

TOWN OF RHINEBECK PLANNING BOARD
REGULAR MEETING MINUTES
APRIL 4, 2005

PRESENT: John Varricchio, Chairman
F. Woody Dierze'
Nicholas McCausland
Ricardo Recchia
Warren Temple Smith
Melodye Moore
Michael Trimble
Art Brod, Consultant
John Maasz, ZEO

ABSENT: none

Call to Order / Determination of Quorum

The Chairman called this meeting to order at 7:30pm and determined a quorum to be present for the conduct of business.

Business Session

- **Agenda.** The Chairman announced the Agenda for the Regular Meeting will stand as issued.
- **Minutes.** Planning Board consideration of the February 7, 2005, and March 7, 2005, Regular Meeting Minutes was deferred until the May meeting.
- **Correspondence and Announcements.**

The Chairman read the below body of a letter dated March 14, 2005 from Joseph W. Gelb on behalf of Winnakee Land Trust to Jon Adams, attorney for the Gardens at Rhinebeck:

“I understand that, despite your repeated statements to Michelle Yost and me that the lenders to the Gardens would subordinate their interest to Winnakee Conservation and Pedestrian Access and Trail Easements, one of the lenders has refused to sign those easements subordinating its prior mortgage to those easements. Therefore, the grant of the easements which your client made, is subject to divestiture in the event the lender forecloses. At this point, I do not believe that Winnakee has the easement it was purportedly given and by this letter I am so informing the Town Planning Board. Please let me know if your client will secure this lender's consent or otherwise insure that Winnakee has easements which can not be divested.

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cc: John Varricchio
Sally Mazzarella
Michelle Yost”

Regular Session (Old Business / Public Hearing Items)

J.D. Von Der Lieth and Sons, Inc. and Nick and Gretchen Van Der Grinten – White Schoolhouse and Slate Quarry Roads – Subdivision Plat.

The Chairman opened this Public Hearing and directed the Secretary to read the annexed Public Notice as it appeared in the Daily Freeman on March 24, 2005.

Mark Graminski, P.E. and L.S., appeared on behalf of the applicant. The Application was described as being an Application for Subdivision Plat Approval for Planning Board authorization of the intended transfer of 10 acres of Van Der Grinten’s land fronting on Slate Quarry Road to Von Der Lieth for merger with the latter’s lands fronting on White Schoolhouse Road. Michael Trimble asked if the additional land will be used as part of the Von der Leith’s soil mine. The Chairman stated this property would not be used as part of the soil mine. Moreover, that would require amendment of the Special Use Permit for the soil mine.

With no further questions, the Chairman accepted a motion from Michael Trimble seconded by Nicholas McCausland to close this Public Hearing. All were in favor. Motion carried.

Williams Lumber Inc. – NYS Route 9 North – Site Plan.

The Chairman opened this Public Hearing and directed the Secretary to read the annexed Public Notice as it appeared in the Daily Freeman on March 24, 2005. Mr. Graminski presented an Application for Site Plan Approval to authorize modification of the existing commercial, i.e. lumber yard, site through construction of three additional structures with a combined 15,064 s.f. footprint for the storage of building materials. The proposed construction was noted to be effectively implementation of the requirement of Zoning Code Section VI(B)(20)(b) which states the following in the case of a building material supply and sales use: “All material storage shall occur in wholly- or semi-enclosed (i.e. roofed) structures.”

Mr. Graminski further stated the Applicant had applied to the Zoning Board of Appeals for relief from minimum side yard setback and maximum building coverage standards to accommodate the intended construction, with decision anticipated on April 6, 2005. While the Applicant might have alternatively

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pursued rezoning by the Town Board of some of its adjacent land, the Applicant elected not to do so in consideration of the in-progress Town Comprehensive Plan Update and the wide-ranging views being discussed as to the appropriate development of the adjacent lands.

The Chairman noted referral comment issued by the Dutchess County Department of Planning and Development, was stated as 'a matter local concern'. The Conservation Advisory Council issued comment stating the plan is "tolerable". Michael Trimble visited this site and stated the Application is in keeping with the existing structures, provides good layout for contractor traffic and would be of benefit by having the materials covered.

The Chairman stated the Planning Board can neither take action on this Application, nor technically consider the Application complete, prior to the decision of the ZBA. Therefore, this Public Hearing will be continued on May 2, 2005 at 7:35 pm.

Josephine Herman and Myron & Barbara Glazer – South Hinterlands Drive and Burger Hill Road – Subdivision Plat

The Chairman opened this Public Hearing and directed the Secretary to read the annexed Public Notice as it appeared in the Daily Freeman on March 24, 2005. This Application is represented by Spencer Hall, L.S., on behalf of Josephine Herman and Barbara & Myron Glazer to authorize an intended lot line alteration between Lot 6 and Lot 7, Filed Map 4673-A, and consolidation of Lot 5 with modified Lot 6, affecting a total of 9.01 acres at the captioned location within the R3A District.

The overall effect of the proposed action, which was determined by the Planning Consultant to present no adverse effects with respect to the location of any existing improvements, is as follows:

- Elimination of Lot 6, an undeveloped, existing non-complying lot of 2.33 acres.
- Increase in the area of residentially-developed Lot 7 from its present 2.85 acres to a complying 3.14 acres.
- Increase in the area of residentially-developed Lot 5 from its present complying 3.83 acres to 5.87 acres.

With no questions or comments from either the Planning Board or public, the Chairman accepted a motion from Warren Temple Smith and seconded by F. Woody Dierze' to close this Public Hearing. All were in favor. Motion carried.

Northern Dutchess Rod & Gun Club – Enterprise Road – Special Use Permit and Site Plan Approval.

The Chairman opened this Public Hearing and directed the Secretary to read the annexed Public Notice as it appeared in the Daily Freeman on March 24, 2005.

The Chairman stated at the March meeting representatives of Northern Dutchess Rod & Gun Club explained the Club's proposal to restore and stabilize its rifle range berm through the placement and grading of sand over the existing berm. The proposed work, which is in fact understood to be substantially complete, involves the placement of 500 cubic yards of sand, this amount being 300 cubic yards more than the minimum threshold for "Major Excavation" and thus requiring issuance of a Special Use Permit and grant of Site Plan Approval.

Mr. Harold Coons stated the Gun Club has placed course sand on the face of the existing berm increasing its height from approximately 8' to approximately 12' at an approximate 45-degree angle. The purpose of the berm is to 'catch' ammunition from the existing shooting range. John Maasz, ZEO, stated on November 19, 2004 he visited this site to inspect the berm and estimated 139.6 cubic yards of fill was added. Mr. Coons stated he paid for 500 cubic yards and on February 17, 2005 the Town Engineer, Daniel Wheeler remeasured the berm and determined approximately 500 cubic yards of material was added. At this time the ZEO directed the Gun Club to apply for a Special Use Permit.

The Chairman read the following Memorandum from Jack Maasz, ZEO, and dated February 25, 2005

"Please be advised that I had a telephone conversation, this morning, with Town Attorney Scott Volkman, concerning the possibility of a violation existing at the Northern Dutchess Rod & Gun Club in regard to a previous 'Cease and Desist Order'.

Since the Club has observed the Order, they are considered to be in compliance with said Order, thus a violation does not exist. Had the Club continued to use the new trap stations, then a Violation Order would have been issued; this is not the case."

Ms. Joann Beard read the following letter into the record, dated April 4, 2005

"My name is Jo Ann Beard and I live at 86 Boice Road, Rhinebeck, which is 1.6 miles from the car entrance to the gun club. As the crow flies, I'm a mile or less away. I have lived here for about seven years. I moved to New York State after an incident of extreme gun violence in the Midwest permanently altering my life; I moved to the country because I like the idea

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of silence – I am a writer and have a studio in a barn on my property – and because I like the woods and the animals that I can see from my windows.

The laws in America are clear where guns are concerned, they make it possible for nearly everyone to have access...from target-shoots, to weekend warriors from Westchester, to school children. That means that even people who don't like guns, are afraid of them – like me – must live with a certain level of...if not exactly fear, then vigilance.

That said, I also know that even as the law says that all kinds of folks are allowed to own and shoot guns, they are also governed, must adhere to, the rules and laws put in place to protect them and others from them. That includes zoning laws, which are crucially important in a case like this involving a club where people come from miles around to shoot guns.

I drive Enterprise Road frequently in my route to and from town. Listening to gunshots and their reverberations from my studio, my bedroom, my bathtub, my backyard is annoying and disruptive, but driving past the club itself is actually frightening to me. I never fail to think about being shot in the front seat of my car, as I go past. This comes partly from the fact that I've never been able to figure out where they shoot and in what direction. I have three dogs, contained to a five-acre area with a fence and an invisible fence. Once in a while, tempted by a deer or a squirrel, one will run off into the woods and have to be chased down. He covers lots of ground in a short time, and has no idea what land belongs to me, to my neighbor, or to the gun club. Am I safe following him into the woods along Enterprise Road? What is the range of a rifle range? I don't know the answer to that, but I do know that guns and bullets have no more regard for borders and property lines than dogs do.

Please, if it's possible, I ask that you see to it this gun club obeys the laws...everyone advocating for guns, providing a forum for guns and everyone wielding guns must obey the law. It's imperative. Strict enforcement of zoning laws is the only protection we have from the distances --both physical and psychological – that this gun club causes.

Thank you for your time and consideration.”

Mrs. Mary Irish read the following letter, dated April 4, 2005, into the record.

“Since 2002 the Northern Dutchess Rod & Gun Club has been told that as a non-conforming use they are not allowed to improve or expand without a Special Use Permit. The application currently in front of the Board demonstrates that the Gun Club disregards that prerequisite, as well as

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the requirement for a survey prior to attaining a site plan approval and special use permit.

At the March 7, 2005 meeting of the Planning Board, the Gun Club submitted the application that is currently in front of you for approval, to make an improvement to a berm that they had already made without the required permits. The facts surrounding this latest ex post facto application make it unconscionable for the Planning Board to grant site plan approval.

The Gun Club did not obtain a Special Use Permit or site plan approval as required by the zoning laws of the Town of Rhinebeck prior to the acts of 'improving' their berm. In May, 2003 the Zoning Board of Appeals issued a decision that improvements, enlargements, extensions, alterations, construction or restoration to the northern Dutchess Rod and Gun Club, as a non-conforming use facility, violates Section IX(A) of the Zoning Law. That decision is binding on the Gun Club, but it appears they have chosen to ignore it.

Ignorance is not an excuse for violating the law. Previous decisions (March, 2003; May, 2003) by the Zoning Board of Appeals made it clear to the Gun Club that any additions, improvements and expansions require a Special use Permit and Site Plan Approval prior to making the additions, improvements, expansions, etc. It appears the Gun Club has 'thumbed their nose' at the Town of Rhinebeck again. They do not respect our laws, Boards or community. If the Planning Board issues a Special Use Permit and Site Plan Approval for this application dangerous precedent will be set. At a time when the development of Rhinebeck is striving to be planned and controlled, sending the message that the zoning laws, processes and requirements are not enforced, and may be disregarded without consequences, negates all of the recent work of the Comprehensive Plan Committee, all prior work by Planning and Zoning Boards and jeopardizes the entire community's character and quality of life. And finally, the Planning Board would be remiss to issue a permit based on Section X(D) 'EFFECT OF EXISTING VIOLATIONS'. Since the Gun Club has already violated Local Law ('or any related Town regulations') 'No building permit, grading permit or certificate of occupancy'" shall be issued. A13710.

As a resident of Rhinebeck I urge you to deny this application, and 1.) Require a survey be submitted with any future applications by the Gun Club, 2.) Demand conformance with the zoning law, and 3.) Insist that the Gun Club, like every other property owner in Rhinebeck, must first submit a proper application including a survey, and then get approval, before commencing any work."

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Spiro Chumas stated he is concerned about possible lead contamination of the ground water and ultimately the Landsman Kill and encouraged the Board to deem this Application a Type I Application under SEQRA. Mr. Chumas stated that as part of the Type I action under SEQRA the noise emitting from the Gun Club should be carefully evaluated. Chairman Varricchio reminded Mr. Chumas and the general public this Public Hearing is only for the berm and no other issues involving the Gun Club, which is under a "cease and desist order", can be made as part of this Public Hearing. Chairman Varricchio also noted the existing use as a gun club is a "grandfathered use".

Mr. Chumas stated he is not against the idea of a gun club; he enjoys target practice on his own shooting range on his own property. Mr. Chumas stated he called Mr. Maasz at home one night when he saw a tracer from a high powered rifle "go through the woods". He went on to say Mr. Maasz told him to call the State Police if he felt threatened. Mr. Chumas stated the ZEO has it within his power to issue a cease and desist order, even to a grandfathered use, when then that use is a threat to public health or safety. Mr. Chumas believes this is why the Gun Club has enlarged the berm and stated his opinion the berm is inadequate.

Dr. Bruce Cutler is a member of the Gun Club, stated his sympathy for Ms. JoAnn Beard who unfortunately purchased her home in the area of an existing Gun Club. Dr. Cutler also stated he feels that Mr. Chumas is missing the point of the berm which is to enhance safety. Richard Kopyscianski asked if the berm was made illegally. John Maasz, ZEO, stated the berm is an existing improvement; fill was however added to the berm without a "major excavation" Special Use Permit. This occurred for the Club wasn't told they couldn't add the fill because Mr. Maasz believed less than 200 yards was being added. It was later determined by the Town Engineer that approximately 500 yards of fill was really added. Mr. Maasz stated he, thus, advised the Gun Club of the need for Special Use Permit. Mr. Maasz also observed that no work was carried out by the Gun Club after such determination was issued. Mr. Kopyscianski asked what happens when someone does work without the proper permits in place. Chairman Varricchio stated it depends on the violation, this Board does not enforce the Zoning Laws, and the Zoning Enforcement Officer has gone on record as stating this Application has not been found in violation.

The Chairman read the following letter received from Valery Baker and dated April 5, 2005

"Dear Members of the Planning Board,

I regret not be able to personally appear before you due to child care arrangements.

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I am writing to express my strong dismay over the Northern Dutchess Rod and Gun Club's latest illegal act in again further enhancing their facility through the enlargement of a berm.

I urge you to turn any application they make to legalize this, whatever their arguments, down. This improvement along with all the other illegal enhancements should be dismantled until the underlying issues of the case are resolved. Do not let the club try to gain sympathy due to the funds they have expended.

This organization has repeatedly flouted local authority and should be held to the strictest accounting.

We are no longer a rural agrarian area as much as we all may yearn for those times. We are 3 acre residential zoning! I live in fear that the noise levels of a few summers ago might return if you do not handle all the matters before you carefully. My neighbors and I beg you to act wisely and with a view to the future of this area."

Michael Trimble and Melodye Moore, Planning Board members, visited this site with the understanding the only issue this Board can make a determination on, at this time, is the berm. Mr. Trimble specifically stated he found the plantings on the berm to seem adequate for stabilization.

Mary Irish stated the independent noise study that was submitted to this Board and the ZEO shows the Gun Club is in violation of the Town's noise ordinance and therefore the Planning Board should not be reviewing this Application. Chairman Varricchio stated any violations the Gun Club was issued are in respect to the additional trap shooting range which is under a cease and desist order. The ZEO stated he did not issue a notice of violation with respect to the noise ordinance; the Town will not rely on an independent study to issue a violation. Mrs. Irish asked if it is not a violation that the berm was built without a permit and therefore how can this Board now consider approving the berm. John Maasz stated he is trying to work with the Applicant on this matter; this issue is not any different than someone building a fence without the permit.

Spiro Chumas stated lead is a neurotoxin, and is concerned the addition to the berm may have covered potential contamination. Spiro Chumas then asked Mr. Coons if the range was ever rated by the National Association of Shooting Ranges (NASR) or similar organization. Mr. Coon's attorney advised Mr. Coons to not answer that question. F. Woody Dierze' suggested to the Gun Club members that in the future before they do anything, they contact the Town to see if any permits are required. Mr. Dierze' also questioned if Mr. Chumas's shooting range is legal? Mr. Dierze' stated he views the action the Gun Club has made as a way of enhancing the safety of the neighbors. Ricardo Recchia asked if the

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lead build up in the berm is monitored in any way. Mr. Coons stated the EPA requires monitoring of the lead in the berm and provides standards to address potential for leaching. Mr. Coons reported the Gun Club's facility is properly registered with the EPA. Ricardo Recchia asked how the berm would be cleaned of lead. Mr. Coon stated the EPA recommends not disturbing the berm and adding to the height; test bores are performed around the berm to be sure the lead is not leaching out. Wayne Girard, member of the Gun Club and an employee of EnviroClean, stated the EPA has approved the berm stabilization remediation. Ricardo Recchia asked how far the berm is from the Landsman Kill. Mr. Coons stated the berm is approximately 200 to 300 yards; he again stated the Gun Club takes the necessary steps to protect the Landsman Kill from lead contamination and will submit to the Board what lead abatement steps have been taken and their EPA records.

Bill Mansfield, a member of the Gun Club, stated his confusion as to why the neighbors would be "putting up a stink about a berm which is for safety". Spiro Chumas stated he feels the berm is inadequate to address the safety issues at the site and again suggested the shooting range be relocated. Art Brod stated the continuing litigation is what has prevented this Board from addressing the broader concerns; at this time the Planning Board can only make a determination of whether to retroactively approve this berm or not.

Spiro Chumas stated he feels Mr. Coons deceived the ZEO by allowing him to believe of 126 cubic yards of fill was placed on the site. John Maasz stated that Mr. Coon did not deceive him; it was he, the ZEO, who measured and determined only 126 cubic yards of fill were place on the existing berm. Mr. Chumas stated he believes the ZEO is giving the Gun Club special consideration because he is friends with the owners. Mary Irish stated she feels this Board should require a survey as they do with other applications. Mrs. Irish stated she remembers the ZEO stating he was close friends with the Gun Club representation. Jack Maasz, ZEO stated he is not close personal friends of anyone affiliated with the Gun Club nor does he have any interest in becoming a member of the Gun Club; further he said at no time has he ever stated he is close friends with any member of the Gun Club and, thus, questioned Mrs. Irish's "memory of the facts".

With no further questions from the Planning Board or the Public, the Chairman accepted a motion from Melodye Moore and seconded by F. Woody Dierze' to close this Public Hearing. All were in favor. Motion carried.

Regular Session (Old Business – Applications subject to Public Hearings)

J.D. Von Der Lieth and Sons, Inc. and Nick and Gretchen Van Der Grinten – White Schoolhouse and Slate Quarry Roads – Subdivision Plat.

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The Chairman read the following draft resolution, prepared by Art Brod, for the Board's consideration:

"The Town of Rhinebeck Planning Board hereby acts as follows on the February 23, 2005, Application by JD Von Der Lieth and Sons Inc. and Nick and Gretchen Van Der Griten, Mark Graminski, P.E. and L.S., Agent, for Subdivision Plat Approval to authorize a 10.0-acre lot line alteration between the Lands of Von Der Lieth, the receiving party, TMP 16-6269-00-887822, and the Lands of Van Der Griten, the transferring party, TMP 16-6269-00-886700, in the R3A District, all as set forth on a Survey Map entitled 'Lot Line Alteration prepared for JD Von Der Lieth and Sons Inc. and Nick and Gretchen Van Der Griten', prepared by Mark Graminski, P.E. and L.S., and dated February 21, 2005:

1. Upon review of the EAF Part 1 submitted by the Applicant, its own completion of EAF Part 2, and consideration of the criteria for determining significance set forth at Title 6 Part 617.7.c NYCRR, determines the Proposed Action, an Unlisted Action under SEQRA, will cause no potential significant adverse effects on the environment and thus issues a Negative Declaration deeming an environmental impact statement to not be required.
2. Grants Subdivision Plat Approval for the 'JD Von Der Lieth and Sons Inc. and Nick and Gretchen Van Der Griten Minor Subdivision / Lot Line Alteration' and authorizes the Chairman to stamp and sign the Subdivision Plat upon the Applicant's satisfaction of each of the below conditions within the next one hundred eighty (180) calendar days:
 - a. Stamping of the Subdivision Plat as a 'non-jurisdictional subdivision' or 'for filing purposes only' by the Dutchess County Health Department.
 - b. Acknowledgment the consolidation, or merger, deed, as heretofore reviewed in draft form and found sufficient by the Town planning consultant will have to be filed by Von Der Lieth in the Dutchess County Clerk's Office immediately upon filing of the Subdivision Plat and transfer of the subject 10.0 acres from Van Der Griten to Von Der Lieth and documentation thereof provided to the Planning Board.
 - c. Payment of any outstanding fee amounts or reimbursable costs due the Town of Rhinebeck.
 - d. Submission of final Subdivision Plat drawings in the number and form specified within the Town's Land Subdivision Regulations.

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In taking this action, the Planning Board has determined there to be no new residential building lots or residential building sites created and thus deems requirement for set-aside of park or other open space land within this subdivision or alternate payment of a cash-in-lieu-of-land recreation fee to the Town of Rhinebeck to not be applicable to this Application.”

A motion was made by Ricardo Recchia and seconded by Mike Trimble to adopt the above stated resolution. The motion carried by a unanimous vote of the Board.

Josephine Herman and Myron & Barbara Glazer – South Hinterlands Drive and Burger Hill Road – Subdivision Plat

The Chairman read the following draft resolution, prepared by Art Brod, for the Board’s consideration:

“The Town of Rhinebeck Planning Board hereby acts as follows on the January 27, 2005, Application of Josephine Herman and Myron & Barbara Glazer, with Spencer Hall, L.S, as Agent, for Subdivision Plat Approval to authorize an intended 0.29-acre lot line alteration between Lots 6 and 7, Filed Map 4673-A, and the consolidation of the remaining portion of Lot 6 with Lot 7, Filed Map 4673-A, all as depicted on a Survey Map entitled ‘Lot Line Adjustment for Glazer / Herman’ prepared by Spencer S, Hall, L.S., dated January 25, 2004, and revised March 8, 2005:

1. Determines upon review of the EAF Part 1 certified by the Applicant, its own completion of EAF Part 2, and in consideration of the ‘criteria for determining significance’ set forth at Title 6 Part 617.7.c NYCRR that the Proposed Action, an ‘Unlisted Action’ under SEQRA, will cause no potential significant adverse effects on the environment and, thus, that an environmental impact statement is not required.
2. Grants Subdivision Plat Approval for the ‘Josephine Herman and Myron & Barbara Glazer Minor Subdivision / Lot Line Alteration and Lot Consolidation’ and authorizes the Chairman to stamp and sign the Subdivision Plat upon the Applicant’s satisfaction of each of the below requirements within the next one hundred eighty (180) calendar days:
 - a. Stampng of the Subdivision Plat as a ‘non-jurisdictional subdivision’ or ‘for filing purposes only’ by the Dutchess County Health Department.
 - b. Submission of drafts of the following consolidation, or merger, deeds and finding of their sufficiency by the Town planning consultant with it understood these deeds are intended for recording in the Dutchess County Clerk’s Office immediately upon filing of the Approved

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Subdivision Plat, the recording of which shall be documented to the Planning Board:

- o Deed for recording by Glazer merging 0.29 acres, a portion of present Lot 6, upon transfer from Herman with present Lot 7.
 - o Deed for recording by Herman consolidating remaining portion of Lot 6 with Lot 5.
- c. Payment of any outstanding fee or reimbursable amounts due the Town of Rhinebeck.
- d. Submission of final Subdivision Plat drawings in the number and form specified under the Town's Land Subdivision Regulations.

In taking this action, the Planning Board has determined there to be no new residential building lots or residential building sites created and thus deems requirement for set-aside of park or other open space land within this subdivision or alternate payment of a cash-in-lieu-of-land recreation fee to the Town of Rhinebeck to not be applicable to this Application.”

A motion was made by Nicholas McCausland seconded by Warren Smith to adopt the above stated resolution. The motion carried by a unanimous vote of the Board members.

Northern Dutchess Rod & Gun Club – Enterprise Road – Special Use Permit and Site Plan Approval.

The Chairman read the following draft resolution, prepared by Art Brod and modified with input from the Planning Board, for the Board's consideration:

“The Town of Rhinebeck Planning Board hereby acts as follows on the February 23, 2005, Applications by Northern Dutchess Rod & Gun Club, Inc. for Special Use Permit and Site Plan Approval to authorize placement and grading of 500 cubic yards of sand for restoring and stabilizing an existing rifle range berm, such placement and grading falling within the definition of ‘Major Excavation’ as set forth in Section XIII of the Town's Zoning Law:

1. Determines upon review of the Short EAF Part 1 certified by the Applicant, its own completion of EAF Part 2, and in consideration of the ‘criteria for determining significance’ set forth at Title 6 Part 617.7.c NYCRR that the Proposed Action, an ‘Unlisted Action’ under SEQRA, will cause no potential significant adverse effects on the environment and, thus, issues a Negative Declaration deeming an environmental impact statement to not be required.

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2. Finds the 'Major Excavation' to in no way contravene any of the 'General Standards' for special permit uses set forth at Section VI (A) of the Town's Zoning Law.
3. Approves the requested Special Use Permit for 'Major Excavation' as depicted in cross-sectional drawings entitled 'Rifle Range Berm New Fill Section / Front Elevation' and 'Rifle Range Berm New Fill Section / East End Elevation', each dated March 16, 2005.
4. Further waives requirement for any additional drawings for this restoration project and grants Site Plan Approval for the proposed work, as depicted through the above cross-sectional drawings, observed in the field by a delegation of Planning Board members on March 25, 2005, and reported on at the time of Public Hearing."
5. Authorizes the Zoning Enforcement Officer to issue the Special Use Permit and a related Certificate of Compliance as may be required upon the Applicant's submission of a third party professional report documenting compliance with EPA lead abatement standards and completion of the work to the satisfaction of the Town Engineer and in compliance with any other pertinent laws, codes, rules or regulations within the ZEO and/or Building Inspector's jurisdiction."

After accepting a motion from Michael Trimble and seconded by Melodye Moore the Chairman opened discussion on the resolution with the Board. Warren Smith stated the only issue before this Board is the consideration of fill on an existing berm; with determinations from both the Town Attorney and the ZEO stating this Applicant is not in current violation of the Zoning Code, he has not heard anything from the public persuading him to not allow this applicant to proceed. Mike Trimble stated limiting the approval to the berm/fill will not determine how this Board will look at the other issues on this site; the berm will enhance the safety of the gun range. Ricardo Recchia stated he feels the Gun Club was remiss "for putting the horse before the cart", which has only added to their problems with their neighbors; any approval should be contingent upon the EPA report. F. Woody Dierze' encouraged the Gun Club to in the future seek approval prior to any improvements. Melodye Moore stated her opinion that the additional soil, providing EPA reports are favorable, does no harm and will provide additional level of protection for the neighbors. John Varricchio stated this Board is faced with the issue of a non-conforming, but allowed use. The existing use can continue to run with the removal of the berm and therefore feels it would be beneficial to approve this application, with documentation of the lead abatement from the EPA. Chairman Varricchio strongly encouraged this Applicant to make all future applications in a timely manner.

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With no further comments the Chairman conducted a roll call vote on the above stated resolution. All were in favor. The motion carried by unanimous vote of the Planning Board.

New Business

Rhinecliff Properties, LLC – Grinnell and Shatzell Streets – Site Plan.

James Chapman of Rhinecliff Properties and David Borenstein, R.A., appeared on behalf of the Applicant.

Mr. Chapman submitted a revised Project Narrative and EAF in response to the review comments offered by Planning Consultant Art Brod within his annexed memorandum of April 2, 2005.

The Chairman expressed concern for the ever-changing nature of the Application and, with the consensus of the Planning Board, stated the Application package should be revised to delete the following components before any procedural action is taken by Board: (1) proposed outdoor swimming pool, (2) proposed temporary tent for outdoor Summer events, and (3) proposed operation of a commercial parking lot for non-hotel patrons on the CSX lot.

The Chairman also stated the required Area or Use Variances that would be required from the ZBA must be specifically determined and related Applications made. The Planning Consultant observed that far greater the intended number of 32 parking spaces can be created within the CSX lease parcel, with Mr. Borenstein agreeing with his estimate this number would be at least 50 and perhaps somewhat beyond.

Mr. Chapman thanked the Board for its input and anticipated submitting revised materials prior to the agenda deadline for the May 2, 2005, meeting. Art Brod indicated the draft procedural resolution set forth in his annexed memorandum would be modified as appropriate for the Board's consideration at that time.

Regular Session (New Business)

Elizabeth Saum - 27 Beckrick Drive – Special Use Permit.

The Applicant appeared before the Planning Board in the role of potential buyer of the subject property to discuss requirements for securing approval for the establishment of a "Bed & Breakfast Establishment" and an accessory apartment on a single-family residential premise in the R5A District.

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Ms. Saum was advised that an Application for Special Use Permit would not be required for the "Bed & Breakfast Establishment" provided the B&B was no larger than the establishment previously operated at the location by the Recchia's and then the Andrick's. In the matter of the proposed accessory apartment, requirement of Application for a Special Use Permit, including supporting documentation satisfactory to the Planning Board and the Dutchess County Health Department as to the sufficiency of on-site water supply and sanitary sewage facilities to accommodate the additional use, was stated by the Chairman.

Ms. Saum thanked the Board for its input and indicated she would return at a later date with an Application for Special Use Permit.

James Murphy - 74 Violet Hill Road – Special Use Permit.

The Applicant stated he seeks to create a detached accessory apartment on a single-family residential premise in the R3A District. The efficiency accessory apartment would be created above an existing garage and scales less than 700 square feet in gross floor area. The intended occupant is an elderly family member.

With no further questions, the Chairman read the following draft resolution, prepared by Art Brod, for consideration of the Board:

"The Town of Rhinebeck Planning Board hereby acts as follows on the February 22, 2005, Application by James Murphy to create a 'Detached Accessory Apartment' on a single-family residential premise (TMP 6270-00-236227) at 74 Violet Hill Road in the R3A District, all as depicted on a sketch site plan and building floor plan accompanying the Application:

1. Accepts the Application as adequate for initiating Planning Board, consultant and public review
2. Classifies the Proposed Action as an 'Unlisted Action' under SEQRA.
3. Schedules a Public Hearing on the Application for Monday, May 2, 2005, at 7:40 p.m. and directs the Clerk to provide timely notice thereof.
4. Assigns Chairman Varricchio to conduct a field visit."

A motion was made by F. Woody Dierze' and seconded by Michael Trimble to accept the above stated resolution. The motion carried by a unanimous vote of the Board.

ZBA, ZEO or Town Board Referrals

Steven Melley - Sign Permit Application

This proposal is for a 10.5 square foot, wood, non-illuminated replacement of, and improvement upon, an existing sign at the Closs Drive location of Mr. Melley's law office.

A motion was made by Warren Temple Smith and seconded by Michael Trimble to recommend the ZEO approve this sign permit application due to its consistency with the Town's Design Guidelines. All were in favor. Motion carried unanimously.

Robert Myerson – Rhinebeck Tennis Club – Sign Permit

The Board first acknowledged the sign permit is consistent with the Area Variance for a two-component sign issued by the ZBA and second determined the proposed sign area had been reduced from 12.5 s.f. to 12 s.f. to now comply with the maximum square footage limitation.

A motion was made by F. Woody Dierze' and seconded by Michael Trimble to recommend the ZEO approve this sign permit application as consistent with the Town's Design Guidelines. All were in favor. Motion carried unanimously.

Citizens Bank

The Board reviewed by number and design a comprehensive sign package related to the conversion of the former Charter One Bank on NYS Route 9 North to Citizens Bank. Upon acknowledgment by the Applicant's representative of a sign removal directed by the ZEO, a motion was made by Nicholas McCausland and seconded by Warren Smith to endorse the sign permit package as consistent with the Town's Design Guidelines and recommend the ZEO approve the related sign permits. All were in favor. Motion carried unanimously.

ADJOURNMENT

A motion was made by Melodye Moore and seconded by Ricardo Recchia to adjourn this meeting. The Chairman declared this meeting adjourned at 11:15 pm.

Respectfully Submitted,

TOWN OF RHINEBECK PLANNING BOARD
REGULAR MEETING MINUTES
APRIL 4, 2005

Joan Winne
Secretary

Annexed Documents: Public Hearing Notices
 PLANNERS EAST Incorporated Memorandum of
 April 2, 2005. Re: Rhinecliff Hotel Site Plan