

**Village of Cold Spring Planning Board  
Thursday December 22, 2022  
Meeting Minutes**

The Village of Cold Spring Planning Board held a Meeting at Village Hall and via videoconference on Thursday, December 22, 2022. Members present at Village Hall: Chairperson Jack Goldstein, Sue Meyer, Yaslyn Daniels. Matt Francisco present via videoconference. Lara Shihab-Eldin absent. The Meeting was called to order at 7:04 p.m.

**1. Chairperson Remarks.**

Chairperson J. Goldstein notified the Members of his re-appointment as Chairman of the Planning Board by the VBOT.

**2. Opportunity to Request Vote to Add/Modify Agenda Items**

**3. Approval of Minutes**

*The Chairman called for a Motion on October 13, 2022 Minutes*

Y. Daniels made a motion to approve the minutes for October 13, 2022. S. Meyer seconded the motion and it passed by a vote of 4-0-0-1 (M. Francisco voted via videoconference; Y. Daniels abstained).

*The Chairman called for a Motion on November 10, 2022 Minutes*

S. Meyer made a motion to approve the minutes for November 10, 2022. M. Francisco seconded the motion via videoconference and it passed by a vote of 3-0-1-1 (Y. Daniels abstained; L. Shihab-Eldin absent).

**4. Member Reports – None.**

**5. Correspondence - None.**

**6. Old Business - None.**

**7. New Business - None.**

**8. Public Comment – None.**

**9. Board Business – Planning Board State Environmental Quality Review Act ("SEQRA") Training.** Village Attorney John Furst, Esq. presented the SEQRA Training. Power Point materials were provided to all participants.

**A. History of SEQRA**

- Article 8 of the NYSECL; Department of Environmental Conservation (“DEC”) Regs under 6 NYCRR Part 617; Regs adopted in 1976; law in full effect in 1978;
- Purpose of SEQRA - consider environmental factors early in the planning stages of action directly undertaken, funded or approved by local, regional or state agencies.

**B. Preliminary Steps in SEQRA Process**

- *Agencies subject to SEQRA* – all agencies of government at all levels but not agencies or bodies acting only in an advisory capacity.
- *Agency actions subject to SEQRA*- All “discretionary” decisions to approve, fund or directly undertake an action that may affect the environment
- *Common discretionary actions* – zoning changes, subdivision approval, site plan approval, variances, special use permits, adoptions of local laws.

**C. What is the Classification of the Action being Analyzed?**

- *Classification of Actions*
  - TYPE I - more likely to have a significant adverse impact on the environment (see §617.4 for complete list of Type I actions); proximity to historic districts or sites can transform an unlisted action into a TYPE 1.
  - TYPE II - categorically found to not have significant adverse effects or are statutorily exempted from SEQR review (see §617.5 for complete list of TYPE II actions).
  - UNLISTED

***J. Furst emphasized that a Board must still consider environmental impacts of a proposed site plan, e.g., noise, traffic, lights, etc., even where a TYPE II classification has been found.***

- *Organization of Review*
  - Coordinated Review (all TYPE I actions and actions that require a long form Environment Impact Statement ('EIS'); Lead Agency is established; one review and one set of findings;
  - Uncoordinated Review (applicable to some unlisted actions; separate review and findings).
- *Consideration of Environmental Factors*
  - Environmental Assessment Form ("EAF"): Short Form for unlisted actions and often for TYPE II actions; Full Form examples for TYPE I actions but may be used for unlisted actions.
  - Determination of Significance
    - i. Lead Agency takes a "hard look"
    - ii. Determination based on application, EAF and §617.7 (c) criteria and input from other agencies and public;
    - iii. Declare action a Positive/Negative Declaration;
    - iv. Positive Declaration triggers EIS Statement.

Presentation also included samples of applicable case law relating to SEQR actions.

### **Board Comment**

J. Goldstein asked if there is any role for the federal government in setting state standards, and do they have any continuing oversight in terms of the applications of those regulations. J. Furst replied that the federal government has their own National Environmental Policy Act ("NEPA"). J. Goldstein asked if NEPA, or the Advisory Council on Historic Preservation ("ACHP"), or U.S. Army Corps of Engineers ("USACE") get involved. J. Furst replied that there can be some inter-agency overlap in certain circumstances.

Specifically referring to the Fjord Trail, J. Goldstein noted that there is already a completed Master Plan in place without an EIS. He asked how might a lead agency define "early in the process" as set forth in the SEQRA. J. Furst replied that, in some cases the Master Plan is considered a generic form of EIS. However, this

does not seem to be the case with Fjord Trail. Moreover, if the planning tool does not commit to a specific course of action, it may be an action exempt from SEQRA. J. Furst noted that it is important for this Board, or any board, to refrain from pre-judging a project, positively or negatively.

Discussion ensued regarding the applicability of TYPE 1 classifications:

- Who makes the determination that an unlisted action can be transformed into a TYPE I action where a project will be in proximity to historic sites or districts?

J. Furst replied that the lead agency makes that determination, noting that the language of §617.4 (9) specifies “any unlisted action that exceeds 25 percent of any threshold established in this section, occurring wholly, or partially within, or substantially contiguous to, any historic building...site or district.” The question then becomes is there an impact sufficient to trigger an EIS?

Referring to the Shoreline Stabilization and the significant changes to Dockside Park, M. Francisco asked if the discussed criteria apply the same way when the lead agency is State Parks and the State is also the party undertaking the project. J. Furst replied that the DEC it is within the regulations as written that a lead agency also be the entity undertaking the project, and are subject to the same form of review.

Both M. Francisco and J. Goldstein noted that there was no SEQR performed before the undertaking of the extensive work at Dockside Park, most notably a land ramp which presumably will be the beginning of the connector to get over the tracks, and the concrete boat ramp. J. Goldstein commented it would appear that the action was either declared a TYPE II action or a TYPE I action with a negative declaration. He has been unable to locate any paperwork to this effect.

J. Goldstein asked where the Endangered Species Act connects in the EAF process if there is no environmental review. J. Furst replied this might occur if the proposed action required a permit from the DEC. J. Furst also covered the procedures for completion of an EAF under Type II actions, including the Resource Mapper accessible on the DEC website.


J. Goldstein proposed a hypothetical: If a traffic study is carried out by a developer and is based on the findings of unreferenced sources, how does a reviewing Board comply with the "hard look" requirement? Does the Board accept those findings in the absence of underlying data? J. Furst replied that the traffic study should contain all of the references. In addition, the records should be available for review by a traffic engineer hired by the Board, and paid for by the applicant. J. Goldstein thanked J. Furst for conducting the SEQRA Training.

#### 10. Adjournment

*The Chairman called for a MOTION.*

M. Francisco made a motion to adjourn the Meeting. Y. Daniels seconded the motion and it passed by a vote of 4-0-0-1. Meeting adjourned at 8:18 p.m.

Prepared by: Karen Herbert



Jack Goldstein, Chair



Date