

Regular Minutes  
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November 8, 2023

Minutes of a Regular Meeting held by the Planning Board of the Town of Shawangunk, County of Ulster, State of New York, at the Town Office Building, 14 Central Avenue, Wallkill, New York, on the Wednesday, 8th day of November 2023 at 7:00 PM.

Those present were: Sal Patella  
Rich Barnhart  
John Szarowski  
Patricia Turner  
Mark Watkins, Chair  
Vacancy

Absent: Todd Widmark

Also present were: Richard Hoyt, Esq. Please see sign-in sheet for rest of attendees.

Meeting location: Town Hall, 14 Central Avenue, Wallkill, NY 12589

Open Regular Meeting: 7:00 pm

Emergency Exits Announcement

Pledge of Allegiance

Approval of Minutes of October 3, 2023.

**A first motion was made by Mr. John Szarowski, and seconded by Mr. Richard Barnhart to approve the Meeting Minutes of October 3, 2023. Vote: All Ayes: 5, Vacancy: 1, Abstain: 0, Absent 1.**

***PUBLIC HEARING:***

**Rucinski-Scott Subdivision and Lot Line Change (Applicant No. 2023-04):**

SBL: 99.1-6-13.110 (28.2 Acres) & 99.1-6-13.200 (4.8 Acres), Address: 39 Papuga Road, Pine Bush, NY 12566, Pine Bush School District, Shawangunk Valley Fire (FD174), Subdivision and Lot Line Change of Lands of Marian & Kathleen Scott.

The following items were entered into record: Mercurio-Norton-Tarolli-Marshall letter dated October 20, 2023 with responses to a review by Ms. Bonnie Branson, AICP CEP, PP of Nelson Pope & Voorhis with map. Memorandum from Ms. Bonnie Franson, AICP CEP, PP and Ms. Danielle Dreyer, Planning Analyst of Nelson Pope & Voorhis regarding general and minor subdivision comments. A document received by Mr. Shawn Arnott, P.E. of MHE on November 6, 2023 regarding sub-division lot line adjustment comments.

Mr. Larry Marshall stated the previous comments received by the Planning Board, Planning Consultant, and Town Engineer were addressed with the intent to respond and comply to those comments:

**Updated Information Pertaining to Written Comments from Planning Consultant and Town Engineer:**

Mr. Larry Marshall stated the following:

- All testing for the lots has been completed.



- Septic systems have been designed.
- Awaiting approval from the Ulster County Department of Health for the two lots. Improvement on Lot 2 with the intent to build on, and Lot 3 to demonstrate compliance and will go through the approval process for Lot 3 with the Ulster County Department of Health with no intention of building at this time.
- Papuga Road formerly dedicated to the Town of Shawangunk outlined in a letter provided to the Planning Board. Mr. Marshall stated they had a surveyor look it over and there is an actual deed from 1959 on record and transferred to the Town Shawangunk; excepted with the formal dedication to the road into neighboring parcels.
- Mr. Marshall looked into Parcels, 13.100 and 13.200 and found out they were part of a subdivision previously (no file map provided to Planning Board). The prior owner was transferring land to other parcels over an extended period of time and the Assessor's Department, during that time, as they were being transferred, created different parcel numbers and how the 13.100 and 13.200 was created conveying different parts of land.

Mr. Watkins asked Mr. Marshall if he can address the comments from the consultants by next Planning Board Meeting? Mr. Marshall stated it would not be a problem except for the formal approval from the Ulster County Department of Health due to the county's back log of work. Mr. Watkins stated that can be made as a condition upon final approval and the Public Hearing will remain open until the next meeting on Tuesday, December 5 at 7:00 PM.

**A first motion was made by Mr. Sal Patella and seconded by Mr. John Szarowski to extend the Public Hearing to Tuesday, December 5th, 2023. Vote: All Ayes: 5, Vacancy: 1, Abstain: 0, Absent 1.**

***CONTINUATION OF PUBLIC HEARING:***

**Michael Brander – Wildrick Road (Applicant No. 2022-10):**

SBL: 106.1-1-8.111. Proposed Three Lot Conservation Density Subdivision Preliminary Plan of 46.75+/-acres at 46 Wildrick Road in the R-AG4 District and Wallkill Central School District.

The following items were entered into record: Mr. Darren C. Doce, P.E. provided an updated Stormwater Pollution Prevention Plan (SWPPP) for 46 Wildrick Road – 3 Lot Conservation Density Sub-division with a revision date of October 31, 2023 and an MS4 SWPPP Acceptance Form. A letter dated November 3, 2023, with maps (5 Sheets) in response to the MHE Engineering technical review comments from October 20, 2023. Memorandum dated November 6, 2023 from Ms. Bonnie Franson, AICP CEP, PP and Ms. Danielle Dreyer, Planning Analyst of Nelson Pope & Voorhis regarding general plan review. Document received by Mr. Shawn Arnott, P.E. of MHE on November 6, 2023 regarding cost estimate of cul-de-sac bulb review and Brander sub-division.

Mr. Darren Doce stated the parcel is located at 46 Wildrick Road. A 46 acres parcel, 3 Lot conservation density sub-division, average lot size is 10 acres. The lots will be built with wells and septic systems. The access to Wildrick Road through the extension is about 200 feet extension to Wildrick Road and a 50 feet radius turn around. Mr. Doce stated the comment from the last Planning Board Meeting was to relocate the house on Lot 2 and was addressed.

**Review of Town Engineer, Mr. Shawn Arnott, Memo Comments:**

Mr. Doce received a comment letter from the Engineer submitted last week and stated those comments have been addressed, apart from the curbs. Mr. Doce questioned what is the purpose

of the curb and if it was necessary since it is not a cluster sub-division and referred to the cluster details and comments from the Engineer.

**Curbing the Bulb:**

Mr. Watkins stated he had a discussion with the Highway Superintendent and Mr. Blazeski is looking into whether or not the curbs are needed. The Town bulbs have curbing and an example is the DeGroot sub-division on DeGroot Road. There is no curbing on DeGroot Road until you reach the cul-de-sac bulb, which does have curbing only in the bulb area. There are no sidewalks in the DeGroot sub-division. It is up to the Highway Superintendent to decide and his opinion on the curbing.

Mr. Watkins asked Mr. Doce about the person that has the property behind Mr. Brander who is using the road; how does that interchange into his property because there is a neighbor that uses that road. Mr. Doce stated that is correct and the neighbor has a 20ft. wide easement over the O'Donnell parcel. Mr. Watkins questioned how is the interaction with the easement in order to work around the bulb and is it before the bulb? Mr. Doce stated it is south of the bulb. The driveway to the O'Donnell's, which is the parcel with the trucks, his driveway comes up prior to the bulb. Mr. Watkins asked if it will be in the 200ft. right away for the Town? Mr. Doce stated yes, right where the bulb hits that 200ft. Mr. Watkins stated he wants to make sure the property owner has access to use the road and he is not inconvenienced when the bulb is being built or issues for him to access his driveway. Mr. Doce stated the construction of the bulb should not impact access to his property. Mr. Watkins stated he wanted to make sure this issue was addressed in front of the Planning Board.

**House Location for Lot 2:**

Mr. Watkins stated he likes the new location of the house on Lot 2 and asked the Planning Board if anyone else had an opinion. We asked Mr. Doce to move the house back due to traffic and car lights and to give a little more privacy from the bulb.

**Brander Property -Road Line:**

Mr. Hoyt stated Mr. Arnott had a discussion with Mr. Doce about pushing the proposed 200ft the Town is going to own to the North to keep it fully within the Brander property. Mr. Arnott was concerned that there would be public work done outside of the bounds of Brander line and wanted to make sure that all the new work is going to be fully on Town land and not partial lands of Semeraro or O'Donnell's.

Mr. Doce stated the existing Wildrick Road hugs the southernly line of strip and meanders back and forth all the way up to Albany Post Road. Mr. Hoyt stated Mr. Arnott wanted to make sure that it was fully in the bounds of Brander. The Town already owns the first 900 ft. of road. Where Brander owns now, the 200ft. kind of meanders in and out. Mr. Doce stated he is showing wherever the existing road is, we were not proposing to build that portion. Mr. Hoyt stated as a guide to the Highway Superintendent, we want the map to show where we want the road to be improved.

Mr. Watkins questioned Mr. Doce stating he believed that the line that goes back was moved onto the Brander property. Mr. Doce stated he shows a portion of the road that is within 200ft. where it exists. I was under the impression you were not going to do anything for that portion of the road at this time. Mr. Hoyt stated the Highway Superintendent plans to do something but may not be 100% to Town specs. The Engineer's concern is if the Highway Department starts to work on land that Mr. Brander does not own, it cannot be dedicated to us and would be an issue. It is more of showing where the improvement should go to try and keep it off of the private land.

Mr. Sal Patella stated it should switch to the North as opposed to going straight. The logic would be a straight road but cannot be done because of the other properties. Mr. Hoyt stated it will probably never be 100% cleaned up but at least the filed map will show that everything is within the bounds. Mr. Watkins stated the Highway Superintendent will make the road where it needs to be. On the map, Brander's property needs to be shown and where the road is on the other properties also needs to be shown. Mr. Arnott had advised it needs to be corrected.

**Bond Estimate:**

Mr. Watkins is aware of the bond we received from our previous Engineer that is significantly higher for the bulb than the new one we received from our current Engineer. We do have the estimate of a bond for the bulb and requesting a motion and a second from the Planning Board to approve so we can send to the Town Board to approve.

Mr. Hoyt stated if the Planning Board approves it would have to be subject to any addition for the curbing if required (curbing not listed on the current estimate). Mr. Hoyt is suggesting to move on so the Town Board can do their work and might approve the estimate with the curbing outstanding until further review from the Highway Superintendent.

Mr. John Szarkowski stated the numbers used by the Engineer do not reflect current pricing. The current bond estimate is half of the original estimate quoted at \$65,000+ for the same project.

Mr. Hoyt stated if the bond estimate form was used by Mr. Arnott, with updates to the unit prices, this would be our go to form for all future bond estimates instead of a letter format. Mr. Hoyt stated a road bond is usually a condition of an approval and does not have to be wrapped up before you vote on the project. There is too much to address at this time based on Mr. Szarowski's comment and comments regarding the bulb curbing. Rather than make a vote and recommend this to the Town Board, we should wait until the bond estimate numbers are real. The Town Board may adopt the bond estimate without thinking much about it and if it is half of what it should be, there will be a problem.

Mr. Watkins stated we already agreed to add the curbing, but I would like permission from the Planning Board not to hold up Mr. Doce as the project has been going on for a while. I would like to work with the Town Engineer and Town Highway Superintendent, and when we get the real numbers, we will send an email out to everybody and send to the Town Board.

Mr. Hoyt provided the normal practice steps when completing the bond estimate form:

- The applicant fills out the form.
- Mr. Doce signs the form as the Project Engineer
- Once everyone agrees, the Town Officials sign.

Mr. Doce stated he did not receive the form. Mr. Hoyt asked for the Planning Board Secretary to forward the form to Mr. Doce via email. This was completed after the Planning Board Meeting.

Mr. Watkins questioned the Planning Board if everyone is in an agreement with the Town Engineer, Town Superintendent, and Planning Board Chair to forward the final bond estimate? Mr. Watkins stated he will then send out an email of the bond estimate real numbers and conditions to everyone first before sending to the Town Board. Mr. Watkins questioned if we have a first and second motion to provide the Town Board with the bond estimate upon conditional approval for further cost review and to add curbing cost using appropriate form?

**A first motion was made by Mr. Rich Barnhart and seconded by Mr. John Szarowski to provide the Town Board with the current bond estimate upon further review to address further conditional approvals. Vote: All Ayes: 5, Vacancy: 1, Abstain: 0, Absent 1.**

**Conservation Density Sub-division:**

Mr. Hoyt stated the Conservation Easement matter is to be referred to the Town Board. We gave the applicant our Robert DeGroot model. Mr. Doce marked it up to make it applicable with no other issues. The Town Board is the only other Board that can except a Conservation Easement. If the Planning Board approves, we would send a memo stating Brander preserved 10.12 acres on Lot 1 and 13.25 acres on Lot 3 with a total of 23+ acres which is up from the prior amount. Mr. Hoyt suggested recommending to the Town Board this Conservation Easement.

Mr. Watkins stated Mr. Hoyt will draft the memo to be sent to the Town Board.

**A first motion was made by Mr. Rich Barnhart and seconded by Mr. Sal Patella to accept the Conservation Easement with all final language subject to Town Attorney approval and send to the Town Board for approval. Vote: All Ayes: 5, Vacancy: 1, Abstain: 0, Absent 1.**

**Monuments:**

Mr. Szarowski stated the maps show the monuments but no signage? Mr. Watkins stated the conservation area will have concrete monuments with labels on the top of them and at every 150 ft. Mrs. Turner questioned the number of monuments on the map. Mr. Doce stated those monuments were just for the road. Mr. Watkins stated they make sure they get installed and EMC goes out there once a year to check they are still there, and if any are missing, it is the responsibility of landowner to replace.

Mr. Watkins advised Mr. Doce that we will continue the Public Hearing to next month, Tuesday, December 5, 2023. Mr. Doce stated the only changes to the plan is waiting to hear back from Mr. Blazeski if curbs need to be installed in the bulb and to show the conservation monuments.

Mr. Watkins stated he does not have the road specification from the Town to approve without it. They do not put trees in the 50 feet right away

**Road Specifications:**

Mr. Doce stated there is a road specification without curbs. Mr. Watkins stated the road specification states with curbs but the only thing with the DeGroot sub-division we did a country specification. Mr. Hoyt stated there are four different classes of road in the Town. Mr. Doce stated there is a road classification that does not have curbs; just grass swales and grass shoulders. It is shows Figure 2 without curbs and Figure 1 with curbs. Mr. Watkins stated all the bulbs always have curbs that the Planning Board has approved. For DeGroot project we eliminated the curbs on the road because there were no street trees due to the 50ft. right of way. Mr. Doce stated the specs rural app does not have curbs noted in Figure 2. Mr. Doce believes there are four different road classifications and provided two out of the four:

1. Loop cluster with curbs
2. One with regular access without curbs

Mr. Watkins stated he will review those specifications.

Mr. Hoyt stated Mr. Blazeski previously discussed the benefit of curbs; the trucks cannot get off the edge of pavement and create ruts when making deliveries because they are bound by the curb. It gives it a neater appearance and homeowners like curbs.

**A first motion was made by Mr. Sal Patella and seconded by Mr. Rich Barnhart to extend the Public Hearing to Tuesday, December 5th, 2023 at 7:00 PM. Vote: All Ayes: 5, Vacancy: 1, Abstain: 0, Absent 1.**

**Additional Brander Comments:**

Mr. Doce questioned Ms. Franson's review regarding Comment 3 stating transmittal letter was not submitted prior to our memo and comments have not been addressed. Mr. Doce addressed all Ms. Franson's comments dated September 25<sup>th</sup> with a transmittal letter prior to the October meeting and that was one of the comments I sent to Ms. Franson the SHPO and no impact letter. Mr. Watkins stated we have the paperwork and will follow-up with Ms. Franson regarding Comment 3. We also have the SWPPP and Archeological Phase 1A and 1B reports. Mr. Doce stated he addressed Mr. Arnott's comments but is waiting for him to review what he sent.

**Harrier Ridge Estates – Mako Homes – Lot Subdivisions (Applicant No. 2023-09)**  
SBL: 106.1-3-29.421, Address: Dubois & Malloy Road, 26.5 Acres, Property Class: Abandoned Ag-2, Wallkill Central School District, Shawangunk Fire District. Ten lots subdivision application.

The following items were entered into record: Mercurio-Norton-Tarolli-Marshall letter dated November 8, 2023 with responses to a review by Ms. Bonnie Branson, AICP CEP, PP of Nelson Pope & Voorhis with map.

**Conservation Easement Revisions:**

Mr. Larry Marshall stated no new documents were submitted at the submission deadline but went over new plans submitted to the Planning Board this evening regarding the following: Revised Conservation Easement area for the both the cluster and conventional sub-division and to provide an alternate layout for the cluster sub-division. Mr. Marshall did bring the updated plans with him and they were handed out at the meeting.

• **Conventional Sub-division –**

The Town Attorney as well as the Planning Consultant has concerns of the layout Lots 6, 7, 8, 9. We shortened the road under 1,900 linear feet by shifting the road away from Lot 4 and rearrange the Lots 6, 7, 8, 9 to have more perpendicular property lines. From a standpoint of a curbing road, we cannot have everything perpendicular especially the way one of the lots has been divided up. The property lines are either perpendicular to the proposed road or perpendicular to the exterior property line. Lots 7 and 8 we have added the conservation easement area and showing all proposed improvements being shown outside of that conservation easement area and do not need show any kind of development on those two lots. All lots conform to zoning in terms of lot area bulk requirements, lot width, and flag lots being 7 and 8.

• **Cluster Sub-division –**

This is like the last cluster sub-division we presented at the last meeting. Lots 1 and 2 would use the frontage along Malloy Road divided up equally in 150 feet lot width as the same lot size on the neighboring Mako Home sub-division. Lots 3 through to 7 was 3 to 8 and we widened them from 145ft. to 180ft., and shortened them up in the back to provide a

conservation easement along the back side of those lots, 75ft. from the rear for the existing homes on Malloy Road and for the proposed homes on Lots 3 to 7. We gave that land to proposed Lot 8. If Lots 3 through 7 own that land, even under a conservation easement, they would likely encroach upon it and create an enforcement issue and defeat the purpose of a conservation easement. By giving it to Lot 8, you would not be able to utilize it, but prevent lots 3 through 7 encroaching upon it because it would not be their land. Lots 9 and 10 primarily stay the same as previously proposed. Lot 8 is the one that changes the most and on paper it is a unique lot due to the shape. The conservation easement is set the way it is, but you would be driving up to a 15-acre parcel that would look out towards the ridge. There is the existing conservation easement with the denser hatch area. We have provided these copies to the Board as well as a response to the comments received to date in writing and look forward to any comments this evening or in the future.

Mr. Watkins stated it does have to be looked over by the Planning Board and consultants. Mr. Watkins advised the public any documents provided previously can be shown. The documents received this evening have to be reviewed first before discussing with the public.

Mr. Hoyt advised the public that there will be a formal Public Hearing down the road and plans are a matter of public records and he can go into the office to review.

***Richard Eldridge/Mr. Anthony S. Sicari, Jr., New York State Solar Farm, Inc.***  
**(Applicant No. 2023-11)**

SBL: 105.1-1-9, Zoning District R AG-2, Address: 61 Brimstone Hill Road, Pine Bush, NY 12566, Pine Bush School District, Pine Bush Hook & Ladder Company Station. Presenting a 15.3kW DC ground mount solar covering 698 sq. ft., L = 37'3" x W = 18'9" x H = 11'5" ground area. Width aligned with a 25 tilt is 20'8".

The following items were entered into record: Photos were provided to show the layout of stakes where ground mount would be installed. Mr. Watkins went on-site to see layout of stakes. Received the New York State Solar Farm Inc. diagrams of with updated location of ground mount and location of trees. Memorandum dated November 1, 2023 from Ms. Bonnie Franson, AICP CEP, PP of Nelson Pope & Voorhis in regards to the Planning Board reviewing the landscaping.

**Ground Mount Solar Screening:**

Gabriella from New York State Solar Farm is proposing a ground mount solar on the side of the house at 61 Brimstone Hill Road but, on the back of the foundation. Regarding screening requirements, 14 junipers planted alongside the road. They grow 12ft. to 15 ft. in height and about 6ft. wide. They are deer resistance and planted every 6 ft. apart. Ground mount dimensions were roughly provided and are noted in documentation provided to the Planning Board Members. Gabriella stated she understands the big concern is the screening.

Mr. Watkins stated he went to the site today (11/8/2023) and it has to be screened from the neighbors. The back and the sides are going to have to be screened also. Basically, you are screening all around in the middle of the yard. Gabriella stated there is some existing screening of trees already that are about 70ft. tall. Mr. Watkins stated those trees will not screen in the middle of the lawn and all the way around. You have to use trees that you are either going to top or grow to a certain height to avoid interference. Mr. Watkins stated we are going to recommend to John Calaca, Building Inspector, that there is screening all the way around it to block some of the views from the houses that are neighboring. Mr. Watkins did see the 70ft. trees and they are closer to the lot line.

Gabriella asked if there was an alternative. Mr. Watkins stated when he was on-site, he looked for a different place to install the ground mount and the way the sun comes across, you might be able to put it close to the house but you still have the blue house that is on the side of the hill. Mr. Watkins also stated he would be worried about reflection off of the panels onto the road and the house on the side of the hill. It is up to the Building Inspector on how he would like it done, but we will help him with the design of the screening. Mr. Watkins stated there may not be an easy way to do this one. I parked by the winery and walked across the back yard and there is no easy way to screen this where you would need to get the sun. Gabriella stated she will discuss with her client and decide on the next course of action.

**Ground Solar Size and Usage:**

Mr. Hoyt stated our Planner raised a question if the solar will be exceeding the 10 KW per hour average production limitation. Gabriella stated no, we are actually below 100% just covering mostly all of the electric. Mr. Hoyt questioned, for the record, you are under to be in the non-permit status? Gabriella stated yes, we have 12 months of bills and we are just below 100%. Mr. Watkins thought the size was big and a lot of panels to be under 100%.

Mrs. Turner asked about size noted on documentation regarding the 15 KW DC ground mount covering 698 sq. ft. of ground area (36 panels). The length is 37'3" with a width of 18'9" ground area. The width aligned with 25 tilt is 20'8". The total height is 11'5".

Gabriella stated they take into consideration shadows and winter time. Gabriella stated

Ms. Turner stated the documentations state two different things; the system size that she read from the documentation noted as 15.3KW DC and 13.85, hours 18. Ms. Franson's memo states system size is 15.3 KW DC and 13.824 KW AC and appears to exceed requirement. It is unclear whether the system meets the size requirement. Has the Applicant provided evidence that this is all that is necessary to serve on the on-site uses?

Mr. Watkins believes with the size; they are exceeding the 10 KW per hour. Mr. Hoyt stated the question again; if you are sure, you do not exceed 10 KW per hour for the file record? Gabriella stated when they submit for the grant, they have to show 12 months of usage. Mrs. Turner stated this is for production and not usage. Mr. Watkins also stated this is not for usage and it is production.

Gabriella stated they are producing 13,700 hours and does not believe it is in the Site Plan. Mr. Hoyt stated our code is clear; if you are over 10 KW per hour, you are a large-scale facility, and it has to go through the whole permit process. If you are under 10 KW, it is the Building Department approval with only the Planning Boards advice. If we are over the 10 KW, this is the wrong forum. If we are under the 10 KW, we are good. The question is, if you are over the 10 KW? Mr. Watkins stated yes, it is over the 10 KW and it is at 13 KW. Mr. Hoyt stated if you are over the 10 KW, you are like a large scale solar like a Magruder and US Light Energy on Bruynswick Road, which would be unfortunate since the project is not to that scale.

Mrs. Turner stated the letter has 15.3 KW DC ground mounted and is covering 698 sq. ft. Mr. Watkins stated it will have to be smaller or a different application. Mr. Watkins asked if it can be taken down to the 10 KW. Gabriella stated yes and would have to subtract five panels and change AC and DC size but would have to confirm. Mr. Hoyt questioned if that could reasonably be accomplished if size is taken down to the 10 KW. Gabriella will get back to the Planning Board with confirmation.

Mr. Sal Patella asked what will the plant size be upon planting? Gabriella stated mature height is 10 to 15 ft. Mr. Watkins stated usually the solar array, from the back yard, was a minimum of 18 ft. and is concerned on how to make it look good due to being in the middle of the lawn. You can make it look nice with a berm and lots of cleaning up.

Mr. Hoyt stated the code states 10 kilowatts per hour on average, recognizing fluctuations; it does not say what the period calculated average is, but you can be 11 kilowatts per hour for one hour and no kilowatts in the next hour and still meet the average. Gabriella stated the Engineer will review the code and screening. Gabriella is going to confirm the distance size can be 25 panels.

***CORRESPONDENCE:*** New correspondence was received from Larry Marshall regarding Harrier Ridge Estates.

Next Regular Meeting to be held on **Tuesday, December 5, 2023 at 7:00 PM.**

Deadline for submission is **Friday, November 17** at noon.

***ADJOURNMENT:***

First motion to adjourn meeting by Mr. John Szarowski, seconded motion by Mrs. Patricia Turner. Vote: All Ayes: 5, Vacancy: 1, Abstain: 1, Absent 0.

Respectfully submitted,

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Mary Ann Longano, Secretary