the building. It is now vacant. The applicant would like to have a "change of use" for that floor. They have no tenants to date. The applicant would like the Board's view on several possibilities for the space ie. a restaurant, a number of offices or some retail. The parking would be an even swap with the retail/office use and the bank. A restaurant would require additional spaces.

There was some discussion as to what type of business could go in the building. The Members of the Board (excluding Mr. Tanner) were in agreement with Mr. Johnson for leasing the space. They agreed a public hearing, probably, would not be necessary except if a restaurant was leasing. There would be no change to the outside of the building. Mr. Johnson told the Board he wanted an idea as to the Board's favorable review of the change before the applicant went ahead and looked for tenants. Mr. Mersand said he liked the idea. Mr. Johnson said he would be back once he has a tenant.

**OTHER BUSINESS**

Escrow Accounts

Mr. Grogan reviewed the accounts and said they were all in order.

Minutes of 9/26/07 and 10/10/07

Mr. Mersand made a Motion to approve the Minutes of the 9/26/07 and 10/10/07 Meetings. Mr. Cerny seconded the Motion and all Members were in favor.

Telecom Building

Mr. Mersand stated that Telecom, Inc. has leased the old Agway building to Healthquest for medical offices. He would like the Board to be pro-active by dropping a note to the owners stating that this lease would be a "change of use" and therefore, the owners need to appear before the Planning Board.

**ADJOURNMENT**

Mr. Mersand made a Motion to adjourn the Meeting. Mr. Cerny seconded the Motion and all Members were in favor.

Submitted by

Mary Heubel  
Planning Board Secretary