

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
June 29, 2022**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, June 29, 2022 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30PM. Board members Chairman Culver, Charles Barrett, Leslie Farhangi, Evelyn Garzetta, Bill Kish, Bill McGhee and Dan Sternberg. Also in attendance were Chris Kennan, Chris Langlois, Rion LoBrutto, Wesley Chase, Mary Dohne, Kayhan Tehranchi, Arthur Zeckendorf, Jennifer Zeckendorf, Michael Harney, Paul Harney, Lara Schroeder, Alison Stolzman, Hilarie Thomas, Walter Kubow, Will Agresta, Camilo Rojas, Virginia Lavado and Deb Phillips, secretary to the planning board.

*Paul William Realty Corp. (Harney Tea)
Site Plan/Lighting Language
5723 Route 22
Parcel ID#: 133889-7170-00-805867*

*NML Wilds, LLC/NML Farm LLC
Public Hearing for Application for Lot Line Alteration at 7:40PM
Route 199 and 136-44 Skunk’s Misery Road
Parcel ID#: 133889-7171-00-475093 & #133889-7170-00-232833*

*Mary Dohne/Roger Russo
Application for Minor Subdivision/Lot Line Alteration
151 Gun Club Road and 77 Gun Club Road
Parcel ID#: 133889-7170-00-475093 & #133889-7171-00-232833*

*McGhee Hill Road Subdivision
MRHR, LLC
Ongoing Site Plan Discussion
Parcel ID#: 133889-7171-00-414515*

Chair Culver requested a motion to open the meeting at 7:35PM.

McGhee made a motion to open the meeting. Motion was seconded by Evelyn and passed unanimously.

Public Comment

There was no public comment.

General Business

Chair Culver opened discussion about previous meeting regarding Paul William Realty Corp. (Harney Tea). He said the PB agreed to two points: the light over the door and there is concern about the PB agreeing to remove a light pole in the parking lot. Culver and Farhangi said they not agree to removing the light pole.

Rion LoBrutto said the meeting minutes that were circulated is representative of the discussion. He doesn't remember any discussion of removing light poles. The two points that were agreed to were: the south light pole in the back gravel parking light to be in parallel position and to change the light above employee entrance to the specified same light as the one above the greenhouse doors.

Kish said he recalled that the lamp post and the luminaires located within the area identified as gravel parking will be permanently disabled and the luminaires removed. He said he realized that both lamp posts after looking at it that are in the gravel parking area, there's a problem with not identifying the lights by name. The northernmost light, that's the one that the applicant said we never use that, it's always off. (talks about other applications being done where the applicant says I'm never going to turn that light on and eventually it was turned on) I didn't say remove any poles; there's nothing in here about removing poles. It says that northernmost light you should remove the light from it; the pole could be there. The luminaire needs to be removed to ensure that it doesn't get turned on when changing of the guard takes place. The other one was the one that we did agree on: all remaining pole-mounted luminaires will be permanently configured so that the lighting surface is parallel to the ground. No luminaire on the sight shall be directed with the light emitting surface other than parallel to the ground; that's just to put it on the document that nothing is going to get changed. If the lighting get changed on the site, it required PB approval. The one that we're having disagreement about is whether or not to remove that light from the top of that northernmost lamp post.

Chair Culver referred to page 4 of the June 15, 2022 minutes: LoBrutto said he will replace the one light and turn the two down. He said he doesn't remember saying the PB would have the light in the back parking lot removed. He said he remembers that the PB would have them all turned down, there would be an attempt made for no light trespass.

McGhee said they talked about safety of the employees in the parking lot.

Chair Culver said his recollection was that the parking lot light would not be removed. It was not being used. His concern was the addition of work space in the back and where would parking be for employees that work back. He would be comfortable if all the lights were turned down, not removing the said light until if they find out if they don't need it. I thought we agreed to the employee light being changed but he doesn't remember the exact digits to what was specked out. He asked the PB if everyone was comfortable with that as what we believed. His recollection currently is they said that light wasn't being used but it's in the back parking lot and we've added five structures in the back.

Kish said if the applicant found that they need more employees to park in the back, they could turn that light on which is not what we discussed and it's what not is shown in the photometrics. If we are going to supersede what the applicant is saying and make statement that that parking lot needs to have a light, we should have photometrics that show that light instead of having photometrics that shows that light is always off.

Chairman Culver asked the PB if they agreed to have it removed or not.

Farhangi, McGhee and Garzetta agreed to not having it removed. Barrett doesn't remember. The PB agreed about turning down the lights.

Chairman Culver said his recollection was they agreed to turn the lights down and the light over the employee door was being changed.

Sternberg said his understanding was that all of the pole-mounted lights would be maintained at the horizontal. Two of them already are and one wasn't. It was implied that the last one would be left turned off.

Chair Culver said we voted on something, we all agreed that that light wasn't to be removed. We agreed on the lights being turned down, the applicant agreed to that, we agreed to change the employee door light. I want clarity even if we all don't agree exactly, that that's the spirit of what we voted on that night. It's 100% fair that we go with that light is not likely to be used and it doesn't have to be removed.

Kish suggested changing the language to say the applicant promises never to turn that light on and unless they come back to talk to us. That is not only the spirit but the actual discussion we had.

LoBrutto said each of the back poles has two lamps on them and the three poles in the front have one lamp on them.

Sternberg asked if the northernmost pole in the back that has two lamps that are currently not used. LoBrutto said they are both off. He asked if there is any reason in the foreseeable future to turn those lamps on.

LoBrutto said not in the foreseeable future but we should reserve the right to use them. Those lights were there when we built the north storage building. We can keep it off until said time that we come back and ask if the light could be turned on.

Kish said the only thing that changes in the language that we have is the business about removing and permanently disabling them.

Langlois said the photometrics that were submitted, none of them included any light on that northern parking lot section. He said Kish brought that up and why hasn't it been included in the photometrics but we never use that light. Bill interpreted that if they are not using it, just take the light off (not the pole). I think we've reached a consensus here that all lights are going to be turned parallel to the ground, the light above the employee entrance is going to get replaced and the applicant is willing to agree that they will keep the northern parking lot light off. If such a time comes that they wish to use that light, they will come back to the PB.

LoBrutto said yes, that's what we agreed.

NML Wilds, LLC/NML Farm LLC
Public Hearing for Application for Lot Line Alteration at 7:40PM
Route 199 and 136-44 Skunk's Misery Road
Parcel ID#: 133889-7171-00-475093 & #133889-7170-00-232833

Chairman Culver requested a motion to open the public hearing for NML Wilds LLC/NML Farm LLC lot line alteration.

Sternberg made a motion to open the public hearing for NML Wilds LLC/NML Farm LLC lot line alteration.. Motion was seconded by Barrett and passed unanimously.

Wesley Chase appeared before the PB with a review of the lot line application. The two properties are owned by different LLCs. NML Farm has 88.09 acres is on Skunk's Misery Road and NML Wilds has 163.94 acres on Route 199. The lot line alternation is to convey 8.88 acres from on the back side of NML Farm (the former Haab farm) to NML Wilds, increase the acreage to 172.82 acres. The application is for offsets to conform to the Town zoning in the future and Dutchess County Department Health requirements. He said Langlois modified the environmental note as follows: Significant habitats exist on the parcel shown hereon including wetland areas which support a diverse and unique group of plants and animals. These habitats were identified on the map by Hudsonia Ltd. in 1997. The habitat maps can be viewed online or at the Town of North East Town Hall. Owners and perspective owners should be aware that the presence of these habitats may limit the future development of

these parcels and should be taken into consideration in any project in order to mitigate any environmental impact. The Town of North East Advisory Council can be contacted for more information and consultation. See contact information on the Town of North East website.

Alison Stolzman said she understands that the proposed development site on the top of the site and asked about the proposed access.

Chase said it is a lot line alteration and he was asked to prepare the lot line alteration that has nothing to do with a future site plan.

Stolzman said she is surprised that the larger plan for the property is not known.

Chase said from his understanding that he has been told that it will be a single-family residence on top of the hill.

Stolzman asked the purpose of the 8.8 acres in the midst of 600 acres.

Chase said the site has to be far enough from the property lines to conform to the Town's zoning codes. Even though the arbitrary lines run through the middle of it, they have to adhere to the offsets.

Chairman Culver said for clarification purposes, just because they own it and it's in two different names, to build on one site and if the septic fields were going to inhibit on the other site, even though it may be the same people because it's separate deeds, they have to obey the setback even though they are the adjoining landowners. For the Health Department, the septic fields have to be on the same parcel that they are building on. They have to respect the setbacks that the Town says.

Stolzman asked Chase to identify the building site.

Chase said he has not seen it but it would probably be close to the two lines.

Camilo Rojas asked if it was next to his property. Chase said it is on the southern side.

Chase said we are moving arbitrary lines that are in the middle woods.

Rojas asked if there was more information.

Chair Culver said the problem is that this is simply moving lines on a large parcel. Our code says that you can do a lot line adjustment and you don't have to have a building plan; you don't have to commit to build. What we are dealing with is two parcels of land where there is a change in the boundary. While we believe that there is going to be a home built, the reason that these lines are being moved is to enable that. It isn't our purview to put a building site on the map for them.

Stolzman asked if the Town has approved that building site. The PB said no.

Chair Culver said we can't really reference if they are going to build or not; they petitioned to move the lines. That is what we have to work with. To build, they have to go through another process: they have to get a building permit, they have to get health department approval, they have to get access to it and meet the emergency access, etc. That is not what is on the table tonight even though you might want an answer to that. We can't require a landowner to provide those answers if all they are asking to do is move two boundary lines.

Stolzman said it is in anticipation of what?

Chair Culver said the meeting tonight is about these lines and that is all we can deal with. The Building Department would have to deal with building, the health department would have to deal with their requirements, We can't give them health department approval but we have to look at this line change and respectfully deal with it based on our code. They have submitted the documentation, paid the fees, drawn the maps and given the presentation. You're all more than welcome to voice any concerns. As far as the building part, we can't say anything about that here.

Stolzman asked if the Town has any restrictions on removing trees or clearing trees on the high point on a hillside.

Chair Culver said the Zoning Review Committee is talking about a ridgeline law but it is not in the current zoning.

Rojas asked about the water supply.

Kish said if we had a reason to believe there was going to be a significant environmental impact, we would have something to look at. This is not tied to any specific activity; this is not an application to build a house, to clear land or anything like that. It's just an application to move the property line. We don't know that this can produce a particular development.

Farhangi said we have to use our zoning code. The only power the PB has comes from the zoning code. If the law doesn't say anything about cutting trees down, we can't do anything about it.

Chair Culver said this is zoned A5A. It is possible they could have asked us to break it up into five-acre parcels. The previous application for this was a five-lot subdivision.

Stolzman said she thought the application was denied.

Chair Culver said the parties decided to sell it and they withdrew their application. What they were trying to do was allowed and their engineer was working with us. That application was withdrawn without prejudice; they spent a lot of time and money on engineering and decided it to sell it to these people. There was no vote or decision made by this board on that piece of land at all.

Stolzman said her feeling is that this is a very large parcel and to be making determinations piecemeal doesn't give a full picture of what their plans are. My guess is they are going to build site at the top of this hill, it's shale and they will have to blast, they've already cleared trees.

Chair Culver said they are all valid questions but we can't use what they may do to decide whether they can move this line or not. Moving this line doesn't give them any rights to do anything else.

Kish made comments to avoid segmentation.

Stolzman said the previous owner put all the old Peschel land on Route 199 in conservation. On Route 22, it's commercial and it won't impact that many.

Chair Culver said Route 22 is not commercial down there.

Chase presented a map to the PB from the beginning of the application process. It was an individual survey of the NML Wilds on NYS Route 22 and a copy of the old Haab survey. There was a conservation easement that was granted to that parcel. They have to deal with that easement that exists. That's not part of what we are looking at tonight.

Stolzman said my point is that there are only a few of us who are impacted.

Sternberg said when an applicant comes to the PB with a subdivision, they have to give more plans for the application.

Chair Culver said we have to keep cognitive of one thing. We are looking at two large parcels and when we're done, we'll still have two large parcels of land. There is not segmentation or partial subdivision. That would have to come to us as a separate action. This doesn't grant them the leeway to do anything else except still own both of those parcels of land.

Stolzman asked if they would be notified when the times comes that they make a determination of where the site is.

Chair Culver said he didn't think so if they don't come for a site plan, a highway access or things like that. My understanding has always been that if you own a large piece of land that qualifies, you can apply for a building permit without coming to the PB.

Sternberg said I don't believe there is any action to notify the public when an application for a building permit is made.

Rojas speaks. Something about cutting trees in front of his land.

Chair Culver said the McGhee Hill project has not been divided; it is proposed.

Chair Culver said on this particular application (the lot line alteration), the only thing that we have in our power to do is look at these lines and see if the proposed change matches the zoning code and if the notes on the map match what we asked He asked if anyone in the public has something to say relative to this application before the public hearing gets closed.

Rojas asked without zoning tools, what can we do.

Langlois said on this type of application, you're doing exactly what you described. You're looking at the lines that are being proposed, making sure that the reconfigured lots will still be consistent with the lot requirements for the Town that you're not creating any non-conforming lots. What you're not looking at is any speculation of what the owner may or may not do with the lot lines that have been adjusted. All you're doing is moving lines and that doesn't have any environmental impact.

Chair Culver requested a motion to close the public hearing. McGhee made a motion to close the public hearing. Motion was seconded by Barrett and passed unanimously.

Chair Culver asked the PB if they had any questions or concerns relative to the application.

Kish asked if the applicant would access the property from Route 199.

Chase said he would be speculating that it if it was him, not the applicant, that it would be off Route 199.

Chair Culver asked if there was access to the current two properties. PB members agreed.

Chair Culver said we are basically sitting here tonight putting a building envelope somewhere in our mind and deciding they need access to it and we don't have that in front of us. The large parcel has access off Route 199. Since there is access to both parcels, that is not an issue. There have been a lot of things that have been brought up tonight that could be of concern, but in this action and this proposal, the opinions expressed do not factor into whether these two lines change or not.

Chair Culver asked the PB if there were questions about the line movement. PB members replied no.

Chair Culver said the lines would shift from 163 acres to 172 and from 88 acres to 79.

Langlois said he doesn't have objection to moving the two lines.

Chair Culver requested a motion for a negative declaration on SEQR.

Sternberg made a motion for negative declaration on SEQR. Motion was seconded by Farhangi and passed unanimously.

Chair Culver requested a motion to approve the lot line alteration.

Farhangi made a motion to approve the lot line alteration. Motion was seconded by McGhee and passed unanimously.

Mary Dohne/Roger Russo

Application for Minor Subdivision/Lot Line Alteration

151 Gun Club Road and 77 Gun Club Road

Parcel ID#: 133889-7170-00-475093 & #133889-7171-00-232833

Chase appeared before the PB with an application for a minor subdivision/lot line alteration on Gun Club Road. Mary Dohne owns 151 Gun Club Road that is 9.74 acres. It is surrounded by land owned by Robert Russo. He owns a parcel of 7.24 acres that he doesn't use. Dohne went into contract with Russo to purchase the 7.24 acres for protection and to have more land around the house. There is a barn on Russo's line that is a small encroachment by one of the neighbors. It doesn't cause any issues for this application; it is a pre-existing non-conforming and it can continue to be pre-existing non-conforming as long as it is not making anything worse. Dohne's property would go from 9.74 acres to 16.98 and Russo's would go from 24.6 acres to 17.4.

Chase said the encroachment would be towards the title of the map. There is a barn that encroaches on the southwest line of Parcel A which at the most 1.72 feet over the line. That's on the parcel that is getting conveyed from Russo to Dohne. Pre-existing non-conforming issues can stay as long as it doesn't making anything worse. It can't be dealt with the contract signed. You're trying to get three different entities to commit to that and it would please both applicants to move ahead and deal with it at a later time.

Langlois said that is an issue between property owners that at some point would be prudent to be resolved but that it's not the PB problem for a lot line adjustment. You could put a note on the map acknowledging the encroachment of the barn on the southwest property line and indicating that the pre-existing encroachment would need to be resolved between the property owners.

Kish asked if anyone talked to the Kayes it.

Chase said he talked to Bob Trotta, the Kaye's attorney but hasn't had a chance to reply to a message from the Kayes.

McGhee asked about a previous case with a lot line adjustment where part of the building and the septic were on a separate property. That had to be settled before they moved forward.

Chair Culver said that was because of the septic fields. Legally, you are not supposed to be living in something with your septic being conveyed to another property.

Chair Culver said we've dealt with this before; the encroachments always involve septic fields that created a necessity that it be dealt with immediately. If we agree and it goes to hearing, adjoining property owners will be notified and be given an opportunity to discuss it with both parties. I would like us not to avoid putting a note on the map. When we know something is messy, we should be certain that anyone else involved in the future doesn't have to discover what we already know. We should be clear and concise and make it easily available to anyone involved with this parcel that this situation exists.

Kish said he would to bring up at the next meeting which came first, the barn or the property line.

Sternberg said the line that is being encroached upon is not the line that we are now creating, it's an existing line.

Chair Culver said he doesn't believe we could create a line that would create an encroachment. Then we would be creating a situation that wasn't pre-existing.

Langlois said he does not see an obstacle to the approval because of the encroachment. He said the map is sufficient.

Chair Culver requested a motion for an escrow of \$250.

Garzetta made a motion for an escrow of \$250. Motion was approved by Sternberg and passed unanimously.

Chair Culver requested a motion for a public hearing on July 13, 2022 at 7:40PM.

Farhangi made a motion for a public hearing on July 13, 2022 at 7:40PM. Motion was seconded by Garzetta and passed unanimously.

McGhee Hill Road Subdivision
MRHR, LLC
Ongoing Site Plan Discussion
Parcel ID#: 133889-7171-00-414515

Walter Kubow, engineer for the project, said there were requests from the utility company and road access to the back property. He said there was a trespasser and there is a piece of broken down equipment. It hasn't been staked out or to proceed with any type of construction. The entrances have been improved to provide access.

Kish asked why that was being done so early in the planning process. We are trying to figure out what the environmental impacts are and we can see that somebody is paying somebody to create significant environmental impacts.

Hilarie Thomas said there is a parcel behind (pointing to one on a map) and said it is owned by Richard Whitehead. The access for the Burkard property was settled in a lawsuit in 1999-ish. It was found that he Whithead was given a portion of the parcel via adverse possession. He also had a right-of-way that was granted via a deed from 1894. That deed gave this particular access out to McGhee Hill Road. This gentleman that owns a parcel about a little

over three acres in the back took it upon himself to copy portions of the deed as well as from the lawsuit and created his own easement found someone with the last name of Culver that may or may not be Walter Culver who died in 1894 and was part of the estate to sign this document and actually recorded it in the Dutchess County Clerk's Office. That's something we're trying to address, but in the meantime, he showed it to my client. He cleared basically three acres of trees on his property and proceeded to transport those trees and logs across the road which was not necessarily set up to transport logging. His bulldozer got stuck and is apparently inoperable. It damaged a good portion (pointing to a map).

Kish said identified was a vernal pool that is a main, environmentally sensitive area on the property.

Thomas said this person was doing this without any limitation because her client thought he had the right to be there. We're in the process of figuring out whether it is a fraudulent document.

Chair Culver asked if there has been any type of injunction or action taken to stop that work on what may be a fraudulent document and not allow continual destruction of environmentally sensitive areas or is something that the Town needs to look at a stop work order. The destruction is not aiding you or us and is creating rancor with some of the neighbors. If an uninvolved third party is creating all this drama, something needs to be done.

Thomas said I think he cut three acres worth of trees down. We tried to purchase the property but it's a land-locked parcel.

Thomas said there is a different land-locked parcel that does have a right-of-way. She said this gentleman is traipsing through this property which he doesn't have a right to do. She says it has gone to tax sale multiple times. She said they haven't filed an injunction but hope to so they can purchase the property and solve the issue.

Thomas said they are in contract to buy the Burkard property. She that parcel has always had legal access.

Chair Culver said the PB wasn't aware of Whitehead's landlocked parcel. If they merge that property in, it will eliminate the easement.

Arthur Zeckendorf said that when I was up there, I ran into Mr. Whitehead and he said he had a deed in his car but I didn't see it. The work he had done was after I was up there. He trespassed on our and Burkard's property and damaged our property.

Chair Culver said a lot of the concerns that have been generated in the last couple of weeks probably and at least half of them are a result of this action which we can't pin on you.

Kubow showed the map that showed the environmental community. He talked about a stream and an upland mixed forest. He said he didn't see any vernal pools.

Kish said there is a vernal pool.

Chair Culver asked that since Hudsonia was done in 1997, is there a chance that the vernal pool has morphed or changed.

McGhee talked about culvert work that was done on Skunk's Misery Road about five years ago.

Chair Culver said any type of that work could affect over time other spots. With a 25-year-old study and drainage changes made, it is possible that the reason they didn't see is that it might have morphed away. We would make

sure that particular piece is notated and looked at on that land. For clarification, the exact location should be visually looked at.

Kish said Hudsonia provided us with GIS files and I assumed they are pretty accurate.

Kubow said he could drop the coordinates on his map and see if it corresponds to the wetland.

Kubow said they will put tree-clearing restrictions on the plans.

Farhangi asked about enforcement.

Agresta said it's under the zoning.

Langlois said a note on the map is a condition of approval. If the condition is not being adhered to, it does give a right to go in to enforce and go to court.

Kubow said they are not opposed to looking for the habitat report to be expanded beyond state and federal listed species and assess the habitat for turtle and hawk species.

Chair Culver asked Kubow if he had any questions or concerns about the points that Agresta made.

Thomas said they looked at the center driveway to see if it requires the Army Corps engineer's approval. The utility company did request that several trees be taken down near Lots 4, 5 and 6.

Chair Culver asked Thomas for a summation of what's been so the PB has knowledge of what's been done.

Sternberg asked if until you have an approved development plan that the applicant should not be working on the site.

Thomas agreed. She said her client would like to 39 replant locust trees and would like the ability to do that without the PB having further issues..

Zeckendorf said the trees are about 14 feet tall and would be planted by Dominic Lopane along McGhee Hill Road between Lopane's house and the other house.

Kish asked if the utility company was putting in poles to support the project or for the right-of-way. Thomas said it is to clear the limbs that were too close to the utility lines.

Rojas said locust trees are not native to this area and they would fall after getting very tall.

Thomas said they would be in a section of the area that is the farmland. They would not be added near other trees.

Agresta asked if they are black locust which is not a native New York plant.

Chair Culver said he would like clarity as to what's been done and who responsible.

Zeckendorf said they are honey locust trees. Agresta said they are a common tree used in landscaping.

Kubow said regarding the open space comment that the consultant has given it to the PB to decide if they are willing to take payment in lieu of dedicated open space.

Chair Culver said that's an issue for the PB to discuss with the planner and attorney and see what's best for the Town.

Kubow said regarding the building lot envelopes that he highlighted on the map what was added. We had a plan that showed locations over driveways, storm water management areas, septic locations and a generic area for a house. The consultant asked for us to add a building envelope to each property.

Chair Culver asked what size building envelopes were used.

Kubow said they vary because of steep slopes and wetland. He saw the building envelopes as developable land. He said if driveways, storm water, work limit lines, septic all belong in the building envelopes, he will make the building envelopes a lot bigger. He didn't think that's what the intent was for.

Agresta said that is the intent. The idea is to separate the land that you want to develop from land that you don't.

Kubow said we have a fully developed plan that shows a limit of disturbance. Anything outside of that is not planned to be disturbed.

Agresta said that's not legally assured. There is nothing telling a future owner that he can't clear the entire lot and build things all over it. The idea is to preserve the forest. If you're preserving the forest, you need some legal measure to protect it. I understand you can change the building envelopes and tier them. I thought the idea was to find a measure to stand up to preserving the majority of the land. There is nothing that would keep someone for clearing outside those envelopes.

Thomas said we have already been asked to add a restriction on the deed that says no clearing.

Agresta said he doesn't remember that.

Chair Culver said he remembers talking about limited disturbance and limited number of outbuildings, etc.

Kish asked if Agresta would to verify outside that area that there aren't any other types of construction, clearing or other activities.

Agresta said he is giving the PB a tool. He understood that the applicant was showing you the development plan, what would be cleared and that's what on their plan. That just shows the concept of the subdivision feasibility. We got into the idea that you didn't want to do a conservation easement so the idea of a building envelope was to put down on paper that area that you want to be able to have full control to do pretty much anything you want in within realm of building code and that the other areas would be restricted from being cleared or altered in the same way and your building envelope doesn't do that.

Thomas asked if that was a conservation easement by definition. You are asking us to put definitive lines in. She said she submitted another lot line subdivision application in and a member of audience was concerned where they're putting the house and maybe other buildings. She said that member was told that that was not the Board's decision.

Chair Culver said the other decision tonight fits with your argument. We weren't talking about building at all; the application was about moving the line. This is more of an intensive use of a smaller parcel. It seems like we're looking at developable zones and what zone of that parcel is eligible to be utilized. He said the word building envelopes means different things to everyone at the table. Our planner says it's the house, the septic and other

building. I'm thinking that what you're really looking at is you want to delineate more or less what land may be disturbed and the rest will not be.

Agresta agreed and said it doesn't mean you can't tier that. Building means whatever you are doing, you're altering a site.

Sternberg said the building envelopes that Kubow described delineate the areas in which you can do stuff and you can't do anything that disturbs the land outside of those envelopes.

Kubow said that's not what he understood and the setbacks are not included.

Thomas asked if there were set building envelopes and someone buys the land, are they obligated to come back for an amendment to the site plan approval.

Chair Culver asked if we would be better suited to look at the concept Agresta was talking about tiered. That's the site where you're likely to do most of the building, dividing up where you might do and showing us where you plan on doing nothing.

Kubow said he can say for sure where the driveways and storm water practices and septic systems are going. He said he doesn't know for sure what each lot's building layout, where the pool is going to go, garage, etc.

Chair Culver asked what half of the land do you plan on working on and what half are you leaving alone.

Kubow used Lot 1 as an example. He would leave the building envelope where it is. He could do another tier for the driveway.

Chair Culver asked how many acres are for the parcel Kubow was showing. Kubow said 24.4. Chair Culver asked how many acres does the building envelope include. Kubow said two. Chair Culver asked if that doesn't accomplish what we are trying to do.

Chair Culver asked if Agresta wanted the driveway to be delineated as part of the building envelope.

Agresta said the concept I was suggesting was to define in the simplest terms. What is the envelope ?? which the physical development, the driveway, the septic, storm water, all those things and enough room for accessory uses. You define those envelopes for each lot and the rest is more or less left alone. You're going to spell that out in the restrictions.

Kubow said he would like to leave those as building envelopes and add lines surrounding all of the other disturbance for storm water, septic and driveways.

Chair Culver said our common goal is that you're going to protect most of the land.

Agresta said the deed should be referencing the map and your approval.

Kubow talked about unnecessary lot encroachments. He said there are a series of driveways that cross over property lines. We did grading plans to show where we could physically build a driveway at a reasonable slope and in some cases, it has to cross a property because if I move the property line, I don't have a conforming lot. Unless there is a prohibition against crossing lines, I'd like to keep them where they are.

Agresta said you don't get conforming lots because you need the other lots to build on the lot. He asked Kubow why he couldn't move some of the encroachments and make the lots work.

Chair Culver proposed that Kubow look at the possible tweaks and that we start the next meeting with your results. The PB will go over the list of things that have been done, planning to be done and go over those tweaks.

Thomas said it was her understanding that the last comment was that the PB would be referred to Fire County Planning (?) and so on.

Chair Culver said we are not there yet. He asked if anyone on the Board had any questions for the applicant. All replied no.

Kish asked Agresta about the photographs that he took that showed damage to the property that was caused by Whitehead dated May 5, 2022. He asked why he didn't know about any of that until now.

Agresta said the biologist took them but he should have told the PB sooner.

Chair Culver requested a motion to circulate for lead agency.

Barrett made a motion to circulate for lead agency. Motion was seconded by Garzetta and passed unanimously.

Chair Culver asked Thomas if the PB could get a reasonable agreement that we won't undertake a lot of work at the moment and you'll let us know what the plans area. What we don't want is whoever ends up owning property there, we'd like everyone to have an equal opportunity to become a member of the community and we don't want any bad will. In doing that if we keep having people like Mr. Rojas upset and you don't even know what's going on. The thing I hope is that you'll work them to get control of the site and know what's going on because you don't want the liability of somebody doing something.

Close of Meeting

Chair Culver requested a motion to adjourn the meeting at 10:30PM

Garzetta made a motion to adjourn the meeting. Motion was seconded by Farhangi and passed unanimously...

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED April 26, 2023