

**VILLAGE OF RED HOOK
PLANNING BOARD SPECIAL MEETING
January 12, 2012**

Present: Chairman Everett Pearsall, Co-Chairman Rodney Morrison, Member Paul Fredricks,
Member Stephen Zacharzuk, Member Mark Mirando & Secretary Lara Hart

AGENDA ITEMS:

**PUBLIC HEARING – 7:00pm
Anderson Commons Project (Kearney Property, Inc.)**

REGULAR MEETING

- | | | |
|--|----------------------------|---------------------------|
| #1. Trustco Bank | 7391 South Broadway | Sign Application |
| By: Graphic Impact Signs | | |
| Tax Grid#: 6272-10-312583 | | |
| #2. Kearney Property, Inc. | Fisk Street | Subdivision |
| Tax Grid #: 6272-11-594590 &
6272-11-619615 | | (Anderson Commons) |

Chairman Everett Pearsall opened the public hearing at 7:00pm.

No persons were present for public hearing. Chairman Pearsall asked the Board if they wanted to hold the public hearing open for a little while in case someone arrives for the meeting, or move on with regular meeting agenda.

Attorney Polidoro asked if the applicant could give a presentation, on record, for anyone who is not familiar with the project. Chairman Pearsall agreed. Mr. Kearney advised that they are waiting for the arrival of Pete Setaro. Chairman Pearsall said ok and the Board will wait for Pete and move forward with regular meeting agenda. Attorney Polidoro said we could adjourn the public hearing until Pete arrives.

Chairman Pearsall made a motion to adjourn public hearing. Seconded by Member Zacharzuk. All in favor.

Chairman Pearsall opened the regularly scheduled meeting at 7:04pm.

#1. Item on Regular Meeting Agenda:

Mr. Charles Simmons was present.

Chairman Pearsall asked if everyone reviewed paperwork. Chairman Pearsall advised Board that he did speak CEO Harkins today on this sign application and that he did not have any problems with the applicable section of the code on this application. Chairman Pearsall read size dimensions from Section 200-38-A-5-C-3. Chairman Pearsall took a minute for Board members to review the application.

Mr. Simmons advised the board that he had another check with him for another sign application and asked the Board if they could accept and make a decision at tonight's meeting. CEO Harkins was present and advised that Mr. Simmons would need to submit the new application to his office and that a new meeting would be require to be noticed.

Chairman Pearsall advised the Board that the address line on the bottom of the sign would be removed. Chairman Pearsall confirmed that the backing of the sign was the actual fascade of the wall and the sign is not lit in any way. Chairman Pearsall asked the board for comments. No comments.

Chairman Pearsall made a motion to approve the sign application as submitted for the fascade sign at 7401 South Broadway for Bard College, as per specification and materials as shown on application, and being unlit. Seconded by Member Fredricks. All in favor.

Chairman Pearsall re-opened the public hearing at 7:08pm.

Ken Kearney, Sean Kearney, Pete Setaro of Morris Associates, and Attorney Alex Betke of Wilson-Elser were present.

Mr. Setaro spoke and advised that this project was a 53 lot subdivision in the traditional neighborhood development. There are approximately 45 lots located within the commons area and another 8 lots that are more traditional single family homes. There will be a through-road from Fisk Street to Glen Ridge Road. Water supply will be through the Village water system by an extension from Fisk Street to Glen Ridge Road. As far as the sewer disposal – will be serviced by subservice sewer disposal systems; Storm water will be primarily through infiltration - site has all good sand & gravel; Storm Water Pollution Prevention Plan will be updated; they received prior approvals for the project in 2006 and it his understanding that the site plan approval for the Village is still valid, with the subdivision approval lapsing, so that is why they are present.

Mr. Kearney stated that this Board has reaffirmed the SEQR process and as of this date he has not heard anything in regards to that and it is his position that the SEQR process is concluded.

Chairman Pearsall asked if anyone present had any comments. No comment. Chairman Pearsall asked the Board if they had any comments. Member Morrison indicated that the applicant has informed the Board that the overall project is the same, but asked with respect to the Town, have any houses had to be moved around or if any subtle changes to the project. Mr. Kearney advised that he has made no changes. Mr. Kearney stated that this is to be walkable community project and will be attractive to numerous people. Attorney Polidoro did advise that the phasing has changed and that the Town homes will be built first. Pete Setaro said this was correct. TKB's prior proposal was that the 7 single family lots would be built first along Fisk – but now they are proposing this as Phase Two. There has been a discussion now asking if the entire through-road would be built at one time. They have discussed with them that we would propose to blacktop all the way up to the end – where the smaller houses would be – but that this would be a condition that could be plowed (such as NYSDOT Item 4 Subbase material) that could still be used as an emergency access. Attorney Polidoro said their concern was that if they only built half the road inside the hammerhead and the second phase was never built, there would never be a through-road. Attorney Polidoro asked the Board if they were comfortable with that proposal – to pave it all the way – Pete said it would not be paved all the way through – only half of it would be. Attorney said that discussion is something to think about. Attorney Polidoro asked how this was treated in the traffic impact study – and the fact that it is a through-road and would there be any impact. Mr. Setaro said he was not sure, and could not remember the distribution of traffic, but believed it would not change – and that these were all going out – and in the initial traffic study did not see any of these lots being figured they would primarily come out here and go through Glen Ridge to Metzger in a round-about way (Pete Setaro showing areas on the map). Member Fredricks asked if you phase it is there only the one entrance in the egress. Pete said they will have this road going all the way through. Member Fredricks asked if another emergency exit could be put out – Pete said he does know because of the septic system location – but it could be looked at. Attorney asked if you could at least make it available for an emergency exit. Chairman Pearsall said he understands as far as the through-road and that it will only be paved up to the end of the development, but asked if the rest of the road to be completed, Item 4, is for through traffic to be an emergency exit. Member Morrison asked if you would cut the grade – Pete said yes for the most part, because they have to cut it in and extend the water main and have to tie it in at both ends – there is not that much of a profile there with not a lot of cuts and fills. The whole road would be graded out, compacted and the Item 4 would be put down and used for emergency access. Pete asked if the Village has preliminary and final subdivision, or is there just subdivision approval. Attorney stated that the Village has preliminary and final approval because we follow State law, which both can be granted on the same night, you could do it at the same time. Pete said there are items to be ironed out, and these were discussed before, and they would like to knock some things off the list, so he is hoping that the Board would agree to a preliminary approval tonight. Attorney Polidoro said the Board will not be ready tonight and that the Board would want to have a

Resolution drafted. Chairman Pearsall agreed. Attorney Polidoro said there are other items to be addressed and the issue of should the applicant at least go to the Town board once to see if anything has changed – and wait on SEQR approval. Chairman Pearsall asked when they go in front of the Town board again. Pete indicated that they have had some discussions with the Town and they are hoping in the near future that there will be a positive meeting of the minds. Pete feels that the SEQR issue needs to be resolved. Attorney Polidoro asked if the Village had an Agricultural District, and it was brought to her attention that the Town has an Ag District, so she feels for the next public hearing that the Board needs to do the proper Ag District notice. Pete asked for clarification. Attorney stated that if you are within 500 ft. of an Ag District you must notify the property owners. Pete asked if there was a public hearing for final too. Attorney stated that if the Board treated the preliminary and final together – then no – and normally you do not do a public hearing for final. Pete asked then what you are saying is that the Board will have to re-notice everyone. Chairman Pearsall said it was the intent to leave the public hearing open anyway. Ken asked that this meeting was advertised, but not properly. Attorney said it was advertised properly for a public hearing, but not for if you are within 500 ft. of an Ag District, which requires notice to the owners of the land. Ken said we do not know if we are within an Ag District. Member Fredricks said the only one that could be is Ken Anderson and his farm. Attorney Betke asked if that was a designated area. Attorney Polidoro said she thinks it is – both her and CEO Harkins were discussing it prior to the meeting. Attorney Betke asked Attorney Polidoro if she was the Town Counsel as well - Attorney Polidoro said not the Town Planning Board – but Town Attorney. Attorney Batke asked if they drafted that – Attorney Polidoro said no – this is not a zoning district but County-wide. Attorney Polidoro said another question is regarding the 911 approval of names. Attorney Polidoro asked about Recreation fee. Pete said he thinks was a condition on approval. Member Morrison asked if the Board asked for a report from Mark Day. Chairman Pearsall said yes. Member Morrison asked if anything was received. Attorney said she has not seen anything yet. Member Morrison said if we should progress to an approval, he would like to see a written list. Attorney Polidoro said that what we are looking at here is the site plan – and with the subdivision the Attorney said that there is not going to be a public roadway in between these lots – so it almost looks to the naked eye that you are approving lots with no frontage on the main road. Attorney asked if applicant or the Board would want to provide either showing the easement that will be the roadway or referencing the site plan just to say there will be a roadway – Pete said there is an easement plan. Pete showed Victoria the easement plans – Attorney Polidoro asked if this was going to be one big plan set. Pete advised yes – there is an easement map. Attorney Polidoro asked if there was a zoning table to show that these all have adequate frontage. Pete said he did not remember how the variance was granted because there was zero lot line – set-backs and did not remember the frontage. Ken advised that the Village ZBA granted variances. CEO Harkins advised that variances are granted with the property and do not expire. Attorney would still like to see a zoning table. Member Morrison advised that this aspect was already approved as well. Pete said he remembered we were already locked into a square footage per lot.

Attorney said she was not asking to change the lots, but just wanted it to be clear on how wide the lots were as far as frontage and that it conforms with the variances. Member Morrison asked that with distance that there is a list. Attorney Polidoro said yes. Member Morrison was not familiar of what the variances were. Attorney Betke said this can all be conditioned with approval and these items can be taken care of as his client develops the plot. Attorney Betke feels this should not hold up the process. Pete advised that if they were going the preliminary route and then get final separate – that would be the case. Pete asked the Board for their input as to preliminary approval. Attorney Polidoro said the first issue is the Ag District issue. Second issue is the Board would like the opportunity to review, get a comment letter from the Town Engineer and she would like to have a written resolution prepared. Pete asked if plans were sent to Mark Day for review. Attorney said a letter was received from Mark Day's office in October about the changes (dated November 8, 2012). Secretary Hart advised that she received the letter today, but did not know if it was received by our office prior. Attorney advised that she received the letter from Mark and she forwarded to Lara. Chairman Pearsall asked why we are only seeing this letter today. Attorney Polidoro said the letter was sent directly to her and she noted that Lara (Planning Department) was not copied. Attorney Betke said that on behalf of his client he would like to see the public hearing today closed and continue on with their process. Member Fredricks said since we did not notify properly for Ag district can the public hearing be closed. Attorney Betke said we don't know for sure that there is a resident within 500 ft. of Ag District, but yes technically if there was a possibility out there that someone did not like something, that they could file a challenge. Member Morrison asked what steps are left to conclude if we need to re-notice or not. Attorney Polidoro advised that we would need to review the Ag District map. Attorney said she had reviewed the Town procedure and noticed that they noticed for the Ag District – she advised that the Village is not in the Ag District but the Town is – she would like to know how close we are to that Ag District in the Town. Chairman Pearsall asked for Board's comments. Member Fredricks asked how long that process would take to re-notice. Member Morrison said we would have to re-notice everyone. Attorney Betke advised we would have to do a formally do it all over again. Attorney Betke said that is why he is saying if we can close this hearing – and re-notice, if needed, anyway.... Attorney Polidoro said once you close a hearing it starts a time period and you have to act within a certain number of days... Attorney Betke said yes but there are ways to extend. Member Fredricks asked if we don't close this public hearing, and we find this out, it will be quicker than if we close the public hearing and have another public hearing. Attorney said yes that would be quicker. Chairman Pearsall asked for the board's comments. Member Morrison commented that he would like to know right away about Ag District notice and if we have to re-notice, and that no one likes to have to do it all over again but did not know what would be gained by closing, and makes more sense to leave open. Member Fredricks said it would delay it further to close out and find out it is in the Ag District.

Chairman Pearsall asked the applicant and counsel what they are looking for tonight. Attorney Betke advised they are hoping to at least get to what the next steps are, what conditions are, start discussing and have our attorney start drafting some kind of resolution/approval, and discussing now the approval. Chairman Pearsall said he does not see why we cannot have that discussion now and keep the public hearing open. Chairman Pearsall feels that the Board is not ready to take any definitive action tonight as far as the application. Member Morrison agrees and would like to see a list of items (potential approval), of things that are being spoken of verbally and so that they can see it and react to it, referencing that a condition of approval be Mark Day's satisfaction of the items there. Member Morrison asked if we could get the Ag Map and resolve this now. CEO Harkins left the room for his office to try and review.

Ken Kearney spoke to say that he was extremely grateful for this Board's support and spoke on his prior 20 Million Dollar project in the Village and he never once had to appear with an attorney, or once was there ever letters written in any threatening or derogatory fashion. Mr. Kearney advised he appeared once time in the Town and is still not sure what happened from the time he left the meeting to make them disagree legally. Ken here is asking that the public hearing be closed so he can continue to move forward. Ken said wherever it is going it will go, but he wants to continue to move forward and considering there are no speakers present tonight, he would prefer to close the public hearing.

Member Fredricks said we will wait to see if CEO Harkins can find the Ag Map. Member Morrison said what will need to be done if it needs to be re-noticed again – will we have to reopen a meeting that was already closed – how is that different from adjourning to next month. Attorney Polidoro advised that you could not just re-open next month you would have to reset for next month. Pete said if meeting is closed tonight and there was an error in noticing – next month we would have to set a new public hearing for March. Member Morrison said in closing this public hearing it would trigger a time frame. Attorney Polidoro said yes, it would trigger a 62-day time frame. Member Fredricks said it not closed there would be no time frame. Attorney Polidoro said correct. Member Morrison advised that we cannot make a decision and close the public hearing if it were done in error – if that is triggering a time frame for a decision but a decision cannot be made because the hearing was not conducted legally, what do you do with that dangling time table. Mr. Betke responded that should the Board decide to close this meeting with that issue out there, you make your decision, everything goes through the process and there was this one hiccup, unless someone challenges it, you are fine. Attorney Polidoro said we don't like to make that assumption. Member Morrison said what if someone does challenge it. Attorney Betke said we would have a court ruling as to whether or not there was really a hiccup and did we miss the Ag District. Attorney Betke feels that on the 62 day issue he has done enough of these that if you are able to wait, it is the applicant that would be harmed if you go past the 62 days, but we can waive that harm, if needed. Member Morrison said with what we have heard it was noticed previously, Attorney Polidoro said that this was not at the error of

Lara, but rather not knowing that the Town had an Ag District. Attorney Betke said before then the Ag District was not in existence when this was first done – Attorney Polidoro said it was in existence – Attorney Betke asked if it was noticed then. Attorney stated that the Village did not do a written resolution, but she reviewed the Town documents and they did a long written Resolution which stated all the things that had been done and one of the items was Ag District notice. Member Fredricks said the Town’s portion may be next to the Ag District, but not the Village. Attorney Polidoro agreed. Attorney Polidoro said tonight is a good opportunity to discuss conditions for approval. Pete asked if we are moving towards preliminary then final approval – he would think that preliminary approval would be more easily granted by the board knowing that there was still a time frame from preliminary to final – and looking at some of these items. Attorney Betke said on the preliminary plat issue – he is not 100% sure that preliminary plat has expired. Attorney Polidoro said here it is not a preliminary plat, but a final plat with conditions that the Village has - Attorney Betke said ok. Attorney Betke said we could work through this and hopefully get the point where we could do a preliminary final at the same time. Attorney Polidoro said she would prefer that the Board talk about conditions and go back and write something out for the next meeting. Member Fredricks and Morrison agreed with Attorney Polidoro. Chairman Pearsall advised that his personal opinion, with respect to Ken and parties, that it would almost necessitate a little extra due diligence, and that leaving the public hearing open until next month shows that we are making sure that every step is done the way it should be. Chairman Pearsall that with leaving the public hearing open this will not slow the process down. Attorney Betke asked in keeping the public hearing open, what is the Board anticipating happening. Chairman Pearsall it would allow written comments from the public and give us the opportunity for any person to appear. Member Morrison said here in the Village preliminary approval with conditions is a 6-month approval – so basically you have 6 months to satisfy conditions – which was very difficult before and they had to get extensions. Member Morrison asked Attorney Polidoro if that was the same law. Attorney Polidoro said we follow the Village law and does not recall the time period. Attorney Betke said he does not believe under Village law there is a time period. Member Morrison asked if it is appropriate to condition on our conditional approval – is one of the conditions achieving Town approval because if it is so, then that may create a problem. Attorney Polidoro said it will have to be because this plat will have to be signed by the Board. Member Morrison said that is what he expected, so closing too early may make a problem later on. Member Morrison wants clarification that there is no expiration on preliminary approval/time frame to satisfy conditions of approval. Pete said if there is no expiration on preliminary, but an expiration on final, then it would make sense to lesson conditions prior to final. Attorney Polidoro said if they got preliminary first, and came back with final plat, they would not have to hold a public hearing unless it had changed substantially - they could come back for a one night review, a) it looks like preliminary and conditions are ok and you can give it final approval - and that point the clocks starts running to file with Dutchess County Clerk’s office. Pete said they will have to think about that. Ken feels

this has to be a joint effort. Pete said a list should be prepared for going in the preliminary and not final route. Attorney Polidoro said generally they would require that you start with preparing easements for roadways and form HOA. Pete said they would not be conditions for preliminary, because some of those would be final. Attorney Polidoro said generally we would give you a full list of conditions and anything you don't satisfy before final would be carried over. Pete said that some of things have already been done since last approval. Pete said a lot of the documents regarding Intermunicipal agreements between the Village and Town were all passed, but maybe had to be cleaned-up.

CEO Harkins returned and said he could not tell about the Ag District with his computer.

Pete said at next month's meeting they will hope to get preliminary and move forward, and in the meantime to talk about the conditions and what needs to be done. Attorney Polidoro asked if she should review conditions from 2006. Chairman Pearsall said yes. Attorney Polidoro reads as follows:

1. Separate site plan for commercial building
2. Approval of HOA documents
3. Easements for water to be submitted
4. Landscaping to be revised as discussed
5. Satisfaction of comments from Mark Day Engineering dated 11-29-06
6. Submission of language from Intermunicipal Agreement from the Town for Cohen's Way
7. Submission of DOH, DEC & Town of Red Hook planning board agreements
8. Submission of the plan for the assessment of the Village bifurcated lots
9. That all sidewalks be marked on the map as being four feet wide
10. Two additional trees be added to north east side of Cohen's Way

Secretary Hart will follow-up with Mark Day to address his letter dated 11/29/06 and request his comments.

Attorney Polidoro said the recreation fee includes conditions. Member Fredricks advised that is strictly the Town. Attorney Polidoro said that is something you may want to recommend in the future for the Board to look at.

Stephen Zacharzuk referenced prior talk on E911 – and that they were around back then - Attorney Polidoro said that should be a condition.

Pete said the issue is what needs to be conditioned for preliminary and what could be a condition for final. Attorney Polidoro would like to have a new list of conditions. Pete said he will review the list from 2006 and check off what has been done already.

Member Miranda asked about conveyance of paved portion and gravel roads and how the variance is handled. Attorney Polidoro said she thinks most of that is the Town side.

Attorney Polidoro asked in regards to phasing and filing of easements - will it be all at one time or filed separately? Will it be site plan phase or a separate phase? Pete said no – Ken asked applicant that he will not file these lots (pointing out on subdivision) because you don't know when it will be built and for tax reasons. Attorney said if you are not filing both easements together you will need to have a plat showing why and will have to come back for subdivision approval in phase 2 on the road – be approved - and filed within 90-days. Ken said he will pay tax on the lots and would not want to come back to re-do things.

Member Miranda asked about Mark Day's letter dated November 8, 2011 and asked if we could ask him to get correspondence to us by a certain date so that all board members could review prior to the meetings. Chairman Pearsall advised Member Miranda that the problem with that letter was that Victoria received the letter and the planning board was not copied. Secretary Hart advised that she had extra copies of the plans (Amendment to F.M. No. 8318-C Phase I Major Subdivision) and distributed a copy to each member.

Chairman Pearsall asked the Board if after we get comments back from Mark Day and Victoria gets the list of conditions that we get a hold of each other and schedule a workshop.

Chairman Pearsall again said after we get the comments from the Engineer we will schedule a workshop. Member Morrison said we will review conditions at the workshop. Attorney Betke asked that with regard to scheduling of the workshop and conditions, what are the Board's plans for the next meeting. Chairman Pearsall said personally he said that if everything goes as it should they are looking at preliminary approval.

Chairman Pearsall asked the Board for any other comments. Members Morrison asked if we can set a date. Chairman Pearsall said he did not know if we could set a date, because he did know when Mark Day's office would get back to us with comments. Chairman Pearsall said he thinks it would be when Lara receives something and lets the Board know, but he has no problem with setting a date now, but it would be contingent on receiving these comments. Member Morrison asked if we could contact him to have it done, so we could have another week to review it, or if he sees it not being done for the meeting. Chairman Pearsall asked the board if they wanted the date of February 2nd penciled in. Board agreed with that date. Chairman Pearsall said the regular meeting will be on the February 9, 2012 at 7:00pm.

Chairman Pearsall made a motion to adjourn the public hearing and public comments on Anderson Commons until meeting on February 9, 2012. Seconded by Member Zacharzuk. All in favor.

Chairman Pearsall made a motion to table Anderson Commons until the date of February 9, 2012 at 7:00pm. Seconded by Member Zacharzuk. All in favor.

Chairman Pearsall asked the Board if they had any comments with regard to the December 20, 2011 minutes. No comment.

Chairman Pearsall made a motion to accept the minutes as written of December 20, 2011. Seconded by member Zacharzuk. All in favor.

Chairman Pearsall made a motion to adjourn the January 12, 2012 planning board meeting at 8:15pm. Seconded by Member Morrison. All in favor. Meeting adjourned.

Duly Submitted,

LARA HART
Secretary/Village of Red Hook Planning Board