

Town of Rockland Planning Board  
December 5, 2018

Present: Chairman Thomas Ellison, Richard Barnhart, James Severing, Nancy Hobbs, Joy Wood, Robert Eckert and Chris Andreola. Also present, Glenn Gabbard, Code Enforcement Officer and David Ohman, engineer for the town.

Chairman Ellison called for a moment of silence in honor of President George H.W. Bush. The regular meeting was called to order with the pledge to the flag. On a motion by Jim, seconded by Bob the minutes of the November meeting be approved as distributed, carried 7/0.

Correspondence/Updates: upcoming training for credit hours given by the county or on-line course work available. An e-mail was received and distributed to board members from Ted Hartling, Highway Superintendent offering his opinion on the Little Ireland Road and the traffic study done by Firelight camps.

Jim recused himself from the board and presented lot improvement maps for Bleakly/Philips in Roscoe. This project was presented previously and the maps were not filed on time. Jim asked the board to grant permission for the Chairman to re-sign the maps for filing. On a motion by Joy, seconded by Richard and carried 6/0 Chairman Ellison will re-sign the maps. Jim re-joined the Board.

**Keiser Equipment:** Michael Misner was present and stated that his contractor has moved his equipment on site and will sift the contaminated soil and rocks for removal. Then he will remove the truck body from the site. Chairman Ellison stated that once this was done and he submitted a letter from the DEC stating the situation was remedied he could move forward with the Code Enforcement office for his CO.

SBA had submitted their cell tower special use permit renewal and inspection report for the Clements site and they are in full compliance.

Chairman Ellison recused himself from the Board. Vice Chair Richard Barnhart took over.

**Firelight Camps:** Wes Iling presented updates on the project.

- A temporary driveway has been installed to allow access for the well drillers. The drill rig had problems and has not been able to start drilling the well so the applicants have not well data to present.
- At the last meeting Chris had asked that more vegetation be shown on the site plan along with dimensions of areas covered. The applicant has done this and Wes pointed out several areas where trees will not be disturbed during construction and where additional trees would be planted (Sheet B1 and C2). The addition of trees and shrubs would add screening to the parking areas.

- The entrance sign lighting was discussed. The light was added to the post and the site plan shows the tight beam angles illuminating the sign.
- Details were added for the requested fence along the Boddy property line - 2" wide galvanized wire mesh, 3' tall.
- The walking paths would be Item 4 gravel pack stone.
- The applicant re-sized the equalization tank from 70,000 gallons to 35,000 gallons (calculations are detailed in the engineering report to the DOH).

The board reviewed the storm water waiver requests and recommendations from Delaware Engineering (letter of November 12, 2018).

1 § 185-30.1. *Stormwater management.*

*Every application for a new or substantially modified Special Use shall include provisions for stormwater management in accordance with the standards of this section. Additionally, should any person intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a site plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the performance standards of the NYS Stormwater Design Manual published by DEC. Applicants shall, when required by the Town Planning Board, submit the following for review and approval by the Town: An Erosion and Sedimentation Control Plan (Basic SWPPP) prepared in accordance with the performance standards of the NYS Stormwater Management Design Manual. The plans shall illustrate those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments.*

*A Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the NYS Stormwater Management Design Manual. Such plan shall be subject to review by both the Town of Rockland and New York State DEC and meet both sets of standards. Where such standards conflict the higher standard shall apply. The SWPPP shall identify those practices employed after construction and as may be necessary to prevent property damage by and pollution of associated water courses or impoundments.*

*Proposed areas of disturbance shall be drawn to scale and quantified in support of applicable SWPPP requirements (including a Basic SWPPP).*

### **Waiver Request #1**

The NYS Stormwater Design Manual is only a guidance document, and the DEC allows deviations therefrom when appropriate. It is in fact nearly impossible for a SWPPP to comply 100% with the Design Manual. For example, there are almost always small areas on a large site which are not practical to capture run-off from. In such instances, NOT treating runoff from these small areas is permitted. Numerous other minor deviations are also allowed. We propose to submit our NOI to

the DEC. If they choose not to review the SWPPP, then - although not required by the DEC - the Planning Board could have its reviewing engineer review the SWPPP. However, before we hear back from the DEC regarding their position, I recommend the SWPPP be reviewed by the Planning Board reviewing engineer for its hydraulics to ensure the plan adequately conveys stormwater as required. There should only be one reviewing authority. We therefore request a waiver to this section.

Since we deviate from the Design Manual in the Town of Rockland for hydraulics to mitigate flooding, the town should consult the town attorney regarding invoking Home Rule for detention requirements. It is further recommended the code be revised to reflect the legal requirements as opposed to the Design Manual which as stated above is only a guidance document.

#### Delaware Engineering Comments Responding Waiver Request #1

It appears that the waiver requests having only one reviewing authority for the SWPPP and considering Home Rule for hydraulic retention requirements.

We believe that it is prudent for the applicant to submit the stormwater notice of intent (NOI) to NYSDEC. If DEC reviews the SWPPP, Delaware could review their (DEC) comments, and if desired by the Town, also review the SWPPP. If DEC does not choose to review the SWPPP, Delaware could do so at the Town's request.

We understand from the applicant's engineer that the SWPPP will not conform to performance standards set forth in the NYS Stormwater Design Manual, and will state so in the NOI. We believe that this non-conformance will likely trigger DEC review. Therefore, at this time, Delaware does not intend to review the SWPPP prior to DEC's response to the NOI unless requested by the Town.

We have discussed the hydraulic modeling, that is the basis of SWPPP facilities with the applicant's engineer and understand that he is making some adjustments and will add more detail relative to swale and culvert sizing, and include these changes in the SWPPP and on the site plan drawing package. We can review the revised model hydraulics if desired by the Board.

In regards to deviation from the Design Manual, and/or current Town of Rockland requirements to mitigate flooding, and Home Rule and/or changes to code, we suggest that the Town Attorney provide his opinion on the viability of this request.

Further, we understand that previous flooding in Roscoe and Livingston Manor have resulted in previous requirements limiting peak stormwater runoff in various locations or zones. We defer to the experience of the board regarding the applicant's engineer's request to consider modifying the Town regulation to permit immediate rather than reduced peak stormwater discharge.

Robert made a motion that the Notice of Intent be sent to the NYS DEC and wait for a response, if the DEC does not review the SWPPP then Delaware Engineering will do so, Nancy seconded and carried 6/0.

*Post construction stormwater practices shall reduce peak stormwater runoff to 75% of the preconstruction peak runoff for the 10-year event. The Planning Board shall be authorized to modify these criteria if immediate discharge is appropriate.*

### **Waiver Request #2**

This criteria, established over 10 years ago, was intended only for Zone 2 of the watershed (its outer reaches, where extra detention time allows downstream flows to clear out before receiving upstream flows). Application of this criteria to Zones 0 and 1 (in and closer to Livingston Manor and Roscoe) will increase the probability of flooding in Livingston Manor and Roscoe. This section of code should be revised, unless the Planning Board intends to issue waivers to all zone 0 and 1 applications as appropriate. The map for Zones 0, 1, and 2 is attached. Roscoe only has a Zone 0 and Zone 1 as it benefits from the Zones 1 and 2 upstream of Livingston Manor. This project is in Zone 1, which is intended to follow standard DEC detention times. We therefore request a waiver to this section.

### Delaware Engineering Comments Regarding Waiver Request #2

The waiver requests that the applicant be allowed to immediately discharge 100% of the peak preconstruction runoff for the 10 year event in order to decrease the probability of flooding Livingston Manor and Roscoe.

NYSDEC stormwater requirements do not stipulate storage of peak run off; that is 100% of preconstruction runoff is acceptable.

Therefore, we believe that the waiver request is reasonable.

Jim made a motion to grant this request, Joy seconded and carried 6/0.

*(3)Post construction stormwater practices shall reduce stormwater peak runoff to 65% of the preconstruction peak runoff for the 100-year event. The Planning Board shall be authorized to modify these criteria if immediate discharge is appropriate.*

### **Waiver Request #3**

Same as Waiver Request #2; this provision was not intended to be applied to Zone 1 applications, and doing so would worsen flooding in downtown Roscoe and Livingston Manor. We therefore request a waiver to this section.

### Delaware Engineering Comments Regarding Waiver Request #3

As in #2 above we believe that the waiver request is reasonable understanding that 100% preconstruction runoff is acceptable for compliance with NYSDEC requirements.

Joy made a motion to grant this request, Robert seconded and carried 6/0.

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*4)A certified copy of a completed NOI, signed by the applicant's professional representative. A copy of the New York State DEC reply to NOI (the notice to proceed) shall also be supplied if issued.  
(5)Storm drainage facilities shall be designed to handle the anticipated peak discharge from the applicable catchment for a 10—year event with one foot of freeboard remaining at peak flow.*

#### **Waiver Request #4**

According to the HydroCAD Model the difference between the water elevation in the roadside ditches (swales) for the 10 year event vs the 100 year is only a couple of inches in elevation. This is in part due to the grades. The swales are designed to accommodate the 100 year event without overtopping. There is merit to having additional freeboard in the swales for cases where velocities are low due to small slopes. However, in our case the water velocity is erosive. That is why we had to rip-rap the swales. As sediment over time fills in the voids between the rip-rap, the channels will become smoother and velocities will further increase. Hence, any sediment above the rip-rap will be scoured away and deposited in the Forebay of the stormwater pond.

In addition to the lack of technical justification, rip-rap swales are expensive. To oversize them adds unnecessary disturbance and cost. This is further compounded by the fact that there will be sections of the swales which will have bedrock above the design depth which will require a hammer to achieve the needed depth per the design. We therefore request a waiver to this section.

If there are swales which do not have erosive water velocities ( $V > 2.3$  FPS) then we shall provide 1 foot of freeboard for the 10 year event. Delaware Engineering has a copy of our Hydrology Model to verify compliance with the suggested criteria.

#### Delaware Engineering's Comments Regarding Waiver Request #4

The applicant's engineer has provided reasonable justification for designing roadside ditches/swales to accommodate the 100 year event without overtopping and not providing one foot of freeboard during 10 year events for swales with velocities greater than 2.3 ft/s.

We believe that handling the 100 year event represents the worst case scenario and it is reasonable to grant the applicant a waiver from providing 1 foot of freeboard in roadside ditches/swales during 10 year storms.

The applicant's engineer is reviewing the hydrology model at this time and plans to provide Delaware with the information to demonstrate compliance for 100 year events at slopes generating velocities of greater than 2.3ft/s, and one foot of freeboard for a 10 year event when velocities are less than 2.3 ft/s.

Therefore, we believe that the waiver request is reasonable pending demonstration of their proposed deviation from the current requirements.

Joy made a motion to grant this request pending demonstration of their proposed deviation from current requirements as advised by Delaware Engineering, Nancy seconded and carried 6/0.

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*6)All drainage structures required to accommodate stream flows with a cross sectional area less than 25 square feet during a 10-year rainfall event shall be designed and constructed to provide one foot of freeboard during the 10-year rainfall event.*

**Waiver request #5**

This is not code used over the last 10 years. The rationale then and still should be is that small culvert pipes do not convey that much water and are not expensive to replace if washed out. Nevertheless, all of our culverts and associated drainage structures pass the 100 year event without overtopping. We therefore request a waiver to this section

This section of code should be revised unless the Planning Board intends to issue waivers as appropriate.

Delaware Engineering Comments Regarding Waiver Request #5

The applicant's engineer has provided reasonable justification for Firelight to provide culverts with a cross sectional area less than 25 square feet (5.64' diameter), which will pass the 100 year storm but not one foot of freeboard during a 10-year event.

We believe that handling the 100 year event represents the worst case scenario and it is reasonable to grant the applicant a waiver from providing one foot of freeboard in a 10 year event.

Nancy made a motion to grant this request per engineer's recommendation, Robert seconded and carried 6/0.

*(7)All drainage structures required to accommodate stream flows with a cross sectional area greater than 25 square feet during a 10-year rainfall event, shall be designed to provide two feet of freeboard during a 50-year rainfall event, and safely pass a 100-year rainfall event. Drainage structures in this category shall have a design life of at least 50 years, be designed by a Licensed Engineer and be approved by the Highway Superintendent.*

*(8)Applicants shall use infiltration practices whenever acceptable under DEC guidelines. Applicants shall provide deep test pits and percolation tests in support of this or demonstrate infiltration is not a viable practice for the site in question. Dry grass swales and other similar measures shall also be encouraged wherever practical.*

**Waiver request #6**

All of our soils are either Class C or D. Infiltration is not an option. We therefore request a waiver from this section.

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Delaware Engineering Comments Regarding Waiver Request #6

In recent discussions with the applicant's engineer, we understand the depth to bedrock can be 2' or less, and therefore, depth to groundwater can be 2' or less. Installation of infiltrating devices typically requires greater than 2' of cover as well as 2' of separation from groundwater. As such, no infiltration devices are included in the current stormwater plan.

Therefore, infiltration doesn't appear to be technically feasible. However, we have suggested that the applicant dig test pit holes to confirm depth to bedrock and depth to groundwater in several locations where infiltration may be possible.

In addition, DEC review of the SWPPP may also request infiltration be evaluated.

Therefore, at this time, we recommend that the Town not grant the waiver relative to infiltration until more field data is collected and submitted by the applicant, and NYSDEC has an opportunity to review and comment on the SWPPP.

Joy made a motion to grant this request contingent on the DEC's response, Robert seconded and carried 5/1.

Mr. Illing noted that a correction needs to be made to the SEQR showing the revised size of the equalization tank and re-sent to the interested parties, asking for a 20 day response. There was discussion as to the merits of re-submitting the paperwork. The applicants will confirm with Delaware Engineering as to their desire to re-submit the corrected form.

Mr. Ohman stated that he will proceed with completion of the second and third part of the SEQR for the boards review.

Vice Chairman Barnhart allowed a few questions from the public present. Ms. Tooher, attorney for Mr. Templin asked if and when a public hearing would be held and if it would be posted. Notice will be give and posted on the town web site, in the official town paper and on the bulletin board at town hall. Mr. Barnhart also stated that the town attorney would be responding to Ms. Tooher's letter concerning the towns determination of campgrounds.

Robert Boddy asked about his request for a fence along the property line and if the board members had seen his recent letter - they had not as it came just prior to the meeting via e-mail.

Mr. Templin asked about a fence along his property line as well.

Mr. Eckert made a few comments to the public present stating that this board is doing its due diligence in reviewing this project completely. At the time of the public hearing all interested parties will be given a chance to be heard, e-mails or letters were encouraged and would be reviewed by the board as well.

Town of Rockland  
December 5, 2018  
Page 7

A request was made to hold the public hearing on a Saturday - this would not be done, the public hearing would be held during a regularly scheduled meeting.

There being no further business before the board Robert made a motion to adjourn, Nancy seconded and carried.