

Village of Cayuga Heights Planning Board  
Meeting #115  
Monday, August 28, 2023  
Marcham Hall – 7:00 pm  
Minutes

Present: Planning Board Members Chair F. Cowett, M. McMurry, E. Quaroni  
Code Enforcement Officer B. Cross, Attorney R. Marcus, Deputy Clerk A. Jacot, Alternate  
Member M. Johnston  
T. Crossgrove, Facility Services Director, Kendal at Ithaca  
R. Kawecki, Bousquet Holstein PLLC

Item 1 – Meeting called to order

- Chair F. Cowett opened the meeting at 7:00 pm.
- Chair F. Cowett stated that J. Leijonhufvud and R. Segelken are absent and appointed Alternate M. Johnston a full voting member of the Board for this meeting.
- Chair F. Cowett further stated that R. Kawecki, Bousquet Holstein PLLC, is observing the meeting via Zoom.

Item 2 – July 10, 2023 Minutes

- The Board reviewed the minutes of the July 10, 2023 special meeting.

**Motion:** E. Quaroni

**Second:** M. Johnston

**RESOLUTION No. 390**  
**APPROVING MINUTES OF JULY 10, 2023**

**RESOLVED**, that the written, reviewed and revised minutes of the July 10, 2023 special meeting are hereby approved.

**Aye votes** – Chair F. Cowett, M. Johnston, E. Quaroni

**Abstain** – M. McMurry

**Opposed** – None

Item 3 – Public Comment

- No members of the public wished to speak.

#### Item 4 – Site Plan Review – Kendal at Ithaca – Renwick Brook Riparian Buffer

- Chair F. Cowett stated that there were many ash trees in the rear portion of Kendal adjacent to Renwick Brook, an intermittent stream; these trees were infested with the emerald ash borer and Kendal hired a contractor to remove them; unfortunately, the contractor essentially clear cut not just an area near the stream, but an area extending south to the residences on Hanshaw Road; § 305-58.E.10 of the Village's Zoning Law permits limited tree cutting within the 20 foot riparian buffer of an intermittent stream; § 305-58.E.10 states that such tree cutting must be done in accordance with New York State Forestry Best Management Practices for Water Quality and in consultation with the Village Forester; additionally, tree cutting may not negatively impact the function of the riparian buffer and must retain at a minimum 50% of the tree canopy in the riparian buffer at all times; unfortunately, none of this was done when the ash trees were removed; § 305-58.F requires site plan review by the Village's Planning Board if any action is to be undertaken that contravenes § 305-58; this wasn't done and the Planning Board is now tasked with considering a plan to restore the riparian buffer in site plan review.
- Chair F. Cowett asked T. Crossgrove, Kendal at Ithaca, if his summary was correct.
- T. Crossgrove replied that it was.
- Attorney R. Marcus stated that his residence on Hanshaw Road borders the rear portion of Kendal where the tree cutting occurred; he began attending in January 2023 meetings of a committee formed by Kendal residents upset by the tree cutting; he shared their concern and has discussed with this committee what can be done; if the Board determines that his involvement in this issue creates a conflict of interest, he will recuse himself from providing legal guidance to the Board.
- Chair F. Cowett stated that the matter before the Board relates solely to tree cutting in the riparian buffer under § 305-58 and not to the larger area; the riparian buffer is a small portion of the area that was cut and is further away from the residences on Hanshaw Road; he would therefore be comfortable if Attorney R. Marcus did not recuse himself.
- M. McMurry stated that the issue is not simply if there is a conflict of interest, but whether there could be the appearance of a conflict of interest; the most conservative approach would be for Attorney R. Marcus to recuse himself from providing legal guidance to the Board.
- Attorney R. Marcus agreed with M. McMurry and recused himself.
- M. Johnston asked if R. Kawecki would be able to provide guidance to the Board.
- Attorney R. Marcus replied that R. Kawecki has observed many meetings of the Board and can give the Board advice on legal questions.
- E. Quaroni asked if any wetlands are associated with the area where trees were cut.

- Chair F. Cowett replied that there is some question regarding wetlands in this area, but this has not been officially determined; the Board can discuss this question later in the meeting.
- M. McMurry asked if all the trees removed from the riparian buffer were ash.
- T. Crossgrove replied that 29 trees were removed from the riparian buffer; 27 were ash and 2 were boxelder.
- E. Quaroni stated that, when she visited the site, she did not see any tree stumps not only in the riparian buffer, but also in the entire area where trees were cut.
- T. Crossgrove replied that tree stumps were flush cut to the ground and then covered with wood chips.
- Chair F. Cowett asked if the trees that were cut in the entire area were all ash.
- T. Crossgrove replied that almost every tree cut was ash.
- M. McMurry stated that a plan provided by T. Crossgrove shows 29 replacement trees being planted, but not all of these trees being planted in the riparian buffer.
- T. Crossgrove replied that this is correct; a portion of the replacement trees shown in the plan are being planted outside the buffer area; the buffer area is also being planted with shrubs appropriate for a riparian buffer per the NYS DEC's buffer in a bag program; many of these shrubs have already been planted.
- M. Johnston stated that residents are doing fundraising for additional trees to be planted beyond the buffer area.
- E. Quaroni asked about the white survey flags she saw in the riparian buffer.
- T. Crossgrove replied that the flags delineate the buffer boundary.
- E. Quaroni stated that she couldn't tell where shrubs have been planted and asked about the success rate of the plantings.
- T. Crossgrove stated that the shrubs are small seedlings and the success rate has been good; in addition to the shrubs already planted in the riparian buffer, 200 more plants in containers are to be planted in the fall including oaks, poplars, willows, and shrubs; some of these will be planted in the buffer and the remainder in the area beyond it.
- Chair F. Cowett asked who has been doing the planting.
- T. Crossgrove replied that the planting has been done by Kendal staff and residents.
- Chair F. Cowett asked if Ithaca City Forester J. Grace has advised on the selection of trees for planting.
- T. Crossgrove replied that J. Grace has advised on bare root trees to be ordered from Schichtel's Nursery near Buffalo for planting this fall.

**Motion:** M. Johnston  
**Second:** M. McMurry

**RESOLUTION No. 391  
TO ACCEPT THE PROPOSED PROJECT AT KENDAL AT ITHACA  
FOR SITE PLAN REVIEW**

**RESOLVED**, that the Planning Board accepts the proposed project at Kendal at Ithaca for site plan review.

**Aye votes** – Chair F. Cowett, M. Johnston, M. McMurry, E. Quaroni  
**Opposed** – None

- The Board discussed the project in relation to the State Environmental Quality Review Act (SEQRA) and how to categorize the project as a SEQRA action type.
- Chair F. Cowett stated that § 617.5.C of the Codes, Rules, and Regulations of the State of New York lists Type II actions not requiring further SEQRA review; subsection 8 focuses on maintenance of existing landscaping or natural growth, and subsection 20 focuses on public or private management practices on less than 10 acres of land.
- Code Enforcement Officer B. Cross suggested that R. Kawecki advise the Board regarding § 617.5.C and Type II actions.
- R. Kawecki stated that in his opinion subsection 8 of § 617.5.C does not apply to this project; he isn't familiar with the applicability of subsection 20, but will research this subsection and get back to the Board in a couple of days.
- Chair F. Cowett suggested that the Board declare itself lead agency for SEQRA and categorize the project as an Unlisted SEQRA action; if R. Kawecki's research indicates that subsection 20 is applicable to this project, the Board can re-categorize the project at its next meeting as a Type II action.

**Motion:** E. Quaroni  
**Second:** M. McMurry

**RESOLUTION No. 392  
SEQRA REVIEW OF THE PROPOSED PROJECT AT  
KENDAL AT ITHACA**

**RESOLVED**, that the Planning Board declares itself lead agency for SEQRA review of the project at Kendal at Ithaca and categorizes the project as an Unlisted SEQRA action.

**Aye votes** – Chair F. Cowett, M. Johnston, M. McMurry, E. Quaroni  
**Opposed** – None

- The Board discussed scheduling a public hearing for this project at its next meeting.
- M. McMurry stated that the Board's next scheduled meeting on September 25 conflicts with the Jewish holiday of Yom Kippur.
- The Board decided to schedule a special meeting for Monday September 18 and hold the public hearing for the project then.

**Motion:** M. McMurry

**Second:** M. Johnston

**RESOLUTION No. 393  
TO SCHEDULE A SPECIAL MEETING OF THE PLANNING BOARD**

**RESOLVED**, that the Planning Board schedule a special meeting on Monday, September 18, 2023, at 7:00 pm at Marcham Hall.

**Aye votes** – Chair F. Cowett, M. Johnston, M. McMurry, E. Quaroni  
**Opposed** – None

**Motion:** M. Johnston

**Second:** E. Quaroni

**RESOLUTION No. 394  
TO HOLD A PUBLIC HEARING ON THE PROPOSED PROJECT AT  
KENDAL AT ITHACA**

**RESOLVED**, that a public hearing will be held at Marcham Hall on Monday, September 18, 2023 at 7:10 pm regarding site plan review for the proposed project at Kendal at Ithaca.

**Aye votes** – Chair F. Cowett, M. Johnston, M. McMurry, E. Quaroni  
**Opposed** – None

- The Board discussed the possibility of wetlands associated with Renwick Brook on the Kendal at Ithaca site.
- Chair F. Cowett stated that a study by Nick Hollingshead for Tompkins County in 2015 identified a possible wetland associated with Renwick Brook in the area south of the riparian buffer; identification was conducted via an analysis incorporating aerial imagery and was not confirmed by onsite inspection; wetlands are often delineated by an analysis of vegetation onsite; however, in the course of cutting and removing trees, nearly all vegetation has been removed and covered by woodchips which would make confirmation of a wetland difficult by this method.

- Chair F. Cowett further stated that § 305-60 of the Village's Zoning Law regulates activities in a wetland subject to delineation by a qualified professional approved by the Planning Board; he suggested that, prior to the Board's next meeting, all members should visit the site and judge whether or not there is sufficient evidence of a wetland to warrant inspection by a qualified professional.
- Code Enforcement Officer B. Cross stated that, when T. Crossgrove first reached out to him concerning the tree cutting project, he overlooked the Hollingshead study and did not question T. Crossgrove's decision-making; in any event, he feels strongly that the area in question is not a wetland; he has eyeballed the area and perceived a hump located there rather than a depression; this would shed water rather than collect it.
- Chair F. Cowett stated that he has a topo map of the area which suggests a depressed area that could in fact channel water should Renwick Brook overflow its banks in a storm event; he also has aerial imagery which predates the area being forested suggesting that the area in question has historically been wet.
- E. Quaroni asked T. Crossgrove if he had ever seen vegetation such as cattails in this area that would indicate a wetland.
- T. Crossgrove replied that he never observed cattails in this area.
- Chair F. Cowett asked Code Enforcement Officer B. Cross when public notice of the Board's special meeting on September 18 will need to be mailed.
- Code Enforcement Officer B. Cross replied that he will mail out notice of the special meeting on Wednesday September 6.

#### Item 5 – Comprehensive Plan Discussion

- Chair F. Cowett stated that the meeting agenda calls for further discussion on the Comprehensive Plan update; however, since two Board members are absent, he suggests the Board postpone that discussion until its next meeting.
- Board members agreed.

#### Item 6 – New Business

- Code Enforcement Officer B. Cross stated that he had a discussion with S. Whitaker concerning new signage for the RaNic Golf Club; during that discussion, S. Whitaker stated that he has no interest in selling the golf club, what happens to the rest of the property has yet to be determined, and he is aware that improvements such as those previously discussed with the Village might trigger a subdivision process.
- Attorney R. Marcus stated that this is interesting news since, last he had heard, two options remained on the table, one of which was selling the property in its entirety including the golf club.
- M. McMurry asked if the real estate listing for RaNic had been corrected.
- Attorney R. Marcus replied that, last time he checked, the listing had been corrected partially, but not fully; however, B. Warren assured him that it would be corrected fully.

- M. Johnston asked about the nature of the RaNic signage.
- Code Enforcement Officer B. Cross replied that S. Whitaker wants signage identifying the golf club affixed to the masonry posts along Pleasant Grove Road.
- Attorney R. Marcus asked if the golf club is located in the Village's Residence Zone.
- Code Enforcement Officer B. Cross replied that it is.
- Attorney R. Marcus stated, that to the best of his recollection, minimal signage is permitted in the Residence Zone.
- Code Enforcement Officer B. Cross replied that, if signage requested by S. Whitaker does not conform to signage requirements in the Residence Zone, a variance will be needed from the Village's Zoning Board of Appeals.

#### Item 7 – Adjourn

- Meeting adjourned at 8:04 pm.