

**Village of Millbrook
Village Planning Board
April 24, 2008 Meeting**

Call to Order Meeting began at 7:30 p.m.

In Attendance Linda Roberts, Chairman, Joe Still, Joe Forte, Charles Colomello

Review of Minutes Minutes of last meeting were reviewed. Joe Still accepted and Charles Colomello seconded. All were in favor.

Public Hearing **Cardinal Hayes Home for Children**

Joe Still made a motion to open the public hearing. Joe Forte seconded the motion.

Fred Apers, Executive Director opened the public hearing by giving a brief overview of the final expansion of the school's Franklin Avenue site. The school has been located on this site since 1995 and currently have approximately 55 students between two separate sites. This project will merge the students from both of these sites since it is becoming increasingly difficult to manage student services. Especially since all of the students require the same therapy services. Mr. Apers re-iterated that the purpose of this project is not to grow student population but for better management of the existing students and their services. This way all of the therapies may be provided in one area.

Next Wayne Frenzel spoke adding that the entire lot is currently 9.29 acres and the proposed project will take up .7 acres. The existing building is 12,000 square feet and the new building will only be 9900 square feet on two floors so the foot print of the building will not be that substantial. Mr. Frenzel went on to give a brief timeline of the school's development. Beginning with 1995 when the school bought and converted the American Legion to one classroom. In 1996 the school built an addition to the existing school adding a second classroom. 1998 saw phase one of the construction of three classrooms and lavatories. At this time the school also put in a 6" water line, connected to the sewer and sprinklered the building. In 2000 phase two added another classroom. In 2003 the construction of the gymnasium was completed, the parking lot was expanded and the lot line was changed to make the two lots the school owned into one parcel. At that time the water line and the sewer connection were extended to the area where the proposed building will be built. He also pointed out that he is aware that there is a lot of square footage for

the number of students that they service currently, housing 8-10 students in a 1200 square foot classroom. This allows for all of the equipment that is required for therapy.

Before opening the public hearing up for residents comments, Mr. Frenzel and Mr. Apers passed around the site plans, project elevation and the tree survey for those residents who wished to look them over. After displaying the site plan, Ms. Susan Lee, who is an abutter, shared her concerns over the current lighting on the existing building. She stated that the existing lights are too bright at night and she constantly sees a glow from her property. Mr. Apers assured Ms. Lee that he would look into updating the lighting since the choices for lighting were limited when the lights were put into place.

From there the hearing was opened up to comments from the residents. First to comment was Mr. Anthony Sloan. He read verbatim a letter he had written and submitted for the record. This letter is attached to these minutes, on the record. At the end of Mr. Sloan's submission both Mr. Apers and Mr. Frenzel had a chance to respond. Mr. Frenzel stated that Mr. Sloan raised some issues that were pertinent to anyone looking at the plan. He followed by saying that he felt that they have been very candid with the Planning Board and as he has stated before had they had the money in the beginning they would have developed the school all at once. There were indications for the proposed development and it had clearly been part of the last site plan. At that time, Mr. Frenzel reassured the residents that there was a public hearing in regards to the school's plans. He went on to respond to the concerns over the tree survey and the trees that are marked to be cut down for this project. He stated that they worked very closely with the architect and surveyor to try to identify the trees that must be removed for the project to work. He also stated that they are not clear cutting this site. In regards to the NYS DOT, Mr. Frenzel stated that there has been no problem with the DOT and that they have seen the site and approved the site in the past.

Next to voice her concerns was Elizabeth Baravalle. She lives diagonally to back of Cardinal Hayes property on Nine Partners Lane. She began by stating that she does not have a problem with the facility and what they do there. She did have concerns over the tax burden that the residents already carry. Especially those owning homes on Nine Partners Lane and Linden Lane. She stated concerns over the commitment to maintain a pretty, rural community one of which is special to the residents as well as the school. She mentioned that she found it hard to believe that the school has made every effort to look at the hazards of the trees slated for removal and that she feels by looking into which trees

may be able to be saved, dealing with the lighting issues and coming up with a better plan would be more beneficial for all. Fred Apers pointed out that this is the first time in all of the years that the school has been in that location that he has ever been told of an issue with the lights and that at first mention he responded in the affirmative and that they would look into updating the lighting. He is hoping that this shows the character of the school and that they are willing to work with the residents so that all are happy. He also mentioned that there is currently a significant buffer between the back of the school's property and the back of the abutter's properties. Mrs. Baravalle also voiced her concerns with maintaining beauty of the gateway of the Village and if all of the trees are removed it will take away from the entrance to the village and the people coming into the Village will be able to see the school. Fred Apers, at that time, invited whomever would like to come to the campus and look at the trees to come and visit. Looking at the tree survey with Mrs. Baravalle and Wayne Frenzel, Joe Still said that it is obvious to try to maintain as much of the buffer as possible and posed the question, "Do all of these trees have to come out?" Mrs. Baravalle stated for the record that she would like to keep the hearing open for more dialog with the neighbors.

When asked by Linda Roberts if there were any more comments or concerns, Ken McLaughlin stated that he sat on the Planning Board when the application was before the Board in the '90s. He reassured the residents that the school stated their intentions clearly about the future plans for expansion. He also noted that he was most likely one of the most difficult board members wanting to ensure that the rural entry to the Village was maintained and he feels that Mr. Frenzel and the school has done their best to mitigate those concerns. As the Building Inspector he stated that he feels that the application, at this stage of the game, shouldn't even be in front of the Planning Board. However, since it is, he feels that they should move forward and he will work closely with Mr. Frenzel and the school to develop a plan that will comply with the Fire Prevention Code. Mr. McLaughlin also stated that Mr. Frenzel and the Cardinal Hayes School has always been very respectful of the communities that they work in and knows that he will continue that respect for this community. He did suggest at this time however, that the elevation should go before the Architectural Review Committee, to ensure that the building is harmonious with the rural character of the entrance to the Village.

Mr. Frenzel said that the biggest concerns he has heard, not to make light of any others, were about the lighting and trees. So he stated that the lighting and the trees would be looked at. He also

stated that as of the night of the meeting he did not have Department of Health approval but that the engineer would have it the following morning.

At that time, Mr. Sloan submitted another letter for the record. This time being from his attorney. This letter is also attached to these minutes for the record.

Mr. Weishaar then asked how the residents are supposed to know that this is Cardinal Hayes final expansion. Linda Roberts answered by stating that it will say on the final site plan that this is the final expansion. Mr. Sloan then referred to his attorney's letter, on page 3, a section that goes into deed restrictions. Mr. Apers then commented that he stands behind his word that this is the final expansion of their property, however, if a deed restriction will ease the minds of the residents than that is what they will do. Mr. Frenzel also pointed out that any one who wishes to walk the property will clearly see that there is no room to develop the property further beyond this final expansion. He also went on to answer to other concerns stating that "schools" fall under the special use permit schedule within the zoning. He stated that while he unfortunately doesn't see an end to the need of their business, that if something were to occur where Cardinal Hayes did leave that location, any other business wouldn't just be able to move in to that area and do what they want with the property. They, at that time, would need to apply for a special use permit and go before the governing boards.

At this time, the Building Inspector, Ken McLaughlin read aloud, for the record, Article 7 of the Administration and Enforcement Law. Afterwards reiterating that what has been done so far is fine and all should move forward, not trying to go backwards. After asking for further comments from the public with no response, Linda Roberts held the hearing open until May.

New Business

Thornedale, LLC. Sign Review

No applicant appeared before the board for this sign review.

Millbrook Early Childhood Center Sign Review

No applicant appeared before the board for this sign review.

Mary and Patrick Flanigan- Area Variance Review

Mary and Patrick Flanigan came before the Planning Board to discuss their request for an area variance. They plan to build a 24X24, 2 car garage in the back of their lot. The required set back is currently 10 feet however, since this will put the garage in the center of their backyard they would like to be approved for a variance to build the garage 5 feet from both the rear and right hand lot lines. The driveway would be extended straight back to the garage and the Planning Board has recommended landscaping between the driveway and right hand side lot line. Based on the Building Inspector's calculations this will not exceed 30% of the lot coverage. The Planning Board, at that time, had no objections and recommended that the Flanigan's move forward to the Zoning Board of Appeals. Once they have the variance they will need to return to the Planning Board with a narrative and the variance for final review.

Other Business

China Tokyo Site Plan Review

Upon review of the China Tokyo finalized site plan it was noted that a Certificate of Occupancy had been issued without the improvements to the lot having been completed per the development plan. It was decided between the Planning Board, the Building Inspector and owner, Katie Yang, that by August 1, 2008 the parking lot will be completed, to include blacktopping, striping and handicapped parking designated, finish the planters at the south end of the property, remove the existing lighting and add the appropriate, commercial, lighting to the front of the building.

Bennett Escrow Account

The Planning Board reviewed a request by the Village Clerk/Treasurer, Linda Wiltse, for a total of \$30,000 increase to the Bennett Escrow Account. Upon further review it was decided that the total amount requested can not exceed the amount that is in arrears plus the original escrow amount of \$10,000. It was also noted that once the escrow balance goes down to an amount of \$2,000, it is the Village's responsibility to ask for another \$10,000 to increase the balance and ensure the account does not go into arrears again.

Motion to Adjourn

Motion was made to adjourn by Joe Still and seconded by Joe Forte. The meeting adjourned at 9:53 p.m.

**STATEMENT OF ANTHONY SLOAN TO THE VILLAGE OF MILLBROOK PLANNING
BOARD REGARDING
THE CARDINAL HAYES SCHOOL APPLICATION FOR EXPANSION**

I am Anthony Sloan, a resident of the Village of Millbrook and an adjacent property owner to the Cardinal Hayes School. That school has an application to expand under special permit its facility by 9,900 square feet.

That is a significant expansion under a special-use permit in a zone categorized as "Low-Density Residential." If this particular site plan is approved, among other impacts, almost 40 trees would come down. That would be a significant adverse impact to our area.

This expansion would cause us, as adjacent property owners, all sorts of problems. Already the harsh sodium-vapor lighting, apparently unshielded, shows through the trees. And cutting down many of those trees would make things worse.

The planned building would have two stories, a ground and main floor. That would make this new building, especially with those trees removed, all the more visible. We'll be confronted with far more building bulk than ever before.

What we have here is a development, made possible through a special-use permit, becoming larger, more visible and clearly more suburban-institutional in character. It is at odds with the requirements of the Low-Density Residential zone. And it is surely at odds with the intent of the code that a special use be in harmony with its zoning district.

No doubt about it: Cardinal Hayes School, if expanded in accordance with the site plan before you, will diminish the market values of our property and the properties of our neighbors. I mean who wants to look at that sodium-vapor lighting or see that two-story, 9,900 square foot building where once there were trees?

Is that fair to an area where residents pay significant taxes?

Then there is our barn, just across Route 44 from the Cardinal Hayes property. That barn, along with our house further up the hill, could be eligible for listing on the national and state registers as a historical structure. Under the State Environmental Quality Review Act, or SEQRA, this expansion at the Cardinal Hayes School must be sensitively screen so that it does not adversely impact the quality of this historic resource. What this comes down to is assuring no light illuminates beyond the property line and assuring that the maximum number of trees are maintained between the expanded building and Route 44.

The application appears to be incomplete. When I viewed the Cardinal Hayes file at the Village Hall, I did not see such documents as:

- Lighting Plan
- Grading and Erosion Control Plan
- Storm water details
- NYS DOT Entrance Permit, based on NYS entrance guidelines

NOTE: If NYS DOT determines this expansion plan requires a commercial entrance, the entrance resulting from meeting that requirement would not be in harmony with the Low-Density Residential district and would be destructive to property values of nearby properties.

**STATEMENT OF ANTHONY SLOAN TO THE VILLAGE OF MILLBROOK PLANNING
BOARD - Continued**

I did see a proposed pump chamber on the site plan. Isn't this property on the Village sewer system? Also, I have been told that the Dutchess County Board of Health discourages the use of pump chambers for new buildings. Why, then, is there a need for a pump chamber?

With these concerns in mind, I recommend the following:

1. The Planning Board continue the public hearing process for these reasons:
 - a. The application is incomplete, as noted above.
 - b. There are not the required elevations of the planned building available, so it is impossible for anyone to understand the impact of this two-story building, especially as seen from the road and neighboring properties.
 - c. The Village office received the copies I ordered of the site plan from the printer just this afternoon, too late to review with my attorney prior to this hearing. (We have had only taped-together photocopies of a partial plan to work with.)
 - d. The public has not had a chance to see the complete application, the minutes of the March meeting of the Planning Board, the record of this public hearing or the resolution of outstanding issues, especially new ones raised tonight..
2. The applicant provide elevations of all sides of the planned building and that there be the time for public review and open hearing for public comment on those elevations..
3. The applicant revise the Environmental Assessment Form, or EAF, for this application to reflect the close proximity of our barn, a potential candidate for historical listings at the National and State levels, to the Cardinal Hayes School.
4. The applicant revise the site plan to show the screening required of the Cardinal Hayes School in light of this potential landmark barn.
5. The tree plan receive serious public and professional review with the intent of seeing how many of those trees now marked for removal can be saved. We do not want to see that two-story building. Saving existing trees is the best way to avoid this problem.
6. The applicant use other screening and buffers to make all buildings appear as elements of a natural forested setting.
7. Cardinal Hayes commits itself in the appropriate legal document to the permanent protection of the forest and wetlands between its current and planned buildings and Route 44.
8. All lighting, new and old, exterior and interior, at Cardinal Hayes School be not visible from beyond its property line. We do not want to see lamps, bulbs or other sources of illumination.
9. If the applicant claims he cannot comply with the above recommendations, then the Planning Board should instruct the applicant to analyze and then present alternatives to the current site plan. Those alternatives should include a plan for a smaller one-story building, one less visible from beyond the property. It should also include exploring the use of other Cardinal Hayes properties for this school.

**STATEMENT OF ANTHONY SLOAN TO THE VILLAGE OF MILLBROOK PLANNING
BOARD - Continued**

10. Cardinal Hayes School makes clear in the appropriate legal document that this plan is the final step in its expansion.

A special permit requires an applicant his or her use is in harmony with its zone and surroundings. We ask that the Planning Board require the Cardinal Hayes School make that effort to get this plan right on all counts and for all parties, and that very much includes its neighbors.

Thank you.

END

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To: Jessica Robison Millbrook Planning Board Clerk

Company: Town of Millbrook

Fax No.: 677-3972

From: George A. Rodenhausen

Re: Cardinal Hayes School Site Plan and Special Use Permit Application

MESSAGE:

:hmd

The documents included with this facsimile transmittal sheet contain information from Rapport, Meyers, Whitbeck, Shaw & Rodenhausen, LLP, which is confidential and/or privileged. This information is intended to be for the use of the addressee named on this transmittal sheet. If you are not the addressee, note that any disclosure, photocopying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone at (845) 473-7766 immediately so that we can arrange for the retrieval of the original documents at no cost to you.

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April 24, 2008

Ms. Linda Roberts, Chairwoman,
and Members of the Village Planning Board
Village of Millbrook Planning Board
PO Box 349
Millbrook, NY 12545

Re: Cardinal Hayes School Site Plan and Special Use Permit Application

Dear Chairwoman Roberts and Members of the Planning Board:

This letter is submitted on behalf of Anthony and Eleanor Sloan. Please accept it as part of the record of the public hearing to be held tonight on the above referenced application. The Sloans live directly across Route 44 from the Cardinal Hayes School and will be directly impacted by the above referenced application. Given the size of the proposed building and the number of trees that would be removed, the project as proposed would have a significant adverse impact on the community and on adjacent property values. We urge the Board to give the application close scrutiny.

The Millbrook Village Code requires that a specially permitted use "be in harmony" with the district in which it is located and that "operations in connection with any special use permit . . . not be offensive, potentially dangerous [or] destructive of property values." See § 230-43(F). The project site is located in the Residential Low-Density (RLD) District, a residential district characterized by agriculture, woodlands and wetlands. The intent behind this district is for existing character to be maintained. See § 230-9(B). The Code mandates that the Planning Board carefully balance the interest the community has in maintaining its rural character with the growth of the Cardinal Hayes School. We offer the following comments and requests for more information in furtherance of this goal.

RAPPORT, MEYERS, WHITECK, SHAW & RODENHAUSEN, LLP

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Lighting

Although the applicant has submitted cut sheets of the proposed additional lighting, we have been unable to determine the extent, if any, of illumination beyond the property line. Cut sheets are not sufficient to determine the impact of the lighting. The existing sodium vapor lights on the premises already have a negative impact on the rural character of the area. To evaluate the impact of the proposed lighting when combined with the existing lighting, the applicant should be required to submit a photometric lighting plan, which shows the location of all existing and proposed light sources, the foot-candles of each and the distribution of lumens on the ground. Section 230-17(G) of the Code requires proposed lighting to be "planned, erected and maintained so that the light is confined to the property and will not cast direct light or glare upon adjacent properties." Only once such a plan has been submitted can the Planning Board determine the effect of the proposed lighting on adjacent properties.

Given the fact that the new lighting will add to the impact of the existing lighting, we believe it is within the authority of the Planning Board in its site plan and special permit review to require that the existing sodium vapor lights be changed to a less offensive type of light. It is our understanding that a standard 100 watt incandescent light bulb emits approximately 1700 lumens, while a 100 watt sodium vapor lamp emits around 15,000 lumens, about 9 times as much. Sodium vapor lamps are completely inappropriate for this rural setting. Additionally, we urge your site plan review to require uniformity in lighting style and type of light throughout the site.

Tree Removal, Landscaping and Screening

The tree survey prepared by Harry J. Bly shows that a significant number of large trees that would be removed in the area of disturbance, some with diameters over 2 feet at breast height. Pursuant to Section 230-44 of the Code, the site plan must "reflect an awareness of and sensitivity to the views . . . and to the extent possible, preserve and enlarge upon these assets." The Planning Board should discuss the feasibility of retaining more of the trees slated for removal and the addition of new coniferous and deciduous trees to create a buffer so that the new structure will not be easily visible from Route 44. The applicant should be required to submit a full landscaping plan pursuant to Section 230-44(C)(4)(p) which is sensitive to this important viewshed.

Wetlands, Stormwater and Drainage

The property contains a significant wetland and a seasonal stream. Under the State Environmental Quality Review Act (SEQRA), the Planning Board must determine the impact that the development of the site will have on the wetlands and mitigate any effects to the extent practicable. Non point source water pollution such as stormwater continues to be a major source of

RAPPORT, MEYERS, WHITE ECK, SHAW & RODENHAUSEN, LLP

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wetland degradation. If the applicant has submitted a stormwater and erosion control plan, it was not available for review by the public on April 22, 2008. We note that the wetland is a unique quality of the site and one that the applicant must preserve to the maximum extent possible. See 230-44(E).

Historic Resources

An additional consideration for the Board is the impact of the development on the historic barn located on the Sloan property. The Sloans believe that the barn is eligible for listing on the National and State Registers as a historical structure. Given the shortness of time, it was not possible to get a ruling on eligibility from the Office of Parks, Recreation and Historic Preservation in time for tonight's hearing. However, the Sloans are willing to pursue an eligibility determination. We recommend that the Board assume for tonight's hearing that the building is eligible, as its age and architectural integrity certainly appear to qualify the building.

SEQRA and Positive Declaration

Under the State Environmental Quality Review Act (SEQRA), when a proposed project is adjacent to a building eligible for listing on the State and National Registers of Historic Places, the application must be considered a Type 1 action, that is, an action more likely than not to require preparation of a Draft Environmental Impact Statement. Unless the adverse effects of the lighting and the removal of trees, and the construction of a two story structure out of harmony with the neighborhood are significantly mitigated by the applicant, we believe this application should require preparation of a Draft Environmental Impact Statement.

Deed Restriction and Conservation Easement

The continued growth and development of the Cardinal Hayes School necessitates a long term development plan for the site, including long term conservation measures such as conservation easements, deed restrictions and map restrictions. If the current proposal is to be approved with substantial modification and mitigation, no further development should be permitted on the western portion of the property between the proposed building and Route 44. The applicant should be required to file a deed restriction and place a notation on the site plan stating such. It would also be appropriate for the restriction on development to include a limitation on the removal of trees within the tree canopy as shown on the site plan. An adequate buffer between this institution and the surrounding residential uses would help to ensure harmony between uses and between landowners as well as further the goals of the Village as expressed in the Village Code.

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Request for Continuance

Given the sensitivity of the site and the unavailability of information, we respectfully request that you continue the public hearing on the site plan and special permit amendment until such time as the applicant has submitted a proposed lighting plan as described above, a landscaping plan as also described above, including screening, and a drainage/stormwater plan addressing potential impacts on the wetlands. We appreciate your consideration of this request.

Sincerely



George A. Rodenhausen

cc: David Clouser
Richard J. Olson, Esq.