

**APPROVED: 5/20/2010**  
**MINUTES OF THE**  
**TOWN OF HIGHLANDS PLANNING BOARD**  
**FEBRUARY 18, 2010**

A regular meeting of the Town of Highlands Planning Board was held in the Court Room, Town Hall, Highland Falls, New York, on Thursday, February 18, 2010, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

Erik Smith, Chairman  
Terry Holt  
Cathy Kelly  
John Hunter

**Absent**

Chris Dyroff

M. Justin Rider, Esq. (Rider, Weiner & Frankel, P.C.)

**ALSO PRESENT:**

Holly Gokey, Councilwoman, G. R. Bob Monroe, Sal Fiducia, Ann Marie Fiducia, and Gregg Lawless.

**The meeting was called to order at 7:00 P. M. with the Pledge to the Flag. It was noted that there was a quorum present.**

**At 7:02 P. M., the Public Hearing for Site Plan Approval B1 Lot 23 for Gregg Lawless was re-opened.**

Mr. Lawless apologized for not being in attendance at the January meeting. He stated that the project has received Zoning Board approval. He has gone through the proper channels to have a parking storage lot to park cars and to store trailers and for any residents that might need to park their vehicles. He plans to follow the Comprehensive Plan for Fort Montgomery with proper screening. He has spoken with neighbor, Mr. Malarky to the north, put a retaining wall in the back, and has cleaned up the lot. The adjacent lot is a used car lot which is a potential tenant for him to put new cars on. He is trying to create revenue for the increased taxes. The lot has been in the family for many years, and he feels he has totally improved the area.

**Mr. George R. “Bob” Monroe, 15 Franklin Street, Fort Montgomery 10922.**

He feels that Mr. Lawless’ intentions are totally honorable and that he will keep it neat; however, he is concerned that it will become a junk yard. He mentioned a drive he took to Newburgh passing Moodna Creek with an open air storage place that he feels is a junk yard. He spoke of the Garden Club, Vision, The Fort Montgomery Battle Site, Rotary, Patriot Garden, the Minuteman Statue, the Master Plan, and members of the Community as working and spending money to make this a presentable community. Some of the things that were done to improve the appearance of Fort Montgomery include taking down the

Trading Post, cleaning Brooks' Park, and passing regulations for people parking cars in the yards. Driving up Route 9W, you pass Little Richie's Restaurant, a flower garden, Patriot Garden, the Minuteman Statue, and then a junk yard. He is opposed to it wholeheartedly.

**Mr. Sal Fiducia, 71 Corbin Hill, Fort Montgomery 10922.** He agrees with Mr. Monroe on all of the things he mentioned. He feels that Fort Montgomery is very historical. He is surprised that that segment of Route 9W was never called Revolutionary Highway. When he passes by the area, he gets the impression that it is part of Marchese Chevrolet and this is where he puts things undesirable that he does not want and wants to get rid of. They have been in the area five (5) years. Someone mentioned to him that where that motel on the right side was a cemetery at one time. Actually that could be an historical area also. The highway has been enhanced and why have something that is going to take away from the area that is important to our country.

**Mr. Monroe** asked if there any restrictions on what Mr. Lawless can do with this property.

**Ann Marie Fiducia** asked what the lot can be used for and how it is zoned.

Mr. Rider stated that it is in the Business District.

The Chairman stated that Mr. Lawless obtained a Use Variance to use that lot especially for this use. The Zoning Board of Appeals determined that this use met with the surroundings. It is an Open Air Storage Lot. At last month's meeting, the Building Inspector identified a junk yard and noted that such an area is highly regulated.

Mr. Rider explained that the lot could not become a junk yard, legally. The Town's Abandoned Vehicle Law will apply to the lot. Many storage uses would be permitted and old wrecked cars would not be. The Town would remove such vehicles or cite Mr. Lawless for any violations. This Board is concerned with the planning of that lot within the Business District for a proper use. An abandoned car could not be placed there.

The Chairman drove through the connecting streets and Corbin Hill noting that certain homes block the site area. He also stated that this Board takes Public Comment seriously. The application was sent to the County, and it meets requirements in the Master Plan, and screening will be put in the front. This Board has undertaken a thorough review and the Applicant will be held to the State laws and regulations on this site and will provide the screening.

**Mr. Monroe** asked about the notification from the Zoning Board of Appeals to the neighbors. Mr. Rider explained that typically there is a notice requirement. This Board cannot address the question of notification.

**Mr. Fiducia** thanked the Board for going the extra mile to see if the Corbin Hill residents can see the site from their homes. There is an ordinance that anything that has wheels needs to be registered. Do all of the vehicles have license plates?

Mr. Holt stated that all Board Members do site visits for every application that is before them.



**OLD BUSINESS**

**Site Plan Approval B1 Lot 23 for Gregg Lawless**

The Chairman stated that he visited the site, reviewed the Master Plan, the Orange County comments and, along with the addition to the plan for screening in the front, he is satisfied and would entertain a motion for the resolutions. He asked for other Board Member's comments.

Mr. Holt agreed stating that it is a Business District and is a normal part of a healthy town. You need a mix of different zones and areas. It is a permitted use and serves a very real purpose, especially with the size of most peoples' lots for parking motor homes, boats, or cars. It would be abnormal for the entire town to be an historic district. He is not opposed to tax paying lots in a business district. Mr. Lawless has cooperated throughout the process and he is satisfied with the conditions put on the plans.

RESOLUTION  
OF  
FEBRUARY 18, 2010

RESOLUTION OF SEQR DESIGNATION  
AND DETERMINATION  
GREGG LAWLESS  
SITE PLAN

Planning Board Member Cathy Kelly<sup>1</sup> presented the following resolution which was seconded by Planning Board Member Terry Holt.

WHEREAS, an Environmental Assessment Form (the "EAF") was prepared in October 2008 and amended on December 19, 2009, for application for a Site Plan to allow for an open air storage lot, at real property located along Route 9W, in the Town of Highlands and which is designated on the Tax Map as Section 11, Block 1 Lot 23 (the "Action"); and

WHEREAS, the Planning Board has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law the Planning Board determined to conduct an uncoordinated review; and

WHEREAS, the Planning Board has heretofore designated itself lead agency; and

WHEREAS, the Planning Board has heretofore reviewed the EAF together with any other supporting information, and analyzed and considered any relevant areas of environmental concern and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects.

NOW THEREFORE, BE IT RESOLVED:

1. The Planning Board does determine that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and the Planning Board did conduct an uncoordinated review of the project.

2. The Planning Board does further determine that said Action will not have a significant adverse environmental impact and, therefore, does issue a negative declaration.
3. The Planning Board hereby authorizes the Chairman to execute and file the Environmental Assessment Form and Negative Declaration attached hereto in accordance with the applicable provisions of law.
4. The Town Clerk shall maintain the EAF, Negative Declaration and all other SEQR documents and notices pertaining to the Action on file and available to the public during regular business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

<u>Terry Holt, Member</u>	voting <u>Aye</u>
<u>Cathy Kelly, Member</u>	voting <u>Aye</u>
<u>Christopher Dyroff, Member</u>	voting <u>Absent</u>
<u>John Hunter, Member</u>	voting <u>Aye</u>
<u>Erik Smith, Chairperson</u>	voting <u>Aye</u>

**A motion was made to adopt the following resolution:**

**Motion: Dr. Kelly**

**Seconded: Mr. Hunter Approved**

**RESOLUTION OF APPROVAL**

**SITE PLAN**

***FINAL***

**For**

**GREGG LAWLESS**

---

**Nature of Application**

Gregg Lawless has applied for Site Plan approval of an open air storage lot.

**Property Involved**

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcel(s) Section 11, Block 1 Lot 23 and is located along Route 9W.

## **Zoning District**

The property affected by this resolution is located in the B zoning district of the Town of Highlands.

## **Plans**

The Site Plan materials being considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for Gregg Lawless as follows:

<i><u>Author</u></i>	<i><u>Title</u></i>	<i><u>Last Revision Date</u></i>
William B. Hildreth Land Surveying, P.C.	Site Plan	December 21, 2009

## **History**

### ***Date of Application***

The application was filed with the Planning Board on October 21, 2008.

### ***Public Hearing***

A public hearing on final for Site Plan was convened on January 21, 2010 and closed on February 18, 2010.

SEQRA

### ***Type of Action:***

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

### ***Lead Agency:***

The Town of Highlands Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on December 17, 2009.

### ***Declaration of Significance:***

A negative declaration was issued on February 18, 2010.

## **GML 239 Referral**

The site is within 500 feet of a State Highway and accordingly this application was referred to the Orange County Planning Department for review in December 2009. The Planning Department commented and recommended approval contingent upon the applicant providing a landscaped front yard buffer.

## **Findings**

The Planning Board has determined that approval of this site plan will substantially serve the public convenience, safety and welfare in general as well as that of the proposed occupants in that the land to be developed is of such character that it can be used safely without danger to health or peril from fire, flood or other menace. Further, the traffic access and ways are adequate in number, width, grade, alignment and visibility, adequate parking is provided and the inner traffic circulation system is adequate to provide safe accessibility, the relation of the project to the topography of the land, drainage, and arrangement, and the possible future development of adjacent properties are all appropriate and consistent with the requirements of the Master Plan, and the applicable zoning regulations of the Town of Highlands, subject to compliance in full with conditions hereinafter imposed pursuant to Town of Highlands Code Section 210-21(B).

## **Resolution of Approval**

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final site plan application of Gregg Lawless as said proposal is depicted on the plans identified above and upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

## **Specific Conditions**

1. The applicant shall comply with the requirements of Chapter 210 of the Code of the Town of Highlands, Zoning, at all times.
2. This approval is subject to the issuance of a highway work permit or a letter of approval by the New York State Department of Transportation for the proposed highway entrance (curb cut) or a letter from that agency reporting that no such permit is required or the determination by the Planning Board Chairman that no such letter or permit will be forthcoming within a reasonable period of time.
3. As a condition of this approval, the applicant shall be required to authorize town officers, employees or agents to enter onto the site to perform appropriate inspections required by the Code.
4. The applicant shall pay outstanding Town of Highlands consulting fees incurred in connection with the review of the application as a condition precedent to the Chairperson or his designee signing the plans.

**General Conditions**

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty days of the date of this approval.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner may result in a lapsing of this approval.

In Favor   4        Against   0        Abstain   0        Absent   1  

<u>Terry Holt, Member</u>	voting <u>  Aye  </u>
<u>John Hunter, Member</u>	voting <u>  Aye  </u>
<u>Cathy Kelly, Member</u>	voting <u>  Aye  </u>
<u>Christopher Dyroff, Member</u>	voting <u>  Absent  </u>
<u>Erik Smith, Chairperson</u>	voting <u>  Aye  </u>

Dated: February 18, 2010

\_\_\_\_\_  
 Erik Smith, Chairperson  
 TOWN OF HIGHLANDS PLANNING BOARD

---

STATE OF NEW YORK    )  
                                   )ss:  
 COUNTY OF ORANGE    )

I, \_\_\_\_\_, Secretary to the Planning Board of the Town of Highlands, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on February 18, 2010.

\_\_\_\_\_, SECRETARY  
 TOWN OF HIGHLANDS PLANNING BOARD

I, JUNE PATTERSON, Clerk of the Town of Highlands, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on \_\_\_\_\_.

\_\_\_\_\_  
JUNE PATTERSON, Clerk  
TOWN OF HIGHLANDS

**John Bennett (Subdivision – R-1 Zone/S10 B3 Lot 9)**

The Chairman explained that Mr. Bennett could not attend tonight’s meeting, but he did come in to substantially pay his bills. There are no outstanding issues with the project. He has the Negative Declaration and Preliminary Approval. The Public Hearing was held with no comments. County Health has responded. We are at the point of closing a long chapter in the Planning Board’s work.

A discussion was held concerning the septic design and well locations for the Resolution. It was also noted that Mr. Bennett needs a Certificate of Occupancy.

**A motion was made to adopt the following resolution:**

**Motion: Mr. Holt**

**Seconded: Dr. Kelly**

**Approved**

**RESOLUTION OF APPROVAL**

**TWO LOT SUBDIVISION**

***FINAL***

**FOR**

**JOHN P. BENNETT AND CLAUDIA A. BENNETT\_**

**Nature of Application**

John P. Bennett and Claudia A. Bennett have applied for a Subdivision approval allowing them to divide a 3.14 acre parcel into two (2) single family residential lots with related improvements.

**Property Involved**

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcel 10-3-9 which property is located at 123 Canterbury Road.

## **Zoning District**

The property affected by this resolution is located in the R-1 zoning district of the Town of Highlands.

## **Plans**

The subdivision materials being considered consist of the following:

3. Completed application form and Environmental Assessment Form.
4. Plans prepared as follows:

<u>Author</u>	<u>Title</u>	<u>Last Revision Date</u>
Steven P. Drabick P.L.S., PC	Plat of 2-Lot Subdivision	June 2, 2008

## **History**

### ***Date of Application***

The application was filed with the Planning Board in February, 2007.

### ***Public Hearing***

A public hearing on preliminary subdivision approval was convened on November 20, 2008 and closed on the same date.

A public hearing on final subdivision approval was convened on December 17, 2009 and closed on the same date.

### ***SEQRA***

#### *Type of Action:*

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

#### *Lead Agency:*

The Town of Highlands Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on March 20, 2008.

#### *Declaration of Significance:*

A negative declaration was issued on November 20, 2008.

## **GML 239 Referral**

The application does not contain any of the conditions listed in General Municipal Law Section 239, and therefore, does not require referral to the Orange County Planning Department.

## **Findings**

The Planning Board has determined that approval of this subdivision will substantially serve the public convenience, safety and welfare in that the land to be subdivided is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other

menace. Further, the arrangement and location of the improvements, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, are all appropriate and consistent with the requirements of the Town of Highlands Subdivision Regulations and applicable zoning regulations, subject to compliance in full with conditions hereinafter imposed.

### **Resolution of Approval**

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final subdivision application of John P. Bennett and Claudia A. Bennett as said proposal is depicted on the plans identified above and upon the modifications outlined below, and the Chairperson (or his designee) is authorized to file this resolution in the office of the municipal clerk.

### **Specific Modifications**

5. The applicant shall comply with the requirements of Chapter 210 of the Code of the Town of Highlands, Zoning, at all times.
6. The applicant shall comply with the requirements of Chapter 101 of the Code of the Town of Highlands, Erosion Control, at all times, including application for a permit if same is required.
7. The applicant shall comply with the requirements of Chapter 173 of the Code of the Town of Highlands, Subdivision Regulations, at all times.
8. As a condition of this approval, the applicant shall be required to authorize town officers, employees or agents to enter onto the site to perform appropriate surveillance required by the Code.
9. The applicant shall demonstrate to the satisfaction of the Building Inspector that the UV system required by the Orange County Department of Health has been satisfactorily installed, prior to issuance of a Certificate of Occupancy.
10. As-built plans for septic design and well locations shall be provided to the Building Department prior to the issuance of a Certificate of Occupancy.

### **General Conditions**

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty days of the date of this approval.

A full set of the plans to be signed shall simultaneously be submitted to J. Robert Folchetti & Associates. The plans shall not be signed until J. Robert Folchetti & Associates has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner may result in a lapsing of this approval.

In Favor   4        Against   0        Abstain   0        Absent   1  

<u>Terry Holt, Member</u>	voting <u>Aye</u>
<u>John Hunter, Member</u>	voting <u>Aye</u>
<u>Cathy Kelly, Member</u>	voting <u>Aye</u>
<u>Christopher Dyroff, Member</u>	voting <u>Absent</u>
<u>Erik Smith, Chairperson</u>	voting <u>Aye</u>

Dated: February 18, 2010

\_\_\_\_\_  
 Erik Smith, Chairperson  
 TOWN OF HIGHLANDS PLANNING BOARD

---

STATE OF NEW YORK    )  
                                   )ss:  
 COUNTY OF ORANGE    )

I, \_\_\_\_\_, Secretary to the Planning Board of the Town of Highlands, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on February 18, 2010.

\_\_\_\_\_, SECRETARY  
 TOWN OF HIGHLANDS PLANNING BOARD

I, JUNE PATTERSON, Clerk of the Town of Highlands, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on \_\_\_\_\_.

\_\_\_\_\_  
JUNE PATTERSON, Clerk  
TOWN OF HIGHLANDS

### **Town Board Referrals**

The Chairman stated the Board had received three (3) referrals from the Town Board for comments. The first one addressed the re-zoning of the Corbin Hill lot that adjoins Route 9W from Business to R-5 Residential. The Chairman sent a formal letter to the Town Board with comments from this Board.

The second one was for a re-zoning project on Route 9W between the Holiday Inn and the former Tonneson's Body Shop. This is a request by Mr. Greg Miller (contract vendee) who is interested in buying the parcel to develop it from Mrs. Kopald. He wishes to change the Business Use to R-5. This involves 1.28 acres of property.

The third one is a proposed density change for the R-5. The Board did not act on the last two because the Chairman wanted the members to go over the information.

Mr. Miller was unable to attend tonight's meeting. His father built the condominiums in the Village. There are two adjacent properties zoned Business. They have been unable to find anyone to open a business in that area. His intention is to have a rental property apartment complex. He believes the proximity to West Point, and that there is a need for people to have off base housing. Many are currently in the New Windsor area. Mr. Miller believes there is a market for apartments with new development and new look, rather than the older apartments and homes in the area. He also felt it would affect the sewer in a lower capacity than a restaurant. This involves 1.28 acres of property.

After much discussion on the pros and cons of Residential and Commercial use in that area, the Board agreed to respond to the Town Board stating that the Board feels that the decision to change the zoning from B-1 to R-5 is something that should be taken very seriously and heavily considered. After reviewing this case in particular, the fact that the lot in question is 1.28 acres and has been vacant for many years, the business options on this lot are limited. A residential developed lot meets the goals of the Master Plan.

The third item involves the proposed local law amending Schedule 2, Table of Dimensional Regulations for R-5 Density town wide.

Mr. Rider summarized stating that currently in R-5, planning aside, because planning necessitates certain good uses of a piece of property, but just on the numbers, it allows 17.4 units per acre. The Master Plan recommends that it be changed to either 8 or 12, depending on the type of development. That would be 8 for townhouses and 12 for apartments. There were no definitions of that in the Code. This law would address that. It would define townhouse, dwelling, and apartments. It is reducing by a full third in the one context, and half in another context, depending on the type of development as to how dense the property can be. The Master Plan recommended that change and it is critical here because there are two people here that want to do R-5 developments.

The Chairman added that this reduction in density is not anticipated to adversely affect affordable or workforce housing because it will be offset by new residential opportunities in the proposed Fort Montgomery Hamlet Center District and other zoning map and text changes.

The Board agreed that the Chairman would send a letter stating that this Board would comment that the Master Plan calls for this, and that it is in line with the newly adopted Master Plan.

**NEW BUSINESS - None**

**PUBLIC COMMENT**

The Chairman referenced an article in the News of the Highlands about a resident that had a discussion at a recent Town Board Meeting concerning the health effects from cell towers and Wifi. He wanted to bring the Board Members up to speed that there is a Federal Law that governs a lot of decision making. It is the Telecommunications Act. There is a brand new case in LaGrange. He suggested the Board Members look up the blog for Law of the Land where the author cites case law. It is part of Albany's School of Law. There are no opinions given on this blog. This can be a planning issue and is something to look into to get the facts.

**At 8:35 P. M., a motion was made to go into Executive Session to discuss Planning Consultants.**

**Motion: Dr. Kelly                      Seconded: Mr. Hunter                      Approved**

**At 8:53 P. M., a motion was made to close the Executive Session.**

**Motion: Dr. Kelly                      Seconded: Mr. Hunter                      Approved**

**A motion was made to appoint Garling Associates as Professional Planning Consultants to the Board.**

**Motion: Dr. Kelly                      Seconded: Mr. Holt                      Approved**

**At 8:54 P. M. a motion was made to adjourn the meeting.**

**Motion: Dr. Kelly                      Seconded: Mr. Hunter                      Approved**

Respectfully submitted,

Fran DeWitt, Recording Secretary

**The next Regular Planning Board Meeting is March 18, 2010.**