



**Town of Marbletown
Planning Board
PO Box 217, Stone Ridge, NY 12484
(845) 687-7500 Ext. 171
Email: Planning@marbletown.net**

**Planning Board Meeting
November 9th, 2020 – Via Zoom**

Call to Order: Chairman Dan Proctor

6:00 P.M.

Pledge of Allegiance

Quorum:

Voting Members Present

Paris Perry
Dan Proctor
Harry Hansen
John Kotsides
Max Stratton

Alternates Present

Sharon Klein
Tracey Dewart

Support Staff

Shaye Davis
Tracey Kellogg, Esq.

Point of Business: None

1.) Jasinski SBD

- No additional information: application to be carried over.

2.) Osterhoudt /Wainright SBD – 4 Lot SBD: Continued Application – Public Hearing

Discussion:

- Bill Eggers for The Application: Additional details added onto Sketch Plan. 3 Lot SBD, Plat reflects proposed building locations, septic, wells, setbacks, and additional information requested by the Board. Unkept private cemetery to the rear property line of proposed lot 2. Winchell Cemetery, to the front of proposed SBD, is being maintained by The Town.
- Board discussed “Family Burial Grounds”. Potential requirement for family members to be allowed to visit site if requested. Condition for approval is to determine requirements on the family grave site at the rear of the parcel, proposed lot 2. Update the rear setback line to maintain 30 feet setback from family cemetery.
- No Wetlands Concerns, no response yet from SHPO.

Motion to Open Public Hearing by Dan P., Second by John K., Board Roll called with Unanimous Aye.



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Call for Public Comment: No Comment

Call for Comments or Questions:

- Tracey Kellogg: Inquired as to when PH notices were mailed. Shay confirmed notices sent out 2 weeks prior to this meeting. Working through difficulties with the USPS.

Motion to Close the Public Hearing by John K., Second by Paris P., Board Roll called with Unanimous Aye.

SEQR:

- Unlisted Action, Short Form EAF Reviewed. Part 3 to include farmland that's transitioning to Residential Use.

Motion to Accept Short EAF with a Negative Declaration by Max S., Second by Dan P., Board Roll called with Unanimous Aye.

Determination Review and Discussion:

- Review of Lot Sizes and reconciled discrepancy between parcel viewer and actual surveys. Bill Eggers notes the lots were measured based on the original deed. Parcel Viewer says 107.7 acres. Agreed that there is no impact on total acres in relation to the SBD.
- Carla Wainright will ensure 30-foot setback on the back cemetery and will provide access if family wishes to access the cemetery. This shall be set as a condition and reflected in the deed.
- Board polled on the condition to be attached. Dan P. notes reticence due to not knowing exactly what the stipulations are on a state level regarding small family cemeteries.
- Condition shall reflect "walking access" across the parcel. Tracey advised that research was done on the front cemetery and there is little to note unless the Town is caretaker of the cemetery.
- Specific Condition: Cemetery setbacks at 30 feet and walking access to public/family members.

Motion to approve the application and determination with specified condition by Max S., Second by Paris P., Board Roll called with Unanimous Aye.

3.) Furhman SBD – Application Continued – Public Hearing Continued

Discussion:



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- Dan notes this application has been before the board for an extended period of time. Town Engineer sign off will be required for the runoff. Emergency Vehicle access has been approved. Application has been completed in full, and all board requests have been fulfilled.
- Bill Eggers: Reaffirms that approvals from referred agencies are complete. Test Holes for the Driveway have not been completed yet. Peak did the Driveway.
- Culvert was placed in the most optimal location and is required because of the topography of the roadbed in association with the wetlands adjacent.
- Review of notes finds SEQR as Unlisted Action with Neg Dec issued in January 2019. No need to re-open the SEQR as the EAF has been addressed with culvert on wetlands. Was made an unlisted action in May of 2018 as per previous minutes.
- Driveway needs to be addressed before approval. Requires hole samples and some more details of the roadway cross section.

Motion to open the Public Hearing by Harry H., Second by Max S., Board Roll called with Unanimous Aye.

Public Comments:

1.) **Yorev Borisuk:** Did not receive previous notices for the meetings. Owns 4 properties downstream from the SBD. Concerns about disturbing wildlife, beavers, runoff, and waterways. Requests clarification as to who will have access to the Roosa Pond.

- Dan: Area was reviewed by the DEC and the Army Corp of Engineers. Studies conducted and submitted findings regarding setbacks and protection of designated wetlands. Confirmed that Lot 3 has access to the pond which borders Borisuk's parcel.

2.) **Dave Yaffee:** Inquired if the Deed he sent was received by the Board. Notes restrictions on the deed relating to access and that the board cannot approve this SBD as the driveway is on his property. In disagreement with Tracey Kellogg's finding regarding the restricted access road on the Rothman Parcel. Access road to the rear property is "the same road that is restricted by the lot line agreement". Urges re-evaluation because there is friction on the deeds because of this. Noting that the owner has the right to build a single home, but there is a restriction on SBD. Previous letters submitted to the Board describing my understanding of the facts, and the subsequent disruption caused by the driveway in question. States the driveway is on his property, was illegally placed, and the board cannot approve the use of this driveway as it's partially on my property and it's created harm to the wildlife and property. I urge that this is a protected area, is under the town's biodiversity, and I am opposed, and this should not move forward.



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- Dan: The driveway not on the table; the application has been addressed per protocol and referred to all appropriate agencies. There is nothing in the Zoning code that will prevent the SBD from moving forward. Unfortunately, all we can do is attempt to correct and limit disturbance moving forward. Referral to Tracey regarding possible legal dispute over location of the driveway.
- Tracey: Restricted access was noted to be between the Parcels owned by Rothman and Hanchar. This restriction was removed. The access road was relocated as part of the land transfer. No evidence that the driveway is in violation or on the Yaffee property. Suggested to take the matter side bar to discuss conclusions.

3.) **Charles (Unknown):** Attended all the meeting on this Application. Fuhrman's 25 ft ROW is a natural drainage area. When the ROW was filled in to create the driveway, he created a 1000 ft earthen berm. It's being fallow by pine trees, and it is creating standing water on an adjacent parcel. Can this water be legally drained or diverted from one parcel to the other...from Cambell parcel to Yaffe parcel.

- Dan: Consulting engineer reviewed and provided guidance on the installation of culvert and the drainage ditches and systems. It will all be designed by a licensed professional that will handle the runoff and flows. We are very aware of the challenge that Furhman has created and we are working to ensure that when building commences, these wetland and runoff issues will be addressed.

4.) **Unknown Female:** Concern about the stream and the pond being disturbed. Streams have been blocked on the Harchar parcel and water is standing on my property. Work has been shoddy, the dump was illegal, and it has caused havoc. I have major concerns about the horrible work and the damage to my property and the neighbor's property. We require assurances that the work will be done properly, and problems will be resolved. I am not seeing respect to the community or the land by the landowner.

- Dan: Moving forward we will ensure that all waterways, wetlands, bodies of waters are protected as per input from DEC, Engineers, Army Corp. Advice from agencies will be taken seriously and problems should be resolved. Specific requirements for protection. Application process and code has been met. We will move forward to ensure that damage is prevented. We recognize the concerns and agree with the vision for the area.
- Tracey: Reviewing Peak Engineering reviews; numerous. Several recommendations were made. Test Holes are required for the driveway. Work that engineers recommend will serve to alleviate the concerns and help to remedy the environmental concerns. Based on Peak Engineering, there no reason that we know of that prevents the road from



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being upgraded and corrected to relieve noted issues. Suggests a Conditional Approval to ensure all Engineer guidelines are adhered to.

5.) **Dave Yaffee:** reiterated that the driveway is on his property. Suggesting condition that portion of the driveway that has been illegally dumped on his property be removed. Wishes to discuss deed restrictions further with Tracey. Suggests not passing anything until he makes his case.

- Tracey: Looking at deed restrictions in questions, she does not agree that they apply to the lot in question. The lot line between Rothman and Kelly/Hanchar is the lot line restriction that is being cited; not the lot line with Yaffee.
- Dave Yaffee: Noted the deed restriction involving SBL 60.4-1-27
- Dan: Take the matter offline to further discuss and investigate.
- Tracey: Not in agreement, but offline discussion should be had. If you feel there has been a trespass onto your property, you may pursue it legally.
- Dave Yaffee: Property rights are known, and I would bring in a backhoe to dig it up but I don't want the whole thing to collapse.

6.) **Dave and Larissa:** Live on property adjacent to one of the proposed home sites. Not satisfied that there has been consideration given by the applicant to impact to surrounding properties. If you go to the site, you will see that the "roadway/driveway" is fallow; trees growing, underbrush growing. This is a flag property, and it is going to be adjacent to everyone's back yards. Appears that problems continue to linger without any firmly proposed solutions. Concerns that the petitioner has not done enough to satisfy the surrounding parcels.

Discussion:

- Bill Eggers: We received the copies of Peak's letters and studies and M&E have responded to the letters and studies line by line in return to Peak; no counter response has been made by Peak.
- Max: Need to resolve the Deed question regarding the Driveway placement. Tracey will follow up with the Applicant, the neighbors, and Bill Eggers.
- Dan: Making note of the Boards duty to the applicant. Interested in hearing the feedback on the lot line matter and potential deed restrictions.

Motion by Max S. to keep the Public Hearing open at the call of the chair, second by Paris P., Board Roll called with Unanimous Aye.



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4.) Hasbrouck House SBD Application – 6 Lots Intermediate SBD – New Application (Pre-Acceptance):

Discussion:

- Tracey: In depth the Accessory Apartment law in relation to the SBD application that has been filed and the proposal for multiple primary residences in the SBD in addition to accessory dwellings.
- Dan: 6 Single Family Dwellings each with a Guest House and Kitchen.
- ***Stephanie Bassler for The Applicant:*** The “guest house” is key to the development plan of the SBD proposal. The goal is to have a functioning accessory apartment on each parcel, but this is flexible. If we need to have an attached structure to create the apartments, we can go that route. We are reviewing the Town Code to meet the requirements. Our understanding is the attached accessory apartment can exist in a existing or new structure without an increases in lot size. Specific discussion about the detached approved accessory structure and its relation to zoning as written in the Accessory Apartment law.
- Paris: 200-24a(1) & (3), 200-24b, Accessory Apartments are a Special Use? Discussion of requirements for an Accessory Apartment Law. Noted that the density requirements still need to be met.
- Tracey: Special Use requirements was removed from the code by the Accessory Apartment Law. You still need to meet setbacks.
- Paris: Restrictions need to meet the density, needs to meet the setbacks, and needs to be Owner Occupied.
- John: Under the impression that the intent was also to have the parcel situation such that a future SBD could be possible with the detached accessory structure.
- Dan & Harry: In agreement that the intent of the Accessory Apartment Law’s intent was not to create a SBD with double density.
- John: In agreement. The Accessory Apartment law was not intended to be a loophole to get around the Density requirements.
- Dan: It does provide accessory apartments overall; but, concerned with the Density.
- Stephanie: Not clear where it says Density Requirements need to be met. All it says is needs to meet the Lot Area requirement for the district.
- Tracey: The distinction is that the Accessory Apartment is not a second primary structure; is of a certain size limit, and a single bedroom. Board needs to give guidance to the applicant on how to approach the project to provide for a comfort level regarding density requirements.



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- Paris: Not in disagreement that the SBD cannot be approved but needs to preserve density and setbacks are met. Configure the dwellings so that each structure is 1 acre per dwelling to meet density requirements. Paris polled board and all agree on this matter. If the 2nd structures are going to be accessory apartments, they need to meet the size and setback requirements.
- Tracey: There is a discrepancy between the Code and the Accessory Apartment Law. The developer has changed the road to our request. Question is if the board is comfortable with the proposal being that now 12 residences need access requirements met, instead of 6.
- Paris: The intent of the law is not to have an LLC in NYC own the houses and guest houses and then rent them all out. The intent of the law is to have the owner live on the property.
- Stephanie: Clarity achieved on the density requirements. What will the road standard be? Still working on DOH approval for Lots 5 and 6.
- Tracey: Recommendation to Stephanie to bring project back to the Board when more details are available.

Application will remain in Pre-Acceptance and will be carried over until all details are provided.
No Public Hearing Set.

5.) Rein – 2 Lot SBD: Application Continued – Public Hearing

Harry will recuse as this is a neighbor, Sharon will take Harry's place as a voting member for this matter.

Discussion:

- Proposing to SBD 16.4 acres into 2 separate lots; lot 1 being 9.3 acre and lot 2 being 7.1 acre.
- Bill Eggers for the Applicant: Existing house and cottage on proposed lot 1. Proposed dwelling on proposed lot 2. Significant study done on potential flooding. In process of approval for septic system.
- Lot 2 already has a pre-existing curb cut.

Motion to open the Public Hearing by Max S., Second by Paris P., Board Roll called with Unanimous Aye. (Harry H. Recused)

Call for Public Comment:

- Harry: (Recused) Question about a non-development clause in a Deed restriction.



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- Bill Eggers: Will need to research that to ensure a restriction does not exist.
- Tracey: If there was a deed restriction it should have shown up in a recent title search.

SEQR:

Motion to classify as an Unlisted Action by Max S., Second by John K., Call of the Roll with unanimous Aye. (Harry H. Recused)

Review of EAF Short Form completed by the board.

Motion to accept EAF part 2 short form by Max S., Second by Dan P., Call of the Roll with Unanimous Aye. (Harry H. Recused)

Motion to issue a Negative Declaration by Max S., Second by Dan P., Call of the Roll with Unanimous Aye. (Harry H. Recused)

Determination:

- Draft to be created for next meeting.

Motion to hold open the Public Hearing to the call of the Chair by Max S., Second by Paris P., Call of the Roll with Unanimous Aye. (Harry H. Recused)

6.) Balzarini SBD / Basten SBD

Discussion:

- Balzarini dependent on use of the ROW across Basten; not dependent on SBD. Will look at each together and motion separately.
- Both Balzarini and Basten were set for Public Hearing; previously discussed renewal of permit from DEC and ACOE
- SEQR Action not determined yet.
- CEO Classified it as a Minor SBD.

Basten Plat was reviewed by the board.

- ***Stephanie Bassler for The Applicant:*** reports DOH approval for septic on both proposed lots. Underground electric, under the driveway.
- No comments or questions from the Board on the Basten SBD Proposed Plat

Balzarini Proposed Plat was reviewed by the Board.

- Parcel has 2 pre-existing houses and a barn on the Plat. Parcel to be SBD into 2 separate parcels.



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- Access to the 2 proposed parcels would be over the Basten ROW.
- Wetlands discussed by the Board with Bill Eggers. Fork in Basten ROW would be after the wetlands provided by a right fork onto the proposed Balzarini lots.
- Currently 2 houses on the Balzarini property, but restrictions from the Brink Farm Road for any further SBD. Opportunity arose for access from the proposed new Basten SBD. The pre-existing driveway on Balzarini property would be removed between the 2 existing houses. Brink Farm Road would no longer be used for access to the proposed lot 2
- Need RMA and a permit from DEC
- Stephanie: Driveway width was increased from 10 foot to 12 foot because of the potential addition of the Balzarini access. Awaiting DEC revision of the 10-foot driveway permit to a 12 foot driveway permit. Plans within the DEC permit for culverts for the wetlands.
- Dan: Let us send the SBD application and refer it to the County, Fire Department, SHPO,
- SHPO discussion; what is the impact? Stone Houses across the street as per Harry H.

Motion to refer Basten application to Ulster County Planning Board by Dan P., Second by Paris P., Call of the roll with Unanimous Aye.

Motion to refer Basten Application to SHPO and Stone Ridge FD by Max S., Second by Dan P., Call of the Roll Unanimous Aye.

Motion to send Balzarini application to Ulster County Planning Board by Dan P., Second by Max S., Call of the Roll unanimous Aye.

Motion to send Balzarini application to SHPO and Stone Ridge FD by Dan P., Second by Harry H., Call of the Roll unanimous Aye.

SEQR: Type 1, Adjacent to Wetlands

Motion to classify Basten application as a Type 1 Action by Max S., Second by John K., Call of the Roll unanimous Aye.

Motion to classify Balzarini Application as a Type 1 Action by Max S., Second by John K., Call of the Roll unanimous Aye.

Circulate for Lead Agency: UC Planning Board, DOT, FD, SHPO, BOH, DEC

Motion to circulate the Basten Application by Dan P., Second by Max S., Call of the Roll with unanimous Aye.



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Motion to circulate the Balzarini Application by Max S., Second by John K., Call of the Roll unanimous Aye.

Public Hearing:

Motion to open the Basten Application Public Hearing and continue at the Call of The Chair by Paris P., Second by John K., Call of the Roll unanimous Aye.

Motion to open the Balzarini Application to Public Hearing and continue at the Call of The Chair by Harry H., Second by Max S., Call of the Roll with unanimous Aye.

Call for Public Comment: None currently.

Point of Business:

- Tracey- Consider coming up with guidance to give to Hasbrouck.
- Dan- I think the guidance you and Paris gave is appropriate.
- Paris: Density should be met, setbacks should be met, owner occupied, and address the road issue.
- Max: STR law will be able to regulate the matter if they choose to crease Air B&B, or, there is the potential that they are exactly what they are proposing; SFR with owner occupied detached Accessory Apartment.
- John: Individual owners will ultimately decide what they want to do with the apartments
- Sharon: Need to be handled with care; could set a bad precedent.
- Paris: the topic is the LLC. If they develop and NOT sell the houses, then they have 12 potential short-term rentals or Air B&B's

Motion to adjourn made by John K., Second by Max S., Call of the Roll with unanimous Aye.

9:36 P.M.

Transcribed and Submitted February 22, 2021
Approved 3/8/21

Shawn Marks

Planning/Zoning