



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

Planning Board Meeting – May 10th, 2021 – Via Zoom

Called to Order

6:02 p.m.

Announcements/Communications

Pledge to the Flag

Quorum

Present: Paris Perry, Max Stratton, Dave Cobb, Sharon Klein, Harry Hansen, John Kotsides

Absent: Dan Proctor, Scott Boyd

Town Staff Present: Shawn Marks, Tracy Kellogg

Business Before the Board

1.) MANDIA - Cont'd Application

Application Review:

Max S. – Application Point

- Revised Site Plan is much more congruent with Town Code; 2 lots is appropriate for lot size
- Need to add underground utilities, zoning density schedule to the updated Plat
- Additional research on archeological status
- Ensure that the well on lot 1 is on the proper side of the lot line

Mike Mandia (Applicant)

- Utilities will come up the center or side, dependent on clearing
- Central Hudson to put a box at split in driveway
- Above ground septic for both lots
- This is now a driveway, not a private road; RMA is being revised to reflect new plat
- BOH approval is now pending due to change in Plat layout
- Will provide archaeological report, final drawing, septic approval, DEC letter for watershed, density schedule and utilities

Discussion:

Dave - This plat is much more agreeable to code and to the lot

Motion to classify Mandia Application as Type 2 SEQR by Max S., second by Dave C., Call of the Roll – Unanimous Aye. (6-0)



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Motion to set Public Hearing for June 14, 2020, at 6:00 p.m.; provided all requested information is provided to the board. Motion by Max S., second by Sharon K., Call of the Role with Unanimous Aye. (6-0)

2.) ANDERSON – Public Hearing – Cont'd Application

Review:

Harry H. – Application Point

Subdividing 1 parcel into 2 at #41 Pine Bush Road in Stone Ridge

- Parcel is not in an Agricultural District
- Proposed Lots are conforming and meet Town Zoning Code and Subdivision requirements
- Email received from neighbor in support
- Shed with Setbacks previously in question found to be under 150 square feet and in compliance
- SEQR Type II determined at April 2021 Planning Board meeting

Kathy Anderson - Applicant

- Decided on no deed restrictions
- Septic feasibility letter pending from Medenbach & Eggers

<Shawn M. showed Email in support of Subdivision for attendees to read on the Zoom screen>

Public Hearing Previously Opened – Call for Commentary from the Public

- Call for commentary x 3, no response

Motion to close the Public Hearing by Max S., second by Dave C., Call of the Roll with Unanimous Aye. (6-0)

Draft Determination reviewed, discussed, and finalized by the Board – ***Approval of Subdivision***

Motion to approve the determination for Anderson SBD by Max S., second by Dave C., Call of the Roll with Unanimous Aye. (6-0)

3.) SWISHER SBD – Escrow – Approved Subdivision

Review:

Paris P. – Board Chair

- CPL Engineering to conduct Town review and inspection of Swisher Hollow Road (Private Rural Road)
- 2,500\$ Escrow was recommended by CPL as adequate

Tracy K. - Barrister



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- Town Board is in discussion to abandon a section of a paper street that connects to Swisher Hollow Road from Spruce Hollow & Cedar Ridge
- Working with Justin Swisher and Town Board on the mechanism to abandon and transfer ownership to Swisher
- Swisher is generating a survey and deed description

Motion to set escrow at \$2,500.00 by Max s., second by John K., Call of the Roll with Unanimous Aye. (6-0)

4.) CRAIGS CLOSET – SUP 2021-01 – Outdoor Retail Use (Flea Market)

Application Summery – Paris P. – Application Point:

- Application for Flea Market to operate at Mohonk Arts at 186 Mohonk Road
- Proposal reviewed by Chair, Vice Chair, Code Enforcement Officers, and BSI
- Compliance with Fire Code, Egress/Access of Emergency Vehicles
- Sundays or Saturdays, but not both days, weekly beginning May 16th until Oct 31st
- Permitted in I-1 Zone by Special Use and Site Plan
- Parking Plan adequate, Mohonk Road will be monitored continuously
- Outdoor market only; primary structure on the parcel will not be utilized

Cassandra Thaule - Applicant:

- First market to be held May 16th
- Canal Park market may also begin running on Memorial Day
- May consider doing it on Sunday or Saturday, depending on Canal Flea Market

Motion to classify Applications as Type II SEQR by Max s., second by Sharon K., Call of the Roll with Unanimous Aye (6-0)

Board reviewed, discussed, amended, and finalized Determination

- Amended to read Sunday or Saturday, but not both days
- Stipulation for prepared foods to be heated and sold on site was amended to ensure the vendor of such items is licensed or approved by the UCHD or authority having jurisdiction. This to be confirmed by the CEO.

Motion to approve the Special Use/Site Plan determination for a non-store retail outdoor market to operate on Sunday or Saturday weekly, but not both days, from 7 till 6 may 16 through Oct 31; Motion by John K., second by Max S., Call of the Roll with Unanimous Aye (6-0)

Conditions of Approval:

- Code Enforcement Officers shall be permitted to enter upon the property to inspect for compliance of Fire Code and Site Plan
- Code Enforcement Officers to rescind the Special Use/Site Plan for cause



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Motion to approve Conditions of Approval by John K., second by Max S., Call of the Roll with Unanimous Aye (6-0)

5.) LITTLEFIELD LLA

Application Review – Dave C. – Application Point:

- LLA to accommodate an addition to existing Single Family Residence
- Plans for addition encroached into the required 30- foot side yard setback
- Zoned A2, parcels are conforming, and LLA will not create any non-conforming conditions
- Proposed adjustment will allow for setbacks and for the addition to be constructed
- Insignificant adjustment in acreage
- 2.5 acre currently with adjustment pushing into a 9-acre parcel. Same owners.

Bruce Littlefield & Scott Stewart - Applicants:

- Wish to comply with Town Code.
- Applied for variance and was asked by ZBA to take this route to make it cleaner.

The Board reviewed, discussed, amended and finalized the Lot Line Adjustment determination.

Motion to approve the determination and Lot Line Adjustment for Littlefield & Stewart made by Max S., second by Dave C., Call of the Roll with Unanimous Aye (6-0)

6.) BARNETT SBD

Application Review by John K. – Application Point

- 2 lots to create a total of 3 lots; acreage presented
- A3 Zoning, 3 acres minimum. Lots meet code requirements
- Area of disturbance is approximately 3.4 acre
- Roadway/Driveway will require a Maintenance Agreement
- Will need to address Fire Code; turnouts for Fire Apparatus
- Escrow of 2,500\$ will be required
- Cannot allow runoff of stormwater onto adjacent properties
- Need to provide roadway specs on plans
- Updated Plans will require Road Detail and Turnouts.
- Utilities on the finished map

Paul McGinniss - Applicant:

- In the process of acquiring Health Department approval
- Property currently all vacant; plan to build 3 single family homes

Chris DiChiaro - Engineer:



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- Runoff is inevitable on any project. No significant point discharge or runoff was noted in the plans.
- Do not feel the disturbance would be environmentally significant.
- Proposal is not at or on any established thresholds as defined by NY State which require a SWPPP or erosion control systems
- Stormwater will hit a common ditch for runoff but nothing significant.
- Walked the property for planning and noted that the area of disturbance is not significant per state thresholds for SWPPP as noted
- Width of the roadway to be 16 foot at this stage in planning. Will require a culvert
- Will provide a Road Plan profile

Motion to classify the Application as SEQR Type II by Max S., second by John K., Call of the Roll with Unanimous Aye (6-0)

Motion to set escrow at \$2,500.00 by John K., second by Sharon K., Call of the Roll with Unanimous Aye (6-0)

Motion to set a Public Hearing for June 14th, 2021, at 6:00 p.m., provided all requested information is submitted made by Max S., second by Dave C., Call of the Roll Unanimous Aye. (6-0)

7.) OAKWOOD ESTATES – Phase II Major Subdivision

Overview by Paris P.:

- Need to have Private Rural Road called out on the Plat
- Roadway was inspected by Peak, Building Department, and Town Highway; positive results
- SWPPP is being reviewed and will require a MS4 signature by Dave Allen
- SEQR was circulation, EAF Part 2 and 3 will be required
- Increase in escrow has been sent, request is for \$4,500.00
- Public Hearing to be opened tonight

Max S.:

- Peak Engineering report on roadway is reassuring
- Ensure the Escrow is entertained as additional inspections will be required to complete the project

John Russell - Applicant:

- Some confusion on the SEQR; we submitted EAF for the entire SEQR
- Determination from 2020 is for all 10 lots
- Determination read "Part 1 and Part 2"
- Inquiry regarding SWPPP inspection process

Paris P.:



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- SEQR thus far was only for Phase I; Part 2 and 3 need to be completed for Phase II
- Part 2 and 3 need to be completed for full SEQR
- Determination was for Phase I only; determination spells out that Phase II requires Part 2 and 3 for Phase II and Planning Board approval for Phase II. The Board is required to do the full SEQR to give approval
- What is on file currently, is not enough to finalize the Plat and Determination for Phase II

Tracy K. - Barrister:

- Received Road Maintenance Agreement and it is being reviewed; should be completed in the upcoming week or two.

Shawn M. – P/Z Staff: (explanation of SWPPP process & inspection process)

- SWPPP is being reviewed by an independent engineer, Peak Engineering on behalf of the Town. Applicant's engineer is Medenbach & Eggers. The two will interface for the SWPPP process
- Dave Allen will sign off on SWPPP and MS4 when it's finalized between Peak and MECELS
- When both Engineers are satisfied that it meets standards and law, the final SWPPP will be approved.
- Peak Engineering will report to Dave Allen when the SWPPP review is complete
- Dave Allen will then review and sign MS4
- Peak & MECELS will be inspecting your work to satisfy the SWPPP and report to Dave Allen.
- Peak & MECELS have inspected for SWPPP (and Roadway) thus far and there will be dialogue between the two; will communicate back to the Applicant findings and needs if any

Motion to open the Public Hearing for Oakwood Estates Subdivision Phase II Max S., second by John K., Call of the Roll with Unanimous Aye (6-0)

SEQR Review:

- Determination Type I – Review and discussion of EAF Part 2 (see completed EAF in SBD File)

Max S.: Reminded the Board that a “No, or small impact” are the same check box

Paris P.: We're paying attention to the “Moderate to Large” answers if there are any to address

Part 2 EAF was reviewed, discussed, and completed by the Board. For those impacts noted, none rose above the “No, or small impact may occur” selection **except:**

- ***4: Impact on Ground Water: (a) (D2c) – Moderate to Large impact due to addition of 10 new wells***

Public Hearing – Call for Comments from the Public

- Call for comments x3, no comments from the public



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Motion to continue Public Hearing for June 14th, 2021 at the call of the Chair by John K., second by Max S., Call of the Roll with Unanimous Aye (6-0)

Summary by Board Chair: Board will complete Part III of the EAF in June, close the public hearing, and complete a Determination if all matters are resolved to satisfaction. If approved, Plats will NOT be signed until road is completed or a Bond is provided. Applicant verbalized understanding.

8.) Fuhrmann SBD

Summary and Review by Paris P.:

- Ongoing SBD for approximately 2 years.
- Any landowner, by Town Code, has a right to subdivide their property.
- A subdivision must have approved access by driveway or roadway; Right of Way of 25 feet
- Access must be approved by Town Highway Superintendent and Town Engineer with input by Fire Chief
- Matter of road/driveway location is a civil matter, not in the Boards purvey, however, must be resolved before the Board will sign any Final Plats.
- Escrow will need to be increased for inspections and reviews of the access strip
- Will require Road or Driveway Maintenance agreement

Summary by Tracy K.:

- Question initially was is the access road properly placed or is there a deed agreement that makes it disallowed. Possible deed restriction was investigated.
- After review, it was determined to be a valid and legal access to the parcel to be subdivided
- Board was investigating if the proposed roadway/driveway meets code and build standards
- Confusion of placement stemmed from a previous transfer of land; previous owners deeding contained language that could be misconstrued
- Location of roadway and verification of its placement returned to Bill Eggers as its the applicants' responsibility to provide confirmation that access is viable.
- The issue is ultimately between the two property owners and a matter civil in nature
- Mr. Fuhrmann's attorney has delivered documentation and a brief outlining viability of the access strip in question
- Board concern is with the access strip's ability to meet code and standards, and the property owners will need to address the question of the road's placement in a civil course.
- It is not for the Board to determine if the road is legally placed on the property.

Paris P.:

- Board can move forward to approve a conditional determination with final approval contingent upon the access being approved and inspected by Engineer before Plat is signed



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Max S.:

- Our job is to determine if the application meets Town Code
- Board will need to ensure we do all diligence and ensure all Code matters are satisfied

Harry H.:

- As long as the survey and plans depict a road layout that meets standards and is confirmed by the engineer to be correct and acceptable, then we can move ahead with a determination on the subdivision
- The location of the roadway can be disputed by the property owners

Paris P.:

- Board can move forward with Conditions of Approval. Board can make determination on the subdivision application, and then stipulate a final condition be the approval of the access road by Engineer and Town Highway
- Road has to be appropriate, but Board has no purvey in deciding if its physically on one property or another
- The approval will have to be conditioned

Dave C.:

- Remnants of roadway were in existence before the subdivision application was submitted
- inaudible..... (helpless victim of intermittent internet service)

Escrow -

Board discussed the escrow account balance and is in agreement that an increase in escrow is required

- Existing roadway needs to be inspected to include core samples and boring to confirm base
- New portion of roadway and driveways will also need to be inspected

Motion to increase escrow by \$3,000.00 made by Harry H., second by Max S., Call of the Roll is Unanimous Aye (6-0)

Public Hearing Open at the Call of the Chair

Call to the Public for comments:

Dave Yaffe - 401 Bone Hollow Road:

- Roadway was installed by the applicant on top of wetland areas and has caused a lot of problems
- I respect the legal position of the Planning Board, but I do not agree with it.
- I do not see how a Board can ignore a deed restriction or lot line adjustment restriction
- I have made a FOIA request for documents submitted since last review by the Board



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- I wish to see the documents that were submitted that confirm this as a legal road
- I respect your treatment of the application just like it was any other application
- I do not see how emergency vehicles can maneuver down this roadway
- I do not see appreciable handling of the stormwater
- Kelly & Hanchar has previously testified that the roadway had detrimental impact to the environment on the surrounding parcels
- If you're just focusing on the roadway, I don't see how you can rule a determination on a subdivision before you can confirm that the roadway is built properly and all stormwater concerns and environmental concerns have been addressed
- I submitted a FOIA request that hasn't been responded to yet

NOTE: Tracy Kellog, Barrister, forwarded information pertaining to the FOIA request in real time during the meeting.

Anna Yaffe:

- As far as I'm concerned, this roadway was put in "in the middle of the night"; We did not receive any notice about the roadway
- I do not want the impression to be that the neighbors are "responsible for this taking so long"
- Mr. Fuhrmann knows where we live and he could reach out and solve some of these problems, but has chosen not to
- We are not causing these issues and making him unable to use the land; He started this by putting in a road that was not up to code
- Sees it as not fair that just because the road is there, that it can be used
- It's the owner's responsibility to know what they can do with land when they buy it. The owner needs to know what you can and can't do with wetland

Isaac Fuhrmann:

- It is unfair the manner in which the neighbors have treated my application for subdivision
- The neighbors know where to find me as well, and they did not communicate with me
- The access to the property is deeded, and the roadway is valid
- Not looking to do a major development or gated community
- I will probably keep one of the lots and there is nothing wrong with a small 3 lot development at the location of the subdivision
- I have hired top engineers to address whatever questions or concerns that Board may have and I have hired an attorney to move this application forward
- Why weren't these matters addressed at the inception of the application process?
- Under no circumstance have "I ever intended to create problems or harm anyone"
- Problems with wetlands and roadway were pre-existing

Charles XXXX:



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- Trying to understand how come the “bore samples” have not been completed?
- Nothing has been done with this road in a couple years. Its not really a road. It’s a mound of dirt with trees growing out of it
- What the neighbors want I think is something more done with the quality of the roadway and the solution of impacts to the environment
- Does a road have to be completed or how do you know if a road is done correctly? Will there be inspections?
- We want the roadway done right, that is all

<Reply from Paris P.>

- Can not get a building permit until you have appropriate access
- In order to get a roadway approved, the Highway Superintendent and Town Engineer have to inspect the roadway during its construction phases and approve the roadway as a whole

Max S.:

- I stopped by the site a week ago. The site does look like its fallow and has not been touched in years. There are issues that need to be addressed with the roadway and access
- Issues with water run off onto other properties needs to be addressed also

Sharon K.:

- Am I hearing that because the roadway was not done with a permit or in the proper manner, the neighbors do not want the project to proceed?
- Appears all concerns would need to be mitigated and the roadway and runoff managed appropriately
- There’s nothing in the code that prevents anyone from mitigating the problems that are being discussed

Max S.:

- To clarify, there is nothing in the code that mandates a permit for a rough in on a driveway or a roadway
- Once it becomes a Subdivision or Buildable Lot, then the roadway/driveway needs to be up to standard and curb cut cleared by the Highway Superintendent
- To clarify, the question of the deed restriction was in reference to the lot which is 2 lots north of the parcel being discussed

Bill Eggers – Applicants Engineer:

- Typically, driveways and roadways begin after a subdivision conditioned approval. You do not necessarily need to have it completed before approval of the subdivision

Dave (Larissa’s Husband):



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- I can appreciate the impatience all around
- There have been delays that have not settled neighbors' concerns
- There was supposed to be core samples by Peak Engineering, and we have not heard the results from that
- The process seems to have slowed and there is not movement forward that was outlined previously by the Board
- Shouldn't all of these questions about the roadway or driveway been answered by now
- What is the decision the Board is seeking to make
- Since this process has taken so long with this Application it is my hope that the Board will continue to take the concerns seriously moving forward

<Answer by Paris P.>

- There was questions about the legality of the road and that slowed the process
- SBD process provided and attention paid to roadway requirements
- The physical location of the roadway is a civil matter
- We're not making any determinations tonight
- At best, if the lots and plan meet code, and if a decision is made, the decision will be that you have met the requirements to have your SBD but there will be conditions on final approval

<Answer by Max S.>

- Applicant could technically pull permits to place 3 houses on the property as is if he wanted to
- If he wants to subdivide, then the process is more intensive, and the roadway and access need to meet the code requirements
- Peak needs to do a complete assessment of what's present and what will be needed to move forward

Rod Futerfas – Applicants Barrister:

- Heartened to hear that you have put aside the civil litigation component of the matter
- I do wish to see the Conditioned Approval move forward
- Absolutely acceptable that the Conditioned Approval reflect a need for the Road to meet any and all applicable standards
- The next logical step to take is that of a Conditional Approval of the subdivision

Bill Eggers – Applicants Engineer:

- Here's clarification on why process has slowed; In relation to the test boring, MECELS met with Peak engineering and scheduled the boring process. The day it was supposed to occur, the Highway Dept could not make the meet and then it snowed 1 foot. This put a stop on progress with the roadway inspection and boring
- Following this, the "legal issue" came up, and we felt it prudent to not proceed forward until the "legal issue" was discussed further



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Dave Yaffe:

- It is crystal clear and I defy the applicant to deny the fact that he caused the roadway to be placed where it is located
- No one is arguing that a subdivision application cannot be entertained because of the manner in which the road was placed
- I am saying that there is a restriction in the deed agreement that does not allow a roadway to be put in. He can put in a driveway if he wishes.
- The issue is that the Lot Line Restrictions does not permit "a Roadway". It's clear to me that the restriction was placed to prevent what is happening here, a subdivision
- I feel that the Board needs to consider the deed and lot line restrictions in their approval of the application
- I would like to see a roadway and environmental plan to show how they intend to comply now and not down the road in the process

Paris P.:

- Question to Mr. Yaffe: "How would you differentiate between a roadway and a driveway?"; "Looking for your viewpoint on how to resolve all of the concerns?"

<Answer by David Yaffe>

- You have the document regarding the Lot Line and Deed restrictions, and it "says what it says". I'm not responsible for Mr. Fuhrmann's purchase of the property and not following the deeded restrictions.

Summary – Board:

- Subdivision is feasible
- Will require Conditioned Approval
- Current access to be fully inspected and also wetland impact explored
- Possible approval with stipulation for emergency vehicle access improvements
- Roadway/Driveway needs to be approved by Highway Superintendent and Town Engineer
- Review of the file to ensure all data has been collected
- Ensure that measurements in design are correct; Culvert sizes, inverts
- Emergency Vehicle Turnarounds – cul de sac or hammer heads
- Conditional Approval would be that there be inspections during the construction process of the access strip and a final approval

Paris P.: - To Mr. Fuhrmann – Items which need to be moved forward

- Need inspection of Roadway section that is already done
- Addition of emergency vehicle turn around per code
- Next step is potentially approving the subdivision



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- Stormwater and runoff management to be submitted by Engineers

Max S.:

- We need a sense of the road base and what there is to work with
- Wetlands can be mitigated with proper ditching and culverts
- With Mr. Fuhrmann's permission, I'll return and re-walk the roadway to get a better sense
- Road Maintenance Agreement or Shared Driveway Agreement is needed

<Note: Mr. Fuhrmann granted permission to Max S. for a return to the property for inspection>

Bill Eggers – Applicants Engineer:

- No Beavers (Sharon inquired as to any Beaver activity)
- The water flow issue was caused by the roadway being put in without the culverts and can be mitigated
- The water just needs to be allowed to naturally run through with culverts. The problem can be mitigated with a proper drainage ditching and culverts; Having an additional culvert would not hurt and would be beneficial to the water drainage
- Disturbance to the wetland was "allowable at the time" for the location of the driveway

Last call for Public Comment on Fuhrmann Commentary

Motion to continue Public Hearing at the Call of the Chair next month by Max S., second Dave C., Call of the Roll with Unanimous Aye. (6-0)

Other Business:

Motion to approve the April 12th, 2021 meeting minutes by Max S., second by Sharon K., Call of the Roll with Unanimous Aye (6-0)

Adjournment:

Motion to adjourn by John K., second by Dave C., Call of the Roll with Unanimous Aye (6-0)

Meeting adjourned

9:10 p.m.

Transcribed & Submitted for Review 5/19/21

Approved 6/14/2021

Shawn Marks

Planning/Zoning