

## LUMBERLAND PLANNING BOARD

1054 Proctor Road  
Glen Spey, NY 12737  
(845) 856-8600, x229

Jess Gluckler, Chairman  
Richard Plunz, Vice Chairman  
Pamela Bucksbee, Secretary  
Martin S. Miller, Attorney  
Timothy E. Gottlieb, Engineer  
Susan Wade, Clerk

Ed Gavalla, Member  
Karel Konrad, Member  
Susan B. Morley, Member  
Caroline Akt, Alternate  
Martha Tully, Alternate

### MEETING MINUTES

511th meeting

JUNE 5, 2012

**OPENING:** Jess Gluckler, Chairman, called the meeting to order at 7:30 PM with the Pledge of Allegiance.

**ROLL CALL:** Present were: Pamela Bucksbee, Ed Gavalla, Jess Gluckler, Karel Konrad, Sue Morley, Richard Plunz, Caroline Akt, Martha Tully, Tim Gottlieb, Susan Wade. Marty Miller joined the meeting in progress.

**OTHERS PRESENT:** Terresa Bakner, Steve Dubrovsky, Glen Smith, James Bates, Dave Sparling, Nadia Rajsz, Joe Carr, Sophia Martynec, Gibson McKean, Mike Cassaro, Larysa Dynszka, Lynden Lilley, Michele Kulgman Resnick, Mike Watkins, Daniel Sturm, Vicky Simpson, Ted Yeomans, Andrew Yeomans, Steve Simpson, Dennis Dietrich, Robert Bonnaci, George Roosevelt, Daniel Getter

**MOMENT OF SILENCE:** A moment of silence was observed in memory of our colleague Greg Bodnaruik. The clerk was directed to draft a letter of condolence to the Bodnaruik family.

**REVIEW/ACCEPTANCE OF MAY 1 MEETING MINUTES:** The minutes were accepted as presented, with one abstention.

**CORRESPONDENCE:** letters entered into the record re: Chapin Estates (see below)

**NEW BUSINESS: Kordowski – special use permit.**

The applicant, Dariusz Kordowski, built a garage/storage building/accessory structure in the Mongaup Valley river district without a permit. The building has no electric or water. Rather than tear it down, the owners are applying for a special use permit for the structure. The clerk will mail the applicants a copy of the application.

**CONTINUING BUSINESS:**

**Camp Simcha – site plan changes.** Jess reviewed the text of a letter that was entered into the file stating that at the last regular meeting of the Planning Board, the applicant had been directed to present plans to make a minor change to the location of a building on site. At the time of this discussion, the signed/approved site plan for the Camp had not been presented or located. Since it was subsequently located, and the Chairman exercised prerogative in requesting the Code Enforcement

Officer to work with Camp Simcha to allow construction on this building to commence without delay. There was no dissent from the other members.

**#343--Glenview Subdivision.** Ed Gavalla, member of the Board, recused himself from the proceedings. Marty stated that New York State law requires that the new Town law adopting the new zoning requirements applies in this application, and further, that there is no provision for grandfathering in the statute. Tim provided comments on the project. Ed avers that certain comments given by the Board's engineering consultant have been misconstrued as requirements, that certain of the comments address situations that don't apply in this application, and that such comments have held up the process. Ed further stated that since he is not creating a development, the need for siting houses, well and septic on the site plan is not in keeping with his stated intention of simply subdividing the land. The application has been held over; no public hearing date has been set.

**#346--Chapin Estates.**

The regular meeting was recessed and the Public Hearing was opened by unanimous vote of the members.

Ms. Bakner, attorney for the applicant, reviewed the history of the application to date. Glenn Smith, the applicant's engineer, presented the plans for development.

Administrative matters:

- ✓ It was noted that the application is on file.
- ✓ The application fees and escrow funds have been paid.
- ✓ The certified mail receipts were surrendered for the file.
- ✓ The affidavit of publication of the meeting notice in the River Reporter was surrendered for the file.
- ✓ **The Environmental Statement (SEQR) had previously been presented as part of the application.**

Correspondence received during the month was entered into the record:

- ✓ Denise Frangipane, Town of Bethel Councilwoman
- ✓ Smallwood-Mongaup Valley Volunteer Fire Company-accepting emergency evacuation plan
- ✓ Steve Dubrovsky of Woodstone Companies-addressing concerns raised by Ms. Frangipane in her correspondence
- ✓ Email from Victor Napolitano, Probuild
- ✓ Ira Liff, former Bethel Supervisor
- ✓ Andrew Boyar, Attorney at Law
- ✓ Alan Gerry, Granit Associates LP
- ✓ Luiz Aragon, Sullivan County Division of Planning and Environmental Management
- ✓ Allan C. Scott, Sullivan County Partnership for Economic Development

A letter was submitted by Richard Plunz, Vice Chairman of the Planning Board, but a copy was not provided to the Clerk.

Jess invited members of the public to speak. The following is a synopsis of their comments:

Gibson McKean, Lumberland and adjoining landowner. Noted that Chapin Estates has been a good neighbor since 2000 and the development has had a positive effect on the community at large, and that the workmanship is of the highest quality.

Mike Watkins, Bethel. Has built 26 homes in the existing Chapin Estates. Local suppliers and labor are utilized. Urged a "yes" vote to be able to continue to build this summer.

Larysa Dyrszka, Bethel. Is a 6-year resident of Chapin Estates. The community provides a safe and happy environment. Access to the development was never an issue for full-time caretakers she engaged to care for her elderly parents. She is grateful to be a resident of the Chapin community.

Sophia Martynec, Lumberland. Noted that emergency services (fire and EMT) are not to be provided by Lumberland. Although letters of intent have been received by area providers, these are not contracts, and many open questions remain regarding the providing of such services.

Dan Sturm, Bethel. As Supervisor of the town of Bethel, he has no concern about the impacts of the proposed development on any Bethel roads, including Pine Grove Road. The Chapin developers have a proven track record of assistance to the Town. Lumberland and Bethel have similar visions as recorded in their comprehensive plans, which rely on second-home development. The community needs jobs that this development will support.

Vickie Simpson, Bethel. As Deputy Supervisor in the town of Bethel, notes that Chapin has had very positive impacts on the Bethel and surrounding economy.

Lyndon Lillie, Bethel. As Highway Superintendent in Bethel, he notes that Chapin Estates has provided much support to the town by rebuilding and improving roads and public improvements in the Town. Use of Pine Grove Road will create no additional problems.

Daryl Supack, representing Alan Gerry. Studies of economic revitalization and vitality have shown that the lynchpin for such is second homes. These bring in fresh perspectives and contributions to the community and foster community involvement. Chapin Estates has proven to be "good neighbors". The community as built looks like it belongs in the area.

Steve Simpson, Bethel. As a member of the Bethel Planning Board, he notes that Steve Dubrovsky is a fixture in the community, and his work is meticulous and detail oriented. Bethel is better off for having the Chapin Estates in its town.

Eric Goldstein. The Chapin construction and its residents support local businesses.

Tony \_\_\_\_\_. As an area landscaper, notes that Chapin utilizes local contractors to serve its community.

Allan Scott and Michele Resnick, Sullivan County Partnership. Read letter of support written on May 15. Letter was entered into the public record.

Andrew Yeomans, Town of Thompson. Chapin is kept their promises and does not run out of town like other developers in Sullivan County. People who are marketing their homes reference "near Chapin Estates" as a selling point.

Ted Yeomans. "Ditto" to comments expressing positive effects of Chapin Estates on the community.

Discussion among the Board members (and responses to comments/questions) is summarized as follows:

Richard: there will be homebuilding this summer?

Mr. Dubrovsky: yes, there is a waiting list of people interested in the lakefront lots, and Chapin has no more available inventory.

Martha: No question that the community would bring positive economic impacts regarding property, school and sales taxes. The applicant will need to seek Special Use Permits (SUP) for some of the lots with greater slopes. As a condition of approval, it should be noted that each lot needed a SUP is to go through the Public Hearing process. Public notice was deficient on a project of this magnitude. Why were perk tests not required on each individual lot—when use is known, each lot is to be tested. The same standard should apply to all applicants. Subdivision regulations require that when intended use is known, the location of well and septic is to be part of the application. Another application pending before the Board is being required to do this. The applicant must (and did not) demonstrate hardship regarding a waiver for road construction; this demonstration must be part of the public record. An unfavorable precedent is being set for future applications.

Sue: Want to assure the development is in compliance with the new zoning laws. Also, will personal helicopters be allowed access into the community? Ms. Bakner responded that there is nothing in the new zoning with which Chapin is not complying. The earlier area of concern regarding conservation subdivisions was responded to by the change in the language that conservation subdivisions are "suggested" rather than "required", and Chapin submitted a potential plan incorporating a conservation subdivision format which the Board subsequently determined to be not more favorable.

Tim: as engineering consultant to the Board, he chose 15 worst-case scenario lots for perk testing.

Mr. Smith: all lots that were tested passed the perk tests. No alternative septic systems will be employed. All lots will be perked and pitted prior to their development. Personal helicopter pads are precluded by the Homeowner Association covenants.

Marty: the applicant appears to comply with the new zoning, though there may be issues of interpretation. Approvals are given to properties, not to persons. The cogent comments that were stated questioned the adequacy of the roads in Bethel and the need to contract for services. Martha has stated good points that have been discussed throughout the process. Special use permits may not be needed on certain of the lots, depending on where the houses are located. The lot sizes allow for different sitings of the houses.

Ms. Bakner: All issues raised have been addressed, and there is nothing more that can be presented that will change the circumstances. The Board needs to decide if they want the project, or not. The Town Boards will need to approve the service contracts; they are willing participants, as are the service providers.

Richard: Raised concerns about the late presentation of the evacuation plan.

Mr. Smith: The County asked the applicant to address forest fire issues in the evacuation plan, and this was done to their satisfaction.

Marty: There is no municipal liability; no legal liability. There is a legal obligation to provide best efforts. Subdivision regulations address the length of roads. However, this development cannot reasonably be developed in another way.

Richard: In terms of services, what is the downside to Lumberland having an agreement with Bethel. A letter from the fire department is not a contract.

Marty: The mandate to provide service would have to come from an inter-agency agreement. This project would need to be approved contingent upon receiving these agreements. A lot of the letters received have been fluff.

Ms. Bakner: Objected to the comment about "fluff".

Nadia Rajs: The Lumberland Town Board is ready to move forward on these service agreements as soon as the project has been conditionally approved.

George Roosevelt (Smallwood-Mongaup Valley F/D): The rights of way on the roads as currently exist are so wide that trees are not going to fall across the road.

Martha: Conservation easements for abutting properties are not provided for. Emergency evacuations by boat are not feasible.

Richard: There is no second vehicular road.

Mr. Roosevelt: Emergency boats could be launched within 10 minutes in other areas of Swinging Bridge.

Mr. Smith: There's one road but secondary means of evacuation, which were addressed in the Evacuation Plan.

Richard: summarized his letter; wanted it included in the record, but did not provide a copy to the PB Clerk.

Jess made a motion, seconded by Pam, to close the Public Hearing. Jess, Richard, Pam, Ed, Karel and Sue voted in favor. Martha was opposed.

Sue made a motion, seconded by Ed, to reopen the regular meeting. All voted in favor.

Richard: If approved, the Board needs in writing exactly what requirements will be of the fire and EMT.

Ms. Bakner presented a draft resolution issuing preliminary subdivision plat approval. A motion was made to accept the resolution, seconded by Sue. Discussion ensued which is summarized as follows:

Richard: Roads should be enumerated and it should be stated that Lumberland will have no responsibility for the roads, ever. He asked about police protection. An earlier discussion of this item was reviewed, that the development is jointly covered by the State Police and the Sullivan County

sheriff. No other agreement or covering is required. Only EMT and fire protection are provided by municipalities, not police. There are no police in either Lumberland or Bethel. The town has no liability or obligation, so police protection does not need to be included in the resolution.

The resolution, as amended to address fire and ambulance services, the obtaining of a special use permit for any building that is proposed to be built on a 15% or greater slope, and obtaining a storm water SPDES permit prior to construction, was read.

Richard inquired as to who had written this resolution. Ms. Bakner drafted it, and Marty had reviewed and concurred with the language prior to the meeting.

A roll call vote was called--5 Yes (Jess, Pam, Ed, Karel, Sue) 1 No (Martha) and one abstention (Richard). The motion was carried. Richard left the meeting at the conclusion of the vote. The resolution is appended to these minutes.

Nadia Rajsz thanked the Board members for their work on this matter.

**ADJOURN:** 10:20 PM

Respectfully submitted,

A handwritten signature in black ink, reading "Pamela Bucksbee". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Pamela Bucksbee, Secretary

**TOWN OF LUMBERLAND  
PLANNING BOARD**

**APPLICATION OF  
CHAPIN LUMBERLAND LLC  
FOR SUBDIVISION APPROVAL**

**June 5, 2012**

**RESOLUTION ISSUING PRELIMINARY SUBDIVISION PLAT APPROVAL**

Motion by Member Pamela Bucksbee  
Second by Member Susan B. Morley

**WHEREAS**, the Planning Board has declared itself lead agency for the SEQRA review of the 43 lot subdivision proposed by Chapin Lumberland LLC, an unlisted action; and

**WHEREAS**, the Planning Board has reviewed the application, the EAF Part 1 and Part 2 and has carefully considered all of the documentation submitted with the application, a list of the documents can be found in letters dated March 29, 2012 and April 20, 2012 from the Applicant, as well as all of the comment letters received from the involved and interested agencies; and

**WHEREAS**, the Planning Board has also caused its Town Consultant, Tim Gottlieb of Joseph Gottlieb, P.E., P.C. to review all of the materials and to provide advice to the Planning Board on the potential impacts of the project (see review comments dated April 30, 2012); and

**WHEREAS**, the Planning Board determined that this proposed subdivision will not have a significant adverse environmental impact and that an Environmental Impact Statement will not be required to be prepared -- the negative declaration was incorporated by reference into the resolution; and

**WHEREAS**, the Planning Board held a duly noticed public hearing on the subdivision plat on June 5, 2012 at the Town of Lumberland Municipal Offices at 1054 Proctor Road, Glen Spey, NY at 8:00 p.m. and has carefully considered all of the comments of the public at that hearing in making this decision, as well as any comments made in writing; and

**WHEREAS**, the Applicant provided the notice of public hearing to the River Reporter and to the adjoining property owners and municipalities and provided affidavits of publication and mailing to the Clerk of the Planning Board; and

**WHEREAS**, the General Municipal Law referral was made to the Sullivan County Planning Board on May 3, 2012 by Tim Gottlieb and a response was received dated May 22, 2012 which is hereby entered into the record in which County Planning recommended a modification that "there be an emergency evacuation plan created by the Applicant and adopted by the Homeowners Association and acceptable to the Town and emergency service providers before any certificate of occupancy is issued within the new subdivision"; and

WHEREAS, the Applicant's project engineer, Glenn Smith has submitted the emergency evacuation plan on May 29, 2012 well in advance of the timeframe requested by the County and the Applicant has no objections to the County's requested modification; and

NOW, THEREFORE, BE IT RESOLVED, that:

1. The Planning Board reaffirms its negative declaration; and

2. The Planning Board hereby grants the waiver from the requirement to pave the roadways requested by the applicant on the grounds that the roadways will be privately owned and maintained and that the record has established that in the adjacent projects maintained by the applicant that such roadways are properly maintained and snow removed and that it would be a hardship to the applicant to change the nature of the projects that have already been built in the Town of Bethel which incorporate such roads as an environmentally friendly aspect of the project design which is also more consistent with the green storm water designs set forth in the NYSDEC storm water manual, compliance with the manual is required in order to obtain a NYSDEC General Storm water SPDES Permit, which this project will obtain prior to commencing construction; and

3. The Planning Board hereby finds that a conservation subdivision is not appropriate for this property due to the size and configuration of the property and its connection to the adjoining Swinging Bridge Subdivision in the Town of Bethel. A conceptual conservation subdivision design was reviewed in making this determination; and

4. The Planning Board hereby issues Preliminary Plat Approval for the proposed 43 lot subdivision with the subdivision to be developed in three (3) phases as shown on the subdivision plans and plats prepared by project engineer Glenn L. Smith, P.E. and project surveyor Lawson Surveying and Mapping, and on file with the Clerk of the Town of Lumberland Planning Board. This approval is conditioned upon an agreement between the appropriate municipal entities for fire and ambulance services for the subdivision and obtaining a special use permit for any building that is proposed to be built on a 15% slope or greater prior to the building permit being issued for that building.

Roll Call Vote

Vote

Jess Glucker	yes
Richard Plunz	Abstained
Pamela Bucksbee	yes
Ed Gavalla	yes
Karel Konrad	yes
Susan B. Morley	yes
Martha Tully	no