



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

**Approved Minutes**  
**September 22<sup>nd</sup>, 2021 ZBA Meeting**

Meeting called to Order by Chairman Smiley

6:00 P.M.

Pledge of Allegiance

Quorum:

Present: Tom Smiley, Zach Bowman, Egidio Tinti, Kathie Grambling, Brenden Masterson

Absent: Andy Nilsen

Town Staff: Michelle Solcberg, Tracy Kellogg

Announcements:

- Application for Area Variance at 3772 Main Street – Norman, application has been withdrawn.
- Brenden Masterson will be a Voting Member at tonight's meeting

Applications:

**2021-05 AV – 12-14 Rybak Lane – Fox: Cont'd Public Hearing, Setback Variance for Accessory Apartment**

Egidio Tinti – Application Point:

- Pre-existing Non-conforming Barn, setbacks are not to code and require a variance for the Accessory Apartment to be established
- Footprint of the building would remain the same in the establishment of the Apartment
- Setback to rear is 8 feet, and the setback to the center of Jacobsen Lane is also non-conforming. This is thought to be a paper street. The ROW is all overgrown, and the character of the neighborhood is non-conforming. Many of the neighboring homes do not comply with zoning requirements for setbacks to Jacobsen Lane.
- Septic has been previously approved.
- I conducted a site visit with Mr. Fox. There was one neighbor that submitted a request related to the proximity of the proposed Apartment. I didn't see any real issues given the character of the neighborhood and the fact that Jacobsen Lane is essentially all overgrown. The building is pre-existing at its current setbacks.

Egidio Tinti reviewed the application and supporting documentation with the Board and the Public



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**Call to the Public for Comment: No Commentary or Questions**

***Motion to Close the Public Hearing by Egidio T., second by Zach B., call of the roll with unanimous Aye. (5-0)***

**2021-06 AV – 3-5 Mary Davis Road: Public Hearing for Variance on Setbacks; Addition to Residence**

Kathie Grambling – Point:

- Spoke with Eric Stewart and the Architect, Steven Keith. I did a site visit and after looking at the configuration, the measurements fall 2 feet short of the required setback from Mary Davis as well as the application request for the setback to Ricci Road.
- As the house is pre-existing, the Board has set a precedent for using the pre-existing non-conforming setbacks as a new reference point.
- The variance from Mary Davis is a small variance at 2 feet. The variance on Ricci Road is a little large around 8 feet.
- I looked at other potential locations for the addition. After looking at the yard, the added sunroom, and kitchen, in conjunction with the location of the septic, the location proposed is the most logical and feasible.
- The area is interesting. The width of Mary Davis is substantially less than how a road would be built today. There is a Barn across Mary Davis that sits adjacent to the road. Barn is pre-existing and non-conforming as well. Its 10 feet off centerline of Mary Davis Road.
- Closest neighboring house is 260 feet away, and 410 feet away. Because of screening, you wouldn't be able to view it from the neighboring properties.
- The proposed addition is not uncommon of the neighborhood, as many pre-existing structures do sit within the required setback.
- The stairs leading upstairs, which is common with these old houses, is very treacherous and steep, a bedroom on the first floor would be a benefit to the homeowners.

***Motion to open the Public Hearing by Zach B., second by Brenden, call of the roll with unanimous Aye (5-0)***

Steve Keith (Applicant Architect):

- Intent of the addition is to mitigate the steep staircase in the existing house and enable them to age in place and remain in the community with a bedroom on the 1<sup>st</sup> floor.
- The addition will have a stone foundation, white clapboard siding, gray metal roof, and materials and finishes as the existing house. The design was made to ensure a common character with what is already existing.
- The garden is well established over decades and is part of the design scape.

Kathie Grambling reviewed the application, photos, and supporting documentation with the Board and the Public.



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Eric Stewart (Property Owner):

- Thank you, Kathie, and the Board, for all your work on the application.
- The addition will have the same stone skirt around the exterior and will be screened by the fence which is already existing.

**Call to the Public for Comments & Questions: None**

***Motion to close the Public Hearing by Egidio T., second by Zach B., call of the roll with unanimous Aye. (5-0)***

**2021-01 ACOED – Dutchess Farms – Appeal of CEO Violations – Cont'd Public Hearing**

Kyle (Attorney for Dutchess Farms):

- Earlier today, we submitted an additional memorandum outlining some additional arguments.

Request by Chairman Smiley to review the main points of the memorandum

Memorandum to be Entered into Record

- 1<sup>st</sup> Point, procedural, deals with the fact that the Code Enforcement Officer is the one bringing the notice of the violations. The code is rather specific as to what the job duties are of the Code Enforcement Officer. The CEO, does not, and it makes sense, that most Towns don't allow enforcement of the Planning Board determination by the CEO. There is nothing in the chapter that indicates the CEO can prosecute violations of a Site Plan. The Town Code expressly limits the authority of the Code Enforcement Officer to the enforcement of those laws or ordinances which refer to an enforcement officer of some description. Chapter 169, Subdivision, does not expressly or implicitly refer to any enforcement officer of any description other than the Town Engineer. Right there, there is a significant procedural issue with the violations. Chapter 169-38, specifically notes that the approval of improvements is constructed, it only refers to the Town Engineer. Nothing of mention about the CEO to investigate or bring charges of any kind.
- By extension, the ZBA would not have jurisdiction to entertain such violations and the ZBA may hear only those decisions by those officials who are charged with making those violations. The CEO does not have the authority, so the ZBA by extension would not have the authority.
- 2<sup>nd</sup> Point, the notices of violation do not meet due process requirements. The notices do not describe what the CEO observed on February 26<sup>th</sup>, 2020, how it deviates from what is required on the final plats, no indication of what condition must be cured, and the demand to remedy the defect is so poorly defined that its meaningless.
- The second violation, 202-B, cited regarding the roadways, and the roads are really the responsibility of the HOA, presently, the roadways which are Warren, Palomino, and Bridal. Even the Peak engineering report couldn't make a determination on reportedly some of the items here, the vertical alignment and horizontal alignments, if I'm not mistaken, but moreover, I reviewed the deposition of Mr. Davis in the litigation. According to the record, he didn't even



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prepare the report which his signature is on. From what I understand it was an employee of Peak that isn't even a licensed engineer. Which is a significant issue.

- Additionally, the violation continues without sufficient detail or specificity.

Attorney presented a brief review of the violations and reiterated that they are without detail and lack specificity, and do not include details on what needs to be remedied, how to remedy, or a time frame to remedy.

- Item 2 of the 2<sup>nd</sup> Violation has nothing to do with what the CEO observed during the visit and is referencing the Planning Boards approval without the formation of a HOA, violated Chapter 169-50 D, which is interesting because it doesn't exist. It may be typographical, but even if not, the assertion that the HOA is required is not identified. It requires the CPS7 and Road Maintenance

Agreement is required for the Planning Board review. It notes that the developer satisfied these requirements.

- Again, the CEO lacks any authority to pass judgment on the approval of the Planning Board and is not permitted to place conditions on a Planning Board Approval. The Final Subdivision Approval was without any Conditions as approved by the Planning Board.
- The 3<sup>rd</sup> Violation, having to do with Stormwater Management, these are redundant of the violations alleged in the previous notices. And the matter of access for inspections doesn't make any sense, as there have been many inspections that have been done on the property. There is no evidence of denial to inspect or refusal of access.
- The 4<sup>th</sup> notice, 2020-D, alleges failure to comply by not submitted a SWPPP. This notice is again without details or specificity. The notice is unclear if the approvals by the planning board were improper? Or couldn't have done the approvals that they did? There are no details of deviation.
- In 200-53, the Planning Board has the authority to review and approve a Plat, and the conditions of review for such. The Planning Board has approved the plat and thus indicated its satisfaction with 200-53.
- If the Town Board, CEO, or anyone really, a citizen, doesn't like what the Planning Board did, they have the right to bring an article 78 proceeding against the Planning Board and that never happened. And such, that opportunity has expired. Many years expired.
- If there are any questions on the Memorandum, I will be happy to entertain them. I won't go into the memorandum any more here, as I think it speaks for itself.

Chairman Smiley and T. Kellogg discussed items entered into Record and labeling of such. Exhibits provided at last month's meeting, the site visit, and prior to the meeting on this date. All exhibits accounted for and labeled to the satisfaction of the Board and the Applicant of Appeal.

Tom S.: For the record, Tracey is referring to a Site Visit that was conducted by the Board last Thursday. The Board members present except for Kathie attended. Dave Allen and Shawn Marks, the two CEOs



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attended. Also, Scott Davis, Nadine from his office, a few of the neighbors, and Mr. and Mrs. Warren were in attendance. We compared what was on the maps to the site and walked around to get a visual of the site.

Kyle: Is it OK if I make arrangements for someone from my office to come and make copies?

Tracy K.: I can send them all to you by email if you would like.

Kyle: That's perfect.

Tom S.: Michelle, can you pull up the filed maps from 2007. (Placed onto screen) This is the original Subdivision. Planning Board approval was 3/14/2007. This was the initial approval with preliminary plans for all phases and the detailed plans for phase 1. This has stormwater details, road details, septic details, lot details. Phase 2 appears to have the same details. Phase 3 has the same details. We have a similar document for Phase 2 and Phase 3. The document that I have record of for Phase 4, only shows the board of health drawings. If you go to page 11, for Phase 4, all we have is a close-up of phase 4, showing an update on the number of lots, but it doesn't have the Road Details, the Stormwater Details, has there been another drawing that was approved by the Planning Board or filed? All I'm seeing is 3 pages for Phase 4.

Mike Warren: Phase 4 has 12 pages to it.

Tom S.: All I'm seeing is 3 pages. It's all I have or have been supplied.

Mike Warren: This is from 2006. All of it has changed dramatically. We have 20% less roads and 20% less houses. Lots have been combined. We never changed how much land was in the development or how much land was in the farm. That was stipulated in the beginning as to how much was to be left. The cul-de-sac was pulled back. There were lots that were taken out. The building envelopes stayed the same. The roads were lessened. (Mike Warren Pointed to Map and explained what the changes were) Some of the changed had to do with maximum road lengths. Maggie made the other one Bridal Path Lane. I'm not going to go into details. The Planning Board made another road at that time. I had to come up with another name.

Tom S.: What I'm looking for, do you have an updated version of this drawing that was approved, signed, and filed? One that shows what the final plan was for Phase 4.

Mike W.: It's with the Town. It's required by law for the Town to have it on file. I've been asked for all kinds of stuff. We've also subpoenaed the Town, and we don't know where it is. By law you must retain this.

Tom S.: I'm just trying to get a copy of what was finally approved.

Mike W.: I should have brought my big box.



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Tom S.: You did promise me 4 bankers' boxes of stuff. I see some changed for Phase 2 and Phase 3, as those went through in the final plats.

Mike W.: Phase 1 basically stayed exactly the way it was. Except Morgan Lane didn't have to extend down into the field. It only served the last lot. That was the only one that stayed basically the same. After that, every single phase got changed. That's what nice about phased, because, oh my god, it wouldn't work out right. I mean we've made more money, obviously, but it wouldn't look the same.

Tom S.: Is there an updated drawing that has been approved and signed by the Planning Board for Phase 1?

Mike W.: Phase 1 they supposedly lost a bunch of stuff. They couldn't find the approvals for Phase 1.

Tom S.: Because what was filed with the County, is what we have up on the screen.

Mike W.: Yes, that a preliminary.

Tom S.: For Phase 1, or the final for Phase 1?

Mike W.: What they did was they filed the Phase 1, only shows 5 lots. Ok. That's your phase 1 final only has 5 lots on it. That was your final. This was the preliminary. This was the total concept for SEQRA, all that for the County. This went to the County as the proposed. You can always make less without having to go back. If you want more, then you must start from scratch.

Tom S.: Michelle, can you go to Page 3. The title block on page 3 says this is the Final Plat, Phase 1. So, has there been any changes to this document that have been approved by the Planning Board and filed? Or is this truly the final drawing for Phase 1?

Mike W.: When they went later, they shortened Morgan Lane. Less isn't the problem. More is the problem.

Tom S.: Where do we have the drawing for that?

Mike W.: I made copies of whatever we had there. In the handout. From the Site Visit, yes. These lot lines and everything else, they haven't changed.

Board reviewed the documents that were handed out at the Site Visit

Tracy K.: Do you have a copy of what you handed out at the Site Visit?

Mike W.: It should say HOA lands on the top. We don't own the Roads or anything. That's why its on a separate map.

Tom S.: On the maps you provided in the handout, I am seeing changed from the approved site plan. None of them are, this one's not stamped. This one's not signed off.

Kyle: These are not site plan maps.



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Tom S.: Yes, what I'm looking for is an updated site plan that reflects the changes that were made since the filing.

Mike W.: If you look at Phase 2, Phase 3, Phase 4, you might see the changes.

Tom S.: Ok, let's look. If you have updated versions of any of this, please, that's what we're looking for.

Mike W.: See, I'm not the one that's supposed to have all this. Well, I mean, lucky I do have some stuff.

Tom S.: OK, you're appealing the Code Enforcement Officers determination and if you have documentation that proves they were off base, that's important. I'm just trying to understand this. Is this the final approved, or did you submit something else at a later date that I don't have?

Kyle: If you don't have the latest versions, the latest approves lots, then we'll certainly be happy to cooperate and get you whatever you need.

Tom S.: That's all I'm looking for. What I have is what was filed with the County. In the file, 2010 and 2011 filed subdivision maps. Phase 2 and Phase 3. I'm looking to verify, is this the most current thing or is there something else that I should be looking at?

Mike W.: That's fine. That's the official map that was filed at that particular time. If you notice, on Phase 2, you'll notice Morgan Lane changed from Phase 1. You have to go back to Phase 3.

Brenden Masterson: It will help everyone if you have copies of the final approved submitted maps. It helps your cause.

Kyle: This might be it for the Phase 2. That's why we're going through this.

Mike W.: All the signatures are on that one.

Brenden M.: There's signatures on the other ones too.

Tom S.: I think what Brenden's getting at is that at the end, when you're done with a subdivision, you generally would file an updated as built that has anything and everything that was changed along the way and was approved.

Mike W.: Your missing phase 4 final? No, it's got to be there.

The Board Reviewed all maps on file and provided by the Applicant for Appeal.

Tom S.: Phase 4, it doesn't provide details on road or stormwater, and it 1 of 3 pages. All it has is the Board of Health. The piece I'm trying to find is the details on the Road and Stormwater. So, they filed it.

Zach B.: It says Stormwater, but it doesn't get into detail.



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Tom S.: Brenden pointed out, there is a reference on the Phase 4 drawings for Stormwater tying it back to the original site plan. Still nothing for Roads in phase 4. I'm asking if you have updated plans that were approved, to provide them.

Kyle: We'll definitely look into this. Normally Mike carries 4 boxes of stuff with him wherever he goes. We'll get you what we have on it.

Mike W.: You do have Phase 4 final map, right?

Tom S.: Well, I have a Phase 4 Final Map, but the Phase 4 final consists of 3 pages, and it does not show any details, it shows very limited details for road development, and gives a basic outline of the ROW relative to the lots.

Kyle: I have a silly question then, how did the CEO, cause if the Town doesn't have these documents, how would the CEO know that whatever is out there doesn't conform to the Plat.

Tom S.: The way I would look at it is the only record for Phase 4 that's on file, if that is the case the only record that was filed with the county, it shows the original Phase 1 plan, the preliminary set that was approved and filed and the approved and filed Final plans.

Kyle: Which one is that?

Tom S.: The drawing we just look at. This is the original site plan, preliminary site plan.

Mike W.: It's preliminary, not final.

Tom S.: I understand. But if that is the most current thing, they have that has been approved and filed, as far as the Road details.

Mike W.: But each phase has been filed and approved in that file. Each one changed each time.

Kyle: So if he's going off the first phase 1, then by process of elimination he should know that this might not be, this isn't the final map.

Mike W.: 26 lots, you know. Where are those extra houses?

Tom S.: Maybe there's something else I have not seen yet. Maybe Dave is here and can speak to that. What I can tell you is I'm looking for what's on file, because we need to look and see if the CEO made the right call based on conditions of the site relative to a plan. We've received everything that he has. So we're asking, does somebody have the final approved plan? If Mike has it and can provide it.

Mike W.: The Town did not comply with the subpoenas from Warren Replansky. 28 things that were asked for and we got nothing.

Kyle: We'll see what we have.

Mike W.: I can get you my stuff, it's a little wrinkled and beat up.





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Tim S.: In the end I'm looking for something that has been approved and signed off as accepted. And if you have it and can provide it.

Mike W.: You've got Phase 4 approval, the final, don't you? I want to see what you do have.

Tom S.: The 2018 filed plan. Let's pull it up on the screen. This is what we have listed as filed in 2018. The concern with it is it looks like it was planning board approved on 12/2017 and I don't see a filing date marked on here, but no wait, I see it, it's Feb 25<sup>th</sup>, 2018.

Mike W.: There's 3 pages to it.

Tom S.: So, the first page is basically an overview with limits of the ROW, but it doesn't give any Road detail and no Stormwater details. The next page provides a reference to a lane within the ROW, but it doesn't give any road detail. Then the approved stormwater pond, it refers back to the map that was the preliminary site plan for the whole project. So essentially that tells me that we're going to build it the way we originally said we we're going to build it. So that's all I have. It refers back to the preliminary site plan. If you have an updated approved drawing that we can use.

Mike W.: There's nothing else on there? There should be page 3.

Tom S.: It shows septic plans and details. Nothing of reference for how the road should have been built or how the stormwater should have been built. The last page of this is just septic plan details.

Mike W.: The septic that's from Peak. Peak did all this.

Tom S.: My presumption is that there is a drawing somewhere because it got built, and if it got signed off on, I would just like a copy of it so I know what we should be looking at.

Tom S.: Dave, did you have any other drawing or maps for Phase 4?

Dave Allen (CEO): No. What you have is what we had.

Tom S.: So, no other road or stormwater details?

Dave A.: No.

Tom S.: So, it would have been a reference back to the original plat when you did the inspections?

Dave A.: Correct.

Tom S.: At our last meeting, we had requested an updated as built which was large enough to read and stamped at our site visit. We did get a map that I could read the stamp, but I couldn't read the drawing.

Mike W.: They sent it electronically so that you could blow it up.

Tom S.: OK, do you have that?

Mike W.: I don't.



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Michelle, do you have that? Do you know when it was sent?

Kyle: We'll send it again, or if we overlooked it, we'll make sure you get it.

Tracy K.: That's going to be the updated site plan with the as built and stamp?

Kyle: It's the document that I believe was referred to earlier as the as built for the roads

Tom S.: It was part of the packet, but the document was small enough that I couldn't see the seal. The updated document I could see the seal, but I could not see the rest of the document.

Tracy K.: Kyle, are you referring to the document called "road width"?

Mike W.: Yes.

Kyle: Hold on, let me make sure. Yeah, the one that says Road Width the as built survey.

Tracy K.: Its survey it's not an engineer?

Tom S.: It's stamped by an Engineer, John Post, it's the one that says Road Width.

Tracy K.: John Post is a surveyor.

Tom S.: ok, the surveyor stamped it. Not an engineer. Two different licenses.

Kyle.: And that's what we have, we have a survey.

Tracy K.: What we're looking for is an engineer drawing, if I'm not incorrect?

Tom S.: Yeah, this was one of the items we asked for. If we could get a better copy of this if it already hasn't been sent.

Kyle: We'll make sure you get it.

Tom S.: And then if we can get the engineers final as built site report which we requested last time as well. And that should reference the roads and the stormwater has been built to the design plan and associated standards. Whoever conducted the close out report for the roads and the stormwater. When they were completed.

Mike W.: That was signed off by the Planning Board.

Kyle: I don't know if there is such a thing.

Mike W.: It should be in the Planning Board report.

Brenden Masterson: Mike, are you in front of the Planning Board right now for the revisions to the Stormwater Pond?



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Mike W.: We don't go back to the Planning Board. We're not going back to the Planning Board. Everything is signed off on.

Brenden M.: But you're revising the Stormwater Pond.

Mike W.: That's the DEC, that's not the Planning Board.

Tom S.: Is the pond being revised from the approved site plans?

Mike W.: We don't know. Cause that was built to the original. We would like to convert it to the new bio-swales.

Tom S.: So, what you're saying, to make sure I heard it right, it was built to the original plans, but subsequent to that, you're speaking to the DEC for the potential of modifying that?

Mike W.: Correct. We're not sure if we're going to do that.

Tom S.: So, we are definitely going to need the final plans for Phase 4 and any subsequent changes that they may have approved. Just from our site visit, what I saw on site, in parts of Phase 4, did not match the drawings I had in my hand. If you have an updated drawing that was approved for the changes then we'll need that.

Mike W.: The Planning Board did the inspections and approved it.

Tom S.: Dave, would you happen to have a copy of an engineer's report for when the Roads and Stormwater were originally built, inspected, and approved, from around late 2017?

Dave Allen (CEO): Not to my knowledge.

Tracy K.: So, Mike, what you're saying, is that your as-builts, that at the end of 2017, you're saying the pond was built to the specs?

Mike W.: The Planning Board approved what was there.

Tracy K.: On paper or in their...?

Mike W.: In their resolutions.

Tracy K.: They approved what was in your submissions?

Mike W.: They took what I gave them and approved it in their resolutions what was there.

Brenden M.: They approved what was proposed?

Mike W.: Exactly. It was all done.

Tracy K.: It was all built at the end of 2017?



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Mike W.: They approved everything. No conditions. They did not see anything else that needed to be done. Otherwise, it would be in the conditions.

Tom S.: So, what I'm hearing is that there is a drawing that exists somewhere, that...

Mike W.: Ask the Planning Board because they're the ones that were in charge of all this.

Tom S.: But there's a drawing that was approved that matches the conditions on the site?

Mike W.: Or they approved what was there. I have no idea. The Planning Board has the option to modify or change, and uh, approve what they want to approve.

Kyle: I have a question. I don't think we're going to make any progress on that. What you said, that what you saw while you were out there doesn't match up to the plans you had, can you give me an idea as to what that is?

Tom S.: Sure. Page 3, Phase 3. The Phase 3 filed plat, if you look at the first lot on the other side of the street, on the left side of that lot there is a "dash-dot-dash dot" rectangle that runs from there down to the side of the road. That is a drainage swale that was to be built as part of the site plan. That doesn't exist. The lot is no longer owned by Duchess Farms, but there is no indication that it was ever built.

Mike W.: You pointed out an excellent example because the planners note to the board where she said that in the Phase 2 approvals, that the drainage swale would change to a drainage area. So that was taken away. There was no water in there. That was with Bonnie Franson, Franson and Pope, and I think that's what we are missing most is the Planners memos to the Board. And I have that particular note.

Tom S.: Send it to us. Anything that you have is going to support your case.

Mike W.: I've got boxes.

Tom S.: I'll give you a couple more examples. Another one is the culvert that goes across the road at the end of that swale, that culvert exists, but the ends don't have inlets and outlets. The details call for that. And coverage over that culvert is what I would call insufficient.

Mike W.: It has inlets. They are there. Where the stone was, there's a whole plastic.

Tom S.: If you go down to the Stormwater Pond, the build doesn't match what the plans are calling out regarding the concrete box culvert, the culverts under the road, stormwater overflow, and a separate culvert. There are details that I saw on site that don't match. If you got approval to do that, I would love to see that.

Kyle: Here in lies the rub, it's hard to address violations that, this is the first time in this whole situation, where there has been a specific observation that we can address. It may be more efficient, if we can have a two-way dialogue of what you saw, that we can discuss this and we can address it.



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Tom S.: I am an Engineer, but I'm not licensed to operate in NY, but these are casual observations of someone who is familiar with these sorts of things and site development. Items like alignments of the roads, may or may not be correct, but I don't have the ability to check that, so I'm saying if you can get an engineer to inspect and provide documentation that it was built to plans.

Mike W.: The alignment of the roads, even in Scott's testimony, the alignment of the road is within the 50-foot designated thing. On a rural road, which has a 10-mph speed limit with no sight problems, is immaterial.

Tom S.: What I did see on the as-built survey you provided; the road does cross out of the right of way.

Mike W.: But the width of the road itself is still 20 feet within the right of way. It does cross the line, but it makes that turn. What we were planning on putting another driveway, another access to the paddock. The road was 20 feet, and by the way we don't even own that.

Tom S.: And who does own it?

Mike W.: It's owned by a nonprofit HOA.

Tom S.: Was the title transferred at the same time the HOA was created?

Mike W.: Yes. The thing is, Duchess Farms Equestrian Community LLC does not own the roads. And all the owners have RMA's and are responsible for the Stormwater. So, the violations went to the wrong party.

Tom S.: Would you happen to know the SBL of that?

Mike W.: No. The County did not give an SBL. What the County said, there's a deed, that the taxing would be each individual tax owner will be assessed for the road. The county said they are assessing the taxes on the individual lots and not the road or an SBL.

Tom S.: Warren into record 9/2021, lets pull up that map of the road width. If you look at the Cul-de-sac at the very end, and the turn as you come up bridal path, the inside of the turn coming up bridal path, they cross out of the right of way. That jumped out at me.

Mike W.: That jumped out at me too. When they staked out the 50 feet, it wasn't exactly where it was supposed to be. So, what they did, I know on the turn, they wanted to put another access to the field with the ponies. What they did, they made sure there was 20 feet of driving part in the right of way. With the cul-de-sac, needed to be 100 feet wide, what happened is when you come off that, there's another driveway.

Tom S.: I'm just looking for some clarification. Is there an engineer's letter, stating that things are built per the plans.

Mike W.: I think, they are still within 100 feet, the 50 feet of the lands owned by the HOA.



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Tom S.: If its within it and goes outside, if whoever owns it doesn't care then we don't care.

Mike W.: On the turn It's just drainage land, I don't care.

Tom S.: There was detail for a guiderail along the Stormwater Management Pond, that doesn't exit. That was on the Phase 3 plat.

Mike W.: The original road was closer to the pond than where it is now. The guardrail was there because it was so close to the pond. The road got moved over to the west or south.

Tom S.: These are some of the details that we saw where the site didn't match the plans.

Mike W.: The planning board approved that.

Tom S.: If you have documentation that shows that it would be to your benefit to share that with the Board.

Mike W.: That's the Planning Board

Kyle: Do any of the other Board members have any questions we can answer? Anything that specifically jumped out at you?

Brenden M.: The lack of pipe coverage.

Tom S.: The road coverage above the pipe means its too shallow. Need to build it up. Also, Phase 2 where the culvert crosses under Palomino Path, the road width there is 17 feet.

Mike W.: The speed limit post needs to be moved. It was not a...you did measure the narrowest part.

Tom S.: It caught my eye. To give you credit, I did measure other places that were well over 20 feet. We rely on an engineer to do an inspection and provide the results and certify its built to spec. We rely on engineer reports to confirm that the site was built to plans.

Mike W.: That was all inspected by Brinnier & Larios. We have all the inspection reports for Phase 1 and Phase 2.

Tom S.: If we can have copies that would be great. I don't remember seeing those.

Mike W.: Look in the index in the front. They are in there.

Tom S.: I do not see anything in the index that calls that out by name.

Brenden M: Mike, Brinnier & Larios were the engineers who did the inspection on the behalf of the developer?

Mike W.: Yes

Tom S.: Who did Phase 3 and 4?



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Mike W.: I really don't know, I'm not sure.

Tom S.: If you can figure out who that was and get us their reports, that would help.

Mike W.: The thing is, that should be with the Town. I usually just keep the final map, that's it.

Brenden M.: The approved phase maps for phase 3 and 4, did they come after those phases were under construction, or before?

Mike W.: I didn't understand.

Brenden M.: Sometimes when you do a multi-phase development you may come in and do the infrastructure first, even though you're not going to build out phase 3 and 4 for several years, during phase 1 and 2 you come in and put all the roadway in first? No know the background, did you do that, or did you stop at phase 2 and wait?

Mike W.: Some of the stuff got dropped in. You needed access. You don't get final approval unless it's all done, or you have a condition. You know, this has to be done, this has to be done. The planning board always puts conditions if they have any concerns. They did that on the one out there with the gun club. They gave them approval but wanted to make sure the houses were not within the gun club 500-foot limit.

Brenden M.: Mike, with respect to the construction when was Phase 3 and 4 roadways completed? What year?

Mike W.: 3 was completed in 12, and phase 4 was all roughed in, I can't remember the date, 15, 16 or something.

Brenden M.: It's been that long?

Mike W.: The base was put in a long time because you needed access.

Brenden M.: It looked like your wearing course in Phase 4 was somewhat recent.

Mike W.: It was all top. The base was put in and then the top was put on later. Generally, we don't like to top them until after the houses are built. I mean if someone is living there obviously it has to be. We don't like to do that cause the construction traffic can wear on the road. Warren way has taken a beating and needed a topping put on. The builder does that, the HOA doesn't.

Tom S.: Your engineer, your site engineer, for each phase, was that the same for all 4 phases?

Mike W.: Kirk was phase 1, phase 2, and I think phase 3.

Tom S.: Who was the phase 4 engineer?

Mike W.: Peak.



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Tom S.: For site or?

Mike W.: They did the whole...

Tom S.: So, they did roads and stormwater too?

Mike W.: That there, it's their map, cause Kirk wasn't around so...

Tom S.: Because at the last meeting, Scott stated that he only did the septic plans for phase 4.

Mike W.: But he has his stamp on it.

Tom S.: But all I see that was filed is septic.

Mike W.: No there's two maps.

Tom S.: There's 3 pages. One shows all the lots, numbers, acreage, it doesn't give any of the road or stormwater detail. The second page is location of driveways, houses, septic fields, reserve fields, wells and calcs, and the final page is soil test data and design details for each of the septic systems. It doesn't give the actual site development plan for the road or the stormwater; I'm asking who did that design work because Scott stated that he didn't.

Mike W.: This is all the Planning Board required.

Tom S.: So, we should reference back to the preliminary road plans, or?

Mike W.: The Planning Board approved, final approval, and no conditions so...

Tom S.: I understand what you're saying, I'm just trying to figure out where I can get the details for what you agreed to build, what the Town agreed to let you build. What you say has been built.

Mike W.: What the Planning Board approved.

Tom S.: I'm not questioning their approval; I'm just looking for the drawing.

Mike W.: Ask the Planning Board, they are the Board on record. We just do what we're told.

The Board Reviewed Images from Google Earth from 2016

Tom S.: So this image is from 2016. There isn't much road there.

Mike W.: That was just rough in.

Tom S.: So basically, you put down base and the grass grew over it?

Mike W.: That's it.

Tom S.: Ok. Don't miss the roadbed. You're going to have a bad day on a rain storm.

Mike W.: You saw where someone drove off?





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Tom S.: I know what the soils are like in NY

Mike W.: You saw down there where that culvert crossed, where one of the landscapers drove off the road?

Tom S.: Oh really. I did see a little mud there.

Mike W.: You don't want to leave the roadbed.

Tracy K.: Who pulled the poor guy out?

Mike W.: They pulled it out with the dump truck.

Tom S.: With a tri-axle, that'll do it.

Mike W.: He's in there all the time. Actually, if you go back, go look at #9. (Viewing Overhead Site Plans on Projector) See, the road disappears between 9 and 16. And also if you look at Morgan Lane, move it this way, yeah, see, Morgan Lane. And if you go to 13, that whole, remember when we walked up there, you can see it, its real good right there. Come back a couple years later, and it totally disappears.

Tom S.: So, there's just base there and no topping?

Mike W.: That just has semi-topping. It's never been used, ever. There's no house. But that's what happens to the roads when they're not used.

Mike W. and Tom S. Discussed the location of the road to the pond depicted on the plans.

Mike W.: Now, if you go down, it goes around the stable, now it comes around the thing and goes out to right around there, there's a road that goes out to the outlet. You can service the outlet. All of that is in the Ag lands right to farm that the DEC doesn't control. Anyways, the pond is there that everyone said didn't exist.

Tom S.: I was curious, if you scroll up a little bit, I guess it was Palomino path before Bridal Path starts. So the road dead ended there, and you can clearly see that the drainage runs across there. My understanding was your base material came out of the borrow pit on the back end of the property. What was your route to get it out? I'm just curious.

Mike W.: How we built Bridal Path? No, we started at the other end.

Tom S.: I'm just curious if you used the same base material for the rest of the development.

Mike W.: You see the red, you see that road right there?

Tom S.: So that was your access path?

Mike W.: They had to build that road to get all the material out. They brought out 532 loads just for Warren Way. Warren Way was over 3 feet below grade.



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Call to additional question from Board Members

Egidio T.: So, Peak Engineers reports, I think there was 3 of them. They look like they are to the Town. It shows that the, the inspection reports, so there's one Feb 7<sup>th</sup>, 2020, that shows the As Built survey data from John Post. It then lists the results. And then there's another one on Jul 2<sup>nd</sup>, 2021, which is essentially the same thing. These reports are by an Engineer, and they are showing noncompliance with what was approved for the design. Is that correct?

Tom S.: Yes

Zack B.: That's my understanding.

The Board reviewed the report submitted by Peak Engineering dated February 7<sup>th</sup>, 2020

The Board reviewed the report submitted by Peak Engineering dated July 2<sup>nd</sup>, 2021

The Board reviewed photographs of the site provided by Peak Engineering and the CEO

Egidio T.: They are both essentially saying the same things. It's also a 6-page report, contains some photographs.

Tom S.: You're right Mike, that culvert running across the road, it does have an Inlet, just no outlet.

Mike W.: You're right about the outlet

Egidio T.: I guess the question is, Peak engineering report was submitted to the Town. And at that point, is this what the CEO's acted on?

Tom S.: Dave, was the site inspection report provided by Peak engineering in February of 2020 the basis for the action by the CEO's?

Dave Allen (CEO): I'll have to check my records.

Egidio T.: There was a letter, email, or memo, something to that effect, from the Fire Chief, I think.

Mike W.: We have a deposition from the Fire Chief. He is asking for 26 feet wide roads.

Egidio T.: "I was request on 2/27/2020 by Dave Allen to inspect 3 roads in the High Falls Fire District". He then goes onto describe them. I understand he's not an engineer, but I understand there was some concern over the condition of the roads back in February 2020.

Mike W.: I, we don't have that.

The Board reviewed the letter from the High Falls Fire Department Fire Chief

Egidio T.: If you go all the way down, there's photographs attached to the report. Anyways, it's showing the culverts, the 36" culvert. On the map, it shows a structure instead of the culverts.



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Tom S.: The 4 feet by 8 feet concrete box culvert structure. The cross-section area is significantly more than two 36" culverts. Its s significant difference in flow capacity. I'm not saying the plans weren't changed or approved for that.

Mike W.: Because of the fact that you took 20% less roads and 20% less houses, it changed. Its two 36's and a 24 overflow.

Tom S.: It's still less cross section area Mike. In the end, I don't care what's there, as long as it matches an approved plan. That's what I'm getting at. I would love to have an approved plan. If it shows you build what was approved or you were told, then we're good.

Mike W.: The planning board approved it.

Tom S.: You understand where I'm at with this?

Mike W.: Oh, I got that.

Tom S.: But Kyle to your other question, those two inspection reports spell out what they saw, and certainly from what I've seen It would make me say it doesn't match the plans.

Kyle: The second report certainly can't be what the CEO relied on as it post dates the CEO's notice of violations.

Tom S.: My understanding is there was a meeting between Mike and the Town to work through improvements, and that was a subsequent inspection to see where things were at. Is that untrue?

Mike W.: They never came to any guide, any type of resolution, anything, on what direction they want to do. They changed direction so many times. Its fine if we had direction, but we didn't have one. Plus we have the issue with Peak.

Kyle: And, obviously, certainly from what's in the record, we don't know whether it was the Feb 7<sup>th</sup> letter, because there's no reference to that letter at all in the notice of violations.

Tom S.: I didn't have anything that explicitly tied it back to the February 7<sup>th</sup> letter.

Mike W.: February 7<sup>th</sup> isn't exactly the best time to go look at things. We were no notice, they just showed up and just did it. We had no idea; they just do things.

Zach B.: In terms of the memorandum, for clarification, this is an appeal of the CEO violations before the ZBA. But you're saying, the lawyer is saying, the CEO shouldn't have made the violations, and that the ZBA shouldn't be making this appeal? But then we are willing to talk about it.

Kyle: That's exactly what its saying.

Zach B.: So, this is preempting, the 78?



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Kyle: That's what I'm technically. Obviously, we're not going to not cooperate. What we're not going to do, is simply say you have no jurisdiction and walk out the door. By having the engaging in the discussion is not conceding that despite our argument you have the authority, because you don't.

Mike W.: It's a courtesy. Because, you have very very valid questions. Without actually sitting there for all those years, it's very difficult for you to sit here and know.

Tom S.: How soon can we expect the as-built, the updated as built map, the engineer letter, the items we've requested?

Mike W.: Today, the engineer I talk to, said not for 6 months. They are so slammed. If you can even get anyone to talk to you.

Kyle: I actually called a couple engineers today that I work with, and they said they would get back to me with an idea of a timeline. So, I don't have an answer to the second question right now. It is something we are obviously interested in getting done. Whatever maps we have done, just give us time.

Brenden M.: Is the original engineer on the project no longer practice?

Mike W.: He's, well, there's some issued.

Kyle. He's MIA

Mike W.: He won't answer any, he's been paid, and then he

Tom S: So, he's still practicing locally? As far as we know he's still practicing?

Mike W.: I don't know. He was the engineer that the Town recommended because he did open space conservation design. He was one of the ones, it was new, he understood it, and they recommended him, and you just kind of go with. But he was so far away, I think that was a problem. I spoke to two recently, one I paid 2 thousand dollars to just talk to me. The second one said a conflict of interest because the HOA asked him to go look at the roads. I can't work for the HOA on this side and the HOA on that side. Good luck finding someone.

Kyle: Give me two days to get back to you on the engineer timeline piece. I have some calls out there.

Tracy K.: But can he produce something for the HOA?

Mike W.: He doesn't have the time. He's a nice guy, he's good. But I talked to him so he said he couldn't do it.

MALE SPEAKER (Ricky Newman): First of all, the HOA has not engaged anyone because the HOA is an incorporation in which none of the people who live there are members, are shareholders. The HOA is a separate entity. The homeowners and lot owners have engaged Andy Willingham and is producing a report for us, but we do not have it at this time.



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Tracy K.: Would you be willing to share that?

MALE SPEAKER (Ricky Newman): Maybe. But I'm just clarifying, the shareholders of the HOA are NOT the people who own homes or land there anymore. We're in negotiations with the developer to make that happen.

Tom S.: If you don't mind sharing, what did the homeowners and landowner ask Andy Willingham to produce?

MALE SPEAKER (Ricky Newman): We asked him to produce a report so that we can get a sense of what our maintenance cost will be to maintain the roads based on his observations of how the roads were built.

Tom S.: Ok. I know we met on site the other day, could you just state your name for the record?

MALE SPEAKER: Ricky Newman

CALL TO THE PUBLIC FOR ADDITIONAL QUESTIONS OR COMMENTS

CALL TO THE BOARD FOR ANY ADDITIONAL QUESTION OR COMMENTS

Tracy K.: So, we looked at 2016 on the aerial view. Mike is saying that most of the work that he had done for the final phase was completed by that point.

Tom S.: That's one of the statements I heard tonight.

Tracy K.: But there was some substantial, there's been some upgrading that was done. Can you give us a quick synopsis of what you've done since the initial violations report? Would that be a fair question?

Kyle: No because I'm not sure what the relevance of that would be. Isn't the issue the appeal of the CEO violations, what relevance would it be what work was done post the notice of violations?

Tracy K.: Because you may not be in violation, or you may be compliant now. There's no way for this board to know what occurred between.

Tom S.: My only time I've ever been on that property was last week. If work was done between the violation and when we were there, I would be curious what was done. If improvements were made to correct whatever violations there may have been, it only stands to benefit you.

Debby Warren: My daughter and I, we were out on the side of the road because we heard that the fire inspectors said our roads weren't safe and it might scratch the fire truck. So, she and I spend a good 6 weeks to make sure nothing would scratch the fire trucks. And that's when we got the cease and desist that we were working. Made sure you could see everything on the road and that it didn't scratch anything.

Tom S.: Which Road was that on?



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Debby Warren: The main road. We did it all by hand.

Dave Warren: I'm the builder. Part of the deal that the builder would take care of the road. Part of the deal is that I would re-top the road. To answer Tracey's question, I have topped the road since then.

Kyle: That's all that's been done.

Tom S.: So which roads? Pretty much everything but Morgan Lane?

Dave Warren: The entrance a little bit. They didn't do the part from Palomino down to the Barn. They can't be held responsible for something they didn't use.

Zach B.: So, it's possible to modify, not to just approve or deny.

Tom S.: Correct.

**ADDITIONAL CALL FOR QUESTIONS**

Tom S.: I believe we heard that the roads have been turned over the HOA, is that correct?

Mike W.: That's correct. Absolutely. It's a no profit HOA. There's a deed and everything.

Ricky Newman: I want to stress again, that there is an HOA, it's a corporation, the shareholders are NOT the members, of the people who own the land or houses there. We are in negotiation to take that over. But the identity of the owners of the HOA INC, are not people who live there.

Mike W.: That's not necessarily true. Scott is a member. Not all of them are members.

Ricky Newman: Scott is not a member.

Mike W.: He is, he's an officer.

Ricky Newman: He might be a landowner but has not signed an agreement with the HOA.

Tom S.: I was given a document that spelled all of this out.

Tracy K.: Separate from your statement about whether or not the ZBA has the authority to review the violation notices, or the CEO the ability to issue the violations, are you now taking the position that the roads, stormwater, infrastructure, have been completed to the degree that the developer is required to complete them, and that the HOA is now the individual entity that the Town should be filing enforcement actions against? If they choose to file? Who now is responsible for the roads? We need to know to the extent that we're now in a position that we need to know.

Kyle: The HOA is responsible for the roads.

Tracy K.: The HOA in your interpretation, in your clients is?

Kyle: The HOA is responsible for the roads.



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Tracy K.: And the HOA is who?

Kyle: The corporation.

Tom S.: The HOA was created on December 12<sup>th</sup>, 2020.

Tracy K.: You and I know what the intent of an HOA is. What is the position that you're taking? That the HOA and the homeowners theoretically should be members of the HOA when you resolve that issue?

Kyle: I don't know who the members of the HOA are. I just heard that the homeowners and the shareholders of the HOA are not assumed the same people. So, it's the HOA who is responsible, not necessarily the homeowners.

Tracy K.: But then is Duchess Farms Equestrian or Michael Warren, member of the HOA? Who is the responsible party?

Tom S.: The initial directors are Michael Warren, Deborah Warren, and Scott Helders.

Ricky Newman: Some clarity, the shareholders of the HOA, which is a corporation, have not elected to be part of it. There are directors who may or may not own property there, such as Scott Helders, who has not joined as a shareholder. I'm being very clear about something very specific going on here. Also, to the extent that you look at the HOA agreement and or the RMA, the future owners of that corporation are only responsible for the maintenance of what is properly built. Under no circumstances will the future owners of that HOA or the shareholders of that HOA, ever be responsible for anything that happened prior to the construction.

Kyle: I don't disagree with that.

Tracy K.: So for anything, I want to be clear, for anything or any potential deficiencies in the infrastructure or in the SWPPP or in that, becomes still the purview of Duchess Farms? If it's found that there are deficiencies, are you taking the position that the Warrens are responsible for, or Duchess Farms LLC, is responsible for the improvement that are required? Or are you taking the position...

Kyle: My position is Duchess Farms was responsible to get Planning Board approvals for what's out there. As far as I know, that's what happened. To the extent that there is anything that requires any type of maintenance after that, that's the responsibility of the HOA. It's sort of a loaded question, is Duchess Farms responsible for deficiencies in the site plan? Well, No. For a whole host of reasons. 1, they got approval. If they got approval from the planning board, you can't enforce Town code because you have a problem with whether or not your planning board gave approvals.

Zach B.: But isn't the violation because it didn't exactly match the approved plans?

Kyle: Show me where, there is no section in your code where it says you didn't build it according to plan, so we're going to send the CEO out there, he's going to cite you for some sort of violation, whatever it is,



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because it doesn't conform with what we think the site plan should have been, or what should have been in the site plan, which is really what these violations are all about.

Tracy K.: There are road standards.

Kyle: No, ...

Tom S.: My understanding is not that it didn't conform with what should or shouldn't have been in there, or if a bond should or shouldn't have been, these are things that have been said, it's about does it conform with what WAS approved. Were two 36" culverts and an overflow at 24" authorized at this stormwater retention pond? If it was, and that's what he built, then there's no issue. If that's what he put in, and the site plan shows something different, what was installed doesn't match what was approved. That's my understanding of what we're here to look at.

Kyle: See, but that, what should have happened is, the Town engineer is the guy that should have gone out there and said "hey, this isn't correct, this isn't according to the site plan", and then what happens? When the Town engineer says it's not built to plan, what happens? No permits. That's how it goes. Not this. Cause now what you're doing is your sitting as an appellate court to what the Planning Board decided and trying to divine from a rather ambiguous set of documents, what the CEO said was going on out there and why that isn't in conformance with site plan. That's why this is more complicated than it otherwise should have been. I've been on both sides of these things. It's not a pleasant situation when you have to turn to a board and say there are some systemic problems here that are beyond what we can address.

Tracy K.: I guess I'm going back to regardless of how, or why we're here, or where we go from here, so the reality is, so in essence at the moment, Michael Warren and his wife are the only shareholders in the HOA and there is one other board member?

Kyle: I don't know the answer to that.

Mike W.: There's HOA attorneys who did all that.

Tom S.: At the time of the notice of violations, the HOA didn't exist. Duchess Farm LLC, at the time and correct me if I'm wrong, was the legal property owner of the roads. Is that correct?

Kyle: It was just an RMA effect at that time.

Tom S.: That's a private agreement between the person that owns the property, and the other members of the community who signed onto it. I only have 3 lots that had signed onto it at that point. So, in March of 2020, Duchess Farms LLC owned the Roads. There might be an agreement with RMA, but in the end, the legal owner was Duchess Farms LLC.

Mike W.: And now they don't own it.

Kyle: That's correct. From where you're coming from, that makes sense to me.





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Tom S.: We're looking at a violation from March of 2020, and we're looking at who would be responsible for that. And responsibility would follow the property owner.

Kyle: And weather or not the CEO had the authority to do that. And whether or not the notices were sufficient.

Tracy K.: Duchess Farms LLC, the members of Duchess Farms LLC, are the owners. I'm trying to distinguish between the owners of Duchess Farms LLC, and the resident property owners. It appears that they are also concerned about whether or not whatever upgrades will be borne by the HOA and the property owners.

Kyle: I didn't hear them say that.

Tracy K.: I think I heard them say that.

Kyle: I heard them say they asked to get a sense for what their maintenance costs would be.

Tracy K.: And that they are not assuming any responsibility for the sufficiency of the existing infrastructure. Is that correct?

Ricky Newman: That is absolutely correct.

Tracy K.: So, we know who will be responsible.

ADDITIONAL CALL FOR COMMENTS< QUESTIONS< CONCERNS

Brenden M.: Do we keep the public hearing open to review the recently submitted information?

Tracy K.: No. You could, but you don't have to. At this point, you'll be considering it.

Tom S.: Is there anything else you would like to submit besides what we have already discussed?

Kyle: No, Just what we talked about.

Tracy K.: And what the Board has requested of you.

Mike W.: There was motions also by Replansky, we have all of the appeals to dismiss everything, so you've got 2 attorneys.

Tom S.: Is Mr. Replansky going to show up and tell us what he wants from us?

Kyle: No, listen, we don't want to confuse anything. Ok? Yes, I understand what you're asking Mr. Chair, but other than what you're asking, I don't anticipate providing anything else. If anything occurs to me, you'll be first to know. I'm going to need a few days to sort out how long, getting the plans, the maps, that won't take long. The engineer thing I am motivated to resolve. If you can give me till early next, to give you a timeline.



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Email: [zoning@marbletown.net](mailto:zoning@marbletown.net)**

**Motion to close the Public Hearing for public comments and to leave the Public Hearing open for submission of documents and to change the October 27<sup>th</sup> ZBA meeting to October 21<sup>st</sup>, 2021, at 6 p.m. by Zach B., second by Brenden M., call of the roll with unanimous Aye. (5-0)**

***The Board Unanimously agreed to take a 5-minute recess from proceedings and to continue business upon the reconvening of the quorum.***

**The Board reconvened to the same quorum with the same Board members in attendance.**

The Board engaged in conversation with Tracy Kellogg, Of Counsel, regarding the Duchess Farm CEO Appeal Application. The following topics were covered:

- Memorandum presented by Of Counsel for Duchess Farms
- Scope of CEO Enforcement
- Town Code; Road Standards, Subdivisions, CEO, Permits, Plats
- All Exhibits
- Site Visit
- Issued Violations
- Engineers Reports
- Filed Maps, Site Plans, Road Plans, Stormwater Plans
- Jurisdiction of ZBA
- Plat Approvals, Planning Board Minutes, Planning Board Approvals
- HOA, Deeds, Road Maintenance Agreement,
- Stormwater, DEC Cease & Desist
- Peak Engineering

**No actions were taken, and no votes were motioned for regarding the Duchess Farms CEO Appeal application.**

**Cont'd: 2021-05 AV – 12-14 Rybak Lane – Fox: Cont'd Public Hearing, Setback Variance for Accessory Apartment**

The Board read, reviewed, discussed, and proofed the draft determination

***Motion to approve the Area Variance for 12-14 Rybak Lane, Fox, made by Egidio T., second by Kathie G., call of the roll with unanimous Aye. (5-0)***

**Cont'd: 2021-06 AV – 3-5 Mary Davis Road: Public Hearing for Variance on Setbacks; Addition to Residence**

The Board read, reviewed, discussed, and proofed the draft determination



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*Motion to approve the Area Variance for 3-5 Mary Davis Road made by Zach B., second by Egidio T., call of the roll with unanimous Aye. (5-0)*

*Motion to approve the August 25<sup>th</sup>, 2021, ZBA Meeting minutes by Zach B., second by Kathie G., call of the roll with unanimous Aye. (5-0)*

*Motion to approve the July 28<sup>th</sup>, 2021, ZBA Meeting minutes by Zach B., second by Egidio T., call of the roll with unanimous Aye. (5-0)*

*Motion to Adjourn the Meeting by Zach B., second by Kathie G., call of the roll with unanimous Aye. (5-0)*

**Meeting Adjourned**

**9:54 P.M.**

**Approved 11/17/21**

**Michelle Solcberg**