

**DRAFT – UNAPPROVED**

**MINUTES OF THE REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION (HCZM) OF THE VILLAGE OF MAMARONECK HELD September 19, 2012 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK NEW YORK**

**PRESENT:** Nick Allison, Chairman  
Peter Jackson  
Bert Siegel  
Jim Bilotta  
Clark Neuringer  
Alice Pernick  
Kevin LaFollette  
Anna Georgiou, Counsel to the HCZM  
Sven Hoeger, Environmental Consultant

**ALSO PRESENT:** Richard Slingerland, Village Manager  
Frank Fish, Planning Consultant

**CALL TO ORDER:**

The meeting of the HCZM was called to order by Mr. Allison, Chairman at 7:34p.m.

**MINUTES**

August 15, 2012 Minutes

Mr. Neuringer asked for comments he made to be incorporated the minutes were tabled until the changes are incorporated.

Chairman Allison read a letter dated 9/19/1012 into the record. The letter is attached to the minutes.

Mr. Allison commented that the Board was not involved in the drafting of the letter.

For the record the Commission has endorsed the letter as written.

**SEQRA TRAINING**

**Les Steinman gave the Commission SEQRA training.**

SEQRA IS Codified in Article 8 of the conservation law. The SEQR process must be completed before any action can be done.

Taylor's Lane 3 lot subdivision was used as a training tool.

- Types
1. TYPE I significant further action required
  2. TYPE II not a significant action no further action required
  3. Unlisted action is in the middle can use either a short or long EAF

Taylor's Lane was used as an example it is a Type 1 application and a long form EAF is required.

A lead agency is required; the Planning Board issued a notice of intent to be lead agency to all the involved agencies. If no objection is received within 30 days it automatically occurs. If more than one agency wishes to be lead and an agreement can't be reached the Department of Environmental Conservation ("DEC") makes the determination.

A Positive Declaration that there is at least one impact, or a Negative Declaration that there is no impact and the process ends must be determined.

Taylor's Lane had a Positive Declaration which triggered a draft environmental impact statement. The Planning Board directed the applicant to prepare a Draft Environmental Impact Statement ("DEIS").

The next step is a scoping process, the Planning Board as lead agency conducts the scoping process.

The applicant prepares a draft scope, the Planning Board reviews and adopts a final scope that the applicant must address. The Planning board is required to decide if the draft scope is adequate.

Taylor's Lane was not considered adequate. June 2012, they resubmitted, July 2012 the revised DEIS is considered adequate, the process can continue a public hearing was set for September 2012.

The purpose of hearings and public comments is to provide the applicant with information for the Final Environmental Impact Statement ("FEIS").

The applicant is before the HCZMC because it is an involved agency, and the commission is to determine if there are things in the document that require more information,

If there are any questions regarding the DEIS the answers will be in the FEIS, although there are time constraints they are not hard and fast.

For Taylor's Lane the only clock running is for written comments due by October 19, 2012.

Mr. Jackson asked if the Commission is bound by the SEQRA findings. The Commission may decide to adopt or make their own findings.

An Unlisted action can coordinate review or not, when coordinated the lead agency prevents further action.

Mr. Allison asked what protects the applicant if there is no time constraint, there are some constraints and there could be a default approval in some situations, but the SEQRA process trumps all time constraints as the Board has to finish SEQRA.

If the Applicant does not agree with the SEQRA decision, some time the courts will entertain.

Going forward the applicant for Taylor's Lane will answer the question required for a FEIS. The lead agency must be satisfied with the answers. That document will be the basis of the finding statement. If an environmental impact cannot be mitigated the reasons must be shown. There can be no action before the SEQRA process is complete. All involved agencies must make a consistency determination.

The applicant from Taylor's Lane is here tonight to answer the Commission's questions so they can make a consistency determination, or identify any additional information required. The objective is that all questions get noted, tonight the applicant will answer briefly and will be responded to fully in the FEIS.

The State of New York is planning changes to the SEQRA forms but it has been postponed to 2013.

## **OLD BUSINESS**

### **1. 1000 Taylor's Lane**

Beth Evans, of Evans Associates, addressed the Commission, stating that Mr. Steinman gave a good rundown of the process.

This is a 5+ acre parcel in an R-15 zone to be divided into 3 lots there is no plan to construct as of yet.

Ms. Evans stated the applicant was asked to look at potential development and prepared a full engineering drawing, the two additional lots can be developed without encroaching on the Wetlands. Exhibit 2C2 was entered into the record. The property is part of the Critical Environmental Area. The surrounding land use is one family homes.

As part of the preliminary review of the DEC the applicant was directed to do a full environmental analysis the conclusion was there are no cultural resources' impacted.

They also did their own analysis of consistency with the LWRP and the results will be incorporated into the discussion.

Water and air are discussed throughout the draft.

Ms. Evans stated there will be no impacts to wetlands and buffers as they intend to minimize disturbance.

The engineering plans submitted to Planning Board were also given to the commission.

The concern of Planning Board is what the houses would look like, Exhibit 4 A21 was entered into the record showing theoretical houses on the 2 lots, as the Planning Board is concerned with scale and massing.

Mr. Allison asked for a cross section showing not only the possible proposed houses but the existing one also.

Ms. Evans stated they were asked to look at possible alternatives to the proposed action.

1. Exhibit 5A1 assumes the lot will remain a 5.7 acre lot, but shows a pool and tennis court on the property without encroaching the Wetlands or buffer.
2. A 2 lot subdivision showing the northerly and southerly lot being developed. The existing house could develop other amenities on that lot.

There could be potential disturbance with or without subdivision.

Martha McCarty the applicant's lawyer stated they can have any accessory use as long as permitted on the lot now.

It was asked if the lots are subdivided can it be requested to further subdivide the lots in the future.

The other alternatives that limited area of disturbance

1. Propose a hatched area plan Exhibit 5C1 any portions of the 2 new lots would be permanently unbuildable.
2. Exhibit 5C2 would create a fourth lot not buildable, the two proposed residential lots would be smaller, (conservation easement or deeded to open space parcels) more detail to come in the FEIS.

Mr. Siegel asked if the neighbors are in support of the requested information will be supplied in the FEIS.

3. Finally at the Planning Boards request Exhibit 5D1 shows the maximum build out potential for a 4 lot subdivision.

Mr. Allison asked if the applicant will address neighbor's comments, to which Ms. Evans state yes .

All neighbors have been notified as required proof of mailing is in the Planning Board file. Letters from the neighbors on the opposite side of MiGit Pond were not in support of the application.

Ms. Evans stated the houses are planned above the current flood elevation, the existing house has no water problems the basement is dry.

Mr. Siegel asked in a flood zone how high livable area is, Ms. Evans responded she will answer it in the FEIS.

Mr. Neuringer stated that the action before them is a subdivision, not a site plan if in the future a lot is sold off would there be a site plan review. Ms. Evans responded not if they build as of right.

## **PUBLIC COMMENTS**

Daniel Natchez, 916 E Boston Post Road commended Ms. Evans for the information provided, and made a suggestions since the Planning Board had the benefit of 2 site visits one from either side of the parcel, he felt it would benefit the Commission to also do a site visit

He further stated that although the wetlands buffer was flagged and visible landward of the flags on lots1 & 3 the ground was wet, and questioned why that area was not part of the wetlands.

Mr. Hoeger will look into the matter.

Mr. Neuringer asked how are wetlands boundaries determined. Ms. Evans responded the DEC confirmed the boundary twice based on soils and vegetation and hydrology. The area was flagged and surveyed and the DEC checked and signed off and gave a certification.

Paul --- of Daniel S. Natchez Associates, representing the Novak's, Freemans and Berinwicks, stated the creation of two oversized lots that could possibly be subdivided further in the future must be taken into consideration. He stated that they object to a proposed subdivision that would allow for tremendous development potential.

The only issues that the HCZM have jurisdiction over involve the LWRP.

The issues of possible further development will be raised in the FEIS.

Mr. Allison stated he does not want to, discuss theoretical houses that the commission has no control over.

Paul --- stated Policy 12 regards activities in the coastal area, Mr. Hoeger noted it does not apply. Policy 17 4 lots can create an unbuildable are

The purpose of the presentation is to enlighten commission. Mr. Allison stated he has no issue with that or with the documents submitted except they are overwhelming.

Dan Natchez stated the concern is if there is to be a subdivision how it is done, how it effects the environment, limitation on where they can build, where they can clear, should be made clear. The catch is that this application is a Type I, but once approved it does not have to return to the HCZM.

Mr. Allison stated he appreciates Mr. Natchez's effort to help, the information is overwhelming.

Mr. Natchez asked that all documents be received by the Commission no later than 7 days prior to the next meeting.

Ms. Pernick asked that alternatives be discussed.

Barbara Novak of 950 stated that we have been having discussions for a very long time.

1. Invited the Commission to her property to view the applicant's property from across MGit Pond. She stated that she is concerned with the pond and doesn't want to see it damaged in any way.
2. The existing 8 year old house is not discussed in the DEIS, when the house was built cut into the wetland buffer. A large parcel was developed in damaging ways and this should be factored in. A lot of trees were cut and a lot of dirt was used to regrade.

Mr. Hoeger stated Policy 7 A has to be addressed, A Conservation easements should be encouraged., because it would provide a buffer written in stone to protect the wetlands and habitats.

Mr. Alter the applicant stated the houses predate the pond, the pond is manmade. He stated he values the pond and the character of the neighborhood.

On motion of Mr. Jackson seconded by Mr. Siegel the meeting was adjourned at 10:15 P.M.

Minutes prepared by

Francine M. Brill