

Minutes of the Town Board Worksession held at Town Hall on December 16, 2013 at 8PM

Present: John Burke, Supervisor

Timothy Arone, Frank Palermo and Marilyn Prestia, Councilpersons

Absent: None

Also Present: Al Fusco, Engineer for the Town; Eric Ossentjuk, Attorney for the Town; Robert Hunter, Councilman-Elect; Robert Weyant, Highway Superintendent

1. Discussion – WP3 Open Space:

The Board continued a discussion that began at the November 18, 2013 worksession regarding a request by William Brodsky, developer of the Woodbury Junction (WP3) development, to access open space owned by the Town to construct sewer infrastructure for this development. A report from Engineer Fusco provided the following update:

1. He has reviewed the geotechnical report has found it to be adequate.
2. The engineering report for the installation of the sewer line was submitted and the report was typical and covered the installation.
3. The revised plans for the initial application now require a smaller easement from the Town (reduced to 10 lineal feet) and did not include changes to the drainage area and/or the open space. The applicant might make changes to the drainage but not changes into the open space areas. Changes to the drainage must be approved by him as Town Engineer. The map that was provided to illustrate the proposed easement was not adequate and requires clarification.
4. He reviewed the legal description of Julien Court and the easements proposed over lots owned by Rosner/Chou. He found that the descriptions do not close and the road dedication description does not match the map provided. He has requested specific mapping for the easements and road that show lot numbers, names, referenced comments, etc.
5. A letter was requested from Village Water/Sewer Superintendent William McClennan to provide an update to his June 18, 2013 letter that contained a punch-list of outstanding issues that needed to be resolved. This update was not received but Engineer Fusco did speak with Superintendent McClennan and he indicated that he was not satisfied with the work that has been accomplished.

Engineer Fusco concluded his report by stating that he is satisfied with the submittals, except for the legal descriptions, with the understanding that a representative from his office will witness all work, per the Board's request. He recommends that if the Board authorizes the easement for sewer it be held in escrow by the Town Attorney until Superintendent McClennan is satisfied with the performance by the developer and the descriptions are satisfactory.

Attorney Ossentjuk then spoke about an email that he sent the developer's attorney, Marvin Gess, on November 26, 2013 that states he has reviewed the Developers Agreement of March 13, 2007 and Paragraph 21(a) confirms that the "ownership of the dedicated open space shall be turned over to the Town of Woodbury as Open Space pursuant to the 'Conservation Cluster Development Law'". He has also reviewed Section 310-31.1(g)(1) of the Town's Conservation Cluster Development Law which provides for some limited use of Open Space. He feels that a proper request made by the developer in accordance with the terms of the Conservation Cluster Development Law could be considered by the Board. Regarding Julien Court, Attorney Ossentjuk noted there are several issues with the property currently owned by Cornell, which is being deeded to Mr. Brodsky. One of which is there is no tax identification number. His office has written to Orange County Real Property requesting that one be assigned (they have been under the impression this is a town road). The deed to Mr. Brodsky contemplates a transfer of the fee but the legal description describes an easement. The Town does not

want to take over the parcel that is currently being used as a road but it is insistent that the residents of Julien Court be protected. He noted that only three of the seven property owners on this street currently maintain the road. The sewer line will have to be placed in an easement that will be granted to the Town upon completion. Attorney Ossentjuk stated he feels the best way to handle these issues and to protect the residents of Julien Court for them to form a Homeowners Association and have a road maintenance agreement signed by the members of the Homeowners Association. Since this email he has spoken with Mr. Gess and all information has been provided but issues regarding the care and maintenance of the road has yet to be resolved. The developer has asserted that he will care for the road but Attorney Ossentjuk feels that this poses several issues including the fact that the maintenance is a long-term undertaking. Regarding the formation of a homeowners association, of the seven property owners, only four have returned telephone calls from Mr. Brodsky (Murfee, Costa, Espinosa and Rosner). Of these four that have shown an interest in the road, only three contribute financially towards it. Attorney Ossentjuk also noted that soon after the November 18 worksession it came to the attention of the Supervisor that work was being performed in open spaces G and J without authorization. Village Building Inspector Gary Thomasberger informed him that he had addressed these issues with Mr. Brodsky and an email was received apologizing and claiming the work was done without his knowledge.

Marvin Gess stated, in summary, that he does not agree with Engineer Fusco's recommendation that the sewer easement be held in escrow nor does he agree with Attorney Ossentjuk recommendation that a homeowners association be formed.

Charles Toal, an attorney representing Cary Rosner/Glace Chou of Julien Court, was present this evening. When asked, he stated he was unaware of the opinions of the other residents of Julien Court. His clients have entered into an agreement with Mr. Brodsky and received an undisclosed dollar figure for granting an easement.

After all discussion was completed, the Town Board decided the following: 1) Attorney Fusco will arrange a meeting with Mr. Brodsky, Superintendent McClennan and Mayor Michael Queenan to discuss and receive an update on the June 18, 2013 punch-list that was prepared by Superintendent McClennan; and 2) Mr. Toal was asked to meet with all property owners of Julien Court to receive their input and to protect their interests.

Supervisor Burke noted that he has been approached by three Julien Court property owners and they have told him that they were not contacted at all and that they are not interested in this proposed improvement to the road. He feels it is very important that the owners on Julien Court are heard and protected during this endeavor.

With no further business to discuss, a motion was offered by Councilman Arone, seconded by Councilman Palermo, to adjourn the meeting at 10PM.

ADOPTED AYES 4 Burke, Arone, Palermo, Prestia
 NOES 0

Desiree Potvin, Town Clerk
(from notes taken by Supervisor Burke and
supplied by the Town's consultants)