

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 Tuesday, 4th day of June 2024.

Those present were: Rich Barnhart  
John Szarowski  
Ryan Reid  
John Leonette  
Mark Watkins, Chair

Those absent were: Sal Patella  
Todd Widmark



Also Present: Alex Danon, Town Board Member, Kathy Ebbrell, Court Clerk, Rich Hoyt, Esq., Town Attorney; Bonnie Franson, AICP CEP, Town Planning Board Consultant. 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 May 7, 2024

Mr. Watkins stated Mr. Reid sent an email stating I addressed the Board at last month's Planning Board meeting regarding procedures and requested to make a reference pertaining to his email in the May 7th minutes.

**A first motion was made by Rich Barnhart and seconded by John Szarowski to approve the Meeting Minutes of May 7, 2024 with Mr. Reid's comments. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

***NO NEW PUBLIC HEARINGS:***

***CONTINUATION OF PUBLIC HEARING:***

**E&L FARMS – Two Lot Subdivision (Applicant No. 2024-04)**

SBL: 105.1-1-26.122, 152.64 acres, Address: 3014 State Route 52, Pine Bush, NY 12566. Lot Line Adjustment to create two parcels, approximately 102.5 acres and 50 acres. Property Class: Rural Residential, Pine Bush School and Pine Bush Fire District.

**Entered into Record:**

- Short Environmental Assessment Form (EAF) dated March 6, 2024, last revised May 20, 2024, Survey Plat dated March 4, 2024, last revised May 20, 2024 from Margaret Hillriegel, Land Surveyor
- Memo Dated June 4, 2024 regarding feedback to E&L Farms Two Lot Subdivision from Nelson Pope Voorhis, Ms. Bonnie Franson, AICP CEP
- Memo Dated June 4, 2024 regarding feedback to E&L Farms Two Lot subdivision from MHE Engineering, Mr. Shawn Arnott, P.E.

Mr. Watkins stated E&L FARMS is a Continuation Public Hearing from last month's Planning Board meeting on May 7<sup>th</sup>, 2023.

Mrs. Peggy Hillriegel stated Ed and Lynn Garvey own approximately 152 acres. They are proposing a two-lot subdivision to create one parcel of 102 acres and a second parcel over 50 acres. I changed the property line to keep the proposed line at least 50 feet and purposely made it 53 feet from the solar structures. The solar structures have been located and shown on the plan, along with the landscaping. The open mine areas, we walked along the edge of the grass, located those, and showed them on the plan too.

**Net Acres:**

On Lot 2, I put a chart in the middle of the map showing the different uses and net area acres:

- Farming – 2 (crops)
- Wetlands – 10.6 +/-
- Solar Array – 12.9
- Mining – 1.0
- Minimum for Dwelling – 6

The 50 acres is more than enough for all the uses. The 96 net acre parcel, I did not do as much; lot is well over the requirement on that 102-acres.

**Driveway:**

A driveway can go any place. Mr. Garvey has plenty of acreage to move the driveway and property equipment if he chooses to do so.

**Ms. Franson's Memo Review**

**Net Lot Acres - Zoning District:**

As per the prior meeting minutes, Ms. Franson stated the mining activity on Lot 1 was going to be left open and unsure if it was subtracted out of Lot 1 as opposed to Lot 2. When we assign a minimum lot area to a use, we use that minimum that is required in that zoning district (2 acres is a minimum). Ms. Hillriegel stated Lot 1 is where the mining will be going away (open mining show on Lot 1 of maps). The house is on Lot 2 and the mining will continue there.

**Flag Lot:**

Mr. Watkins stated he had an issue with the Flag Lot (Lot 1) not being named a Flag Lot. Mr. Watkins stated we are not calling the big lot a flag lot because in the future you want to subdivide it. Ms. Franson stated they are calling it a Flag Lot but not adding a note stating it cannot be further subdivided. Mr. Watkins would like to add a note regarding about further building. Mr. Garvey stated you cannot because there is no road frontage. Mr. Watkins stated he is trying to mitigate the reason that we are allowing future subdivisions to prevent future problems because it is still "a flag lot" in case someone brings up the flag lot regulations. If we can add a note "a road can be built for a future subdivision."

Mr. Reid recommended you could state the intention of the Planning Board was to waive the language of no further subdivision. Ms. Franson stated or note that this is a flag lot and the flag lot regulations shall apply. Mr. Watkins stated he is trying to protect the people that own the property and the first thing when someone sees a flag lot, no further subdivision and one house only. Mr. Garvey stated he does not want it in writing stating that it can be done. Mr. Watkins stated we can do this in the resolution and will figure it out and asked Mr. Hoyt if he can provide the language? Mr. Hoyt stated yes.

Mrs. Hillriegel stated she could put a note on the map to state "if Lot 1 is to be further developed, a road is to be constructed". It was decided to not add a note to the plan, and to add appropriate language in the resolution.

**A first motion was made by John Szarowski and seconded by Rich Barnhart to close the Public Hearing. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

**Negative Declaration (NegDec):**

Mr. Hoyt stated a NegDec is required. The Board agreed to have a verbal NegDec this evening as there was no interest from public.

- No environmental significance
- No proposed disturbance
- No construction proposed
- No impact to land or water resources
- No new community service demand generated
- No impact on agricultural resources
- It is not within a critical environmental area
- No transportation generated by the building
- No demand for additional utilities or services

**Recreation Fee:**

Fee in lieu of recreation is required by the Planning Board for the one lot being created.

**SEQRA:**

A minor subdivision is an Unlisted Action under SEQRA. The Planning Board conducted an uncoordinated review for this project. A Short Environmental Assessment form, Part 1, has been submitted and revised as requested.

**A motion was made by Rich Barnhart and seconded by Ryan Reid to determine that the project will not have a significant impact on the environment and issue a Negative Declaration. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

**A motion was made by Rich Barnhart and seconded by John Szarowski to approve the Two Lot Subdivision for E&L Farms subject to the conditions, and all of which will be memorialized in a decision letter to be prepared by the Planning Board Attorney. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

**APPEARANCES:**

**Harrier Ridge Estates – Mako Homes – 7-Lot Subdivision  
(Applicant No. 2023-09)**

SBL: 106.1-3-29.421, Address: Dubois & Malloy Road, 26.5 Acres, Property Class: Abandoned R-Ag 2, Wallkill Central School District, Wallkill Fire District (FD 171). Seven lots – Conventional Subdivision.

**Entered into Record:**

- Memo dated May 7, 2024 regarding Harrier Ridge Estates (MAKO Homes) Major Subdivision with Land Survey / Subdivision Plan Map and Percolation Certification from MNTM Engineering, Zachary A. Peters, P.E.
- Memo Dated May 31, 2024 regarding feedback to Harrier Ridge Estates (MAKO Homes) Major Subdivision Review from Nelson Pope Voorhis, Ms. Bonnie Franson, AICP CEP
- Memo Dated June 4, 2024 regarding feedback to Harrier Ridge Estates (MAKO Homes) Major Subdivision from MHE Engineering, Mr. Shawn Arnott, P.E.

Mr. Ryan Smithem stated Harrier Ridge Estates is a 7-Lot Conventional Subdivision with a road accessing six of the lots off of Malloy Road and a single driveway off of DuBois Road (Flag Lot 7).

**Public Roadways:**

The proposed road (cul-de-sac) has been configured to Town Codes as a rule. A public roadway would have curbs in order to take advantage of the berms and soil from the site and provide some infiltration rather than a curve road would require stormwater basins and pipes which would then divert all that flow and infiltration to Malloy Road and create more drainage. This was discussed previously with Highway Superintendent, Rich Blazeski, and awaiting a determination. We are here for additional comments and want to move project along.

Mr. Reid stated he is satisfied with the layout.

Mr. Watkins questioned Mr. Smithem if he had seen the Engineer comments from Mr. Arnott received this evening? Mr. Smithem does not believe any of the comments are an issue and everything seemed to be very minor.

**Public Hearing:**

Ms. Franson stated a Public Hearing will be required for a major subdivision. At some point, this will be sent to the Ulster County Planning Board for GML review. An EMC site visit is recommended. Mr. Watkins stated we will send out a note to EMC to coordinate a date.

**Lots:**

All the lots seem to comply with the zoning. For Flag Lot 7, there is a requirement that the front yard be 2 times what is normally required, which would be 150 feet - make sure that you are showing the distance.

Anything related to the Town's Engineering is for the Engineer's review. The limits of disturbance at 4.9 acres are drawn pretty tightly and looking at the construction of the new homes on the other Mako property, it will likely be more than what is shown on the maps.

At 0.1 acres you should be doing a full SWPPP. Mr. Smithem stated this lot is a bit different due to its flatness that the required grading for this is much less. Ms. Franson is recommending the footage be looked into due to buyers wanting big homes and yards which will have more disturbance. Mr. Smithem stated it is about 4.9 acres of disturbance total, including all the road grading. Ms. Franson stated there is a limited area around the houses and owner's preference as to what they want to do with landscaping. Mr. Smithem stated a lot of the land is grass already. Mr. Watkins stated with the land previously being an apple orchard farm, we would want the soils to be tested. Ms. Franson stated consider the comments and standard house relocation notes if this is a plan you are pursuing.

**SEQR:**

This is an Unlisted Action. The Planning Board can conduct a coordinated or uncoordinated review with the recommendation of having a coordinated review to be conducted. There are comments that need to be addressed once an Environmental Assessment Form (EAF) is submitted and a decision needs to be made if you want it circulated. As per the EAF, it is in an archeologically sensitive area and it is important to consult with Parks and Recreation. Bald Eagles and Northern Harriers are present in the vicinity and should be discussed with DEC.

Mr. Szarowski stated the clearing of lots is unrealistic and over 5 acres. Mr. Szarowski also stated instead of the storm water control, you will need Quality Control. You have a big enough lot sizes if you do not trigger the storm water retention or quantity requirements. Ms. Franson stated Mr. Marshall had mentioned a prior disturbance because of the soils. You did not need retention, but the infiltration. A soil and quality test will have to be looked at due to pesticides in the orchard.

Mr. Watkins polled the board for a coordinated review – the members agreed.

Mr. Hoyt questioned if there has been a determination if this is cluster, and if not a cluster, why and do your past records indicate this?

**Conventional Plan:**

Mr. Watkins stated a motion was made to go with a conventional plan because of the area that it is in, and everybody has a 2-acre zoning that is conforming to the area and why we decided on a conventional plan rather than a cluster. This was not sent to the Town Board. Mr. Hoyt stated you do not have to send to the Town Board for a conventional, only a cluster proposal goes to the Town Board. Ms. Franson stated from a cluster perspective, it does not have all the resources that you would normally see for a cluster that you are trying to protect, whether it is wetlands, habitats, and community character. Natural features are not there and was documented in the last planning memo. Mr. Watkins stated he will be in the office Thursday and look it up.

**Circulation:**

Mr. Smithem asked if this is going to be circulated to the county? Mr. Watkins stated not at this time. We are going to have you attend one more meeting and the county is going to want the soil testing. Ms. Franson questioned Mr. Watkins do you want to declare Notice of Intent and once Mr. Smithem updates the EAF, and it is satisfactory, it can go out prior to the next meeting? Mr. Watkins agreed.

**A motion was made by Ryan Reid and seconded by John Leonetti to be Lead Agency. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

Mr. Szarowski questioned if we received the SEQR on this? Ms. Franson stated you need the updated EAF for circulation first because the major subdivision changed to 7 Lots. Mr. Watkins stated once we receive all the documentation prior to the next meeting we will be able to circulate and must be reviewed. This is critical to SEQR.

Mr. Hoyt stated to review the December 5, 2023 Planning Board minutes where the board voted for conventional versus cluster.

**Rucinski-Scott – Two Lot Line Adjustment**

**(Applicant No. 2024-06) SBL's:**

99.1-6-13.110 (28.2 Acres) – 39 Papuga Road

99.1-6-13.120 (1.20 Acres) – 116 Papuga Road

Pine Bush School District, Shawangunk Valley Fire (FD174), Two Lot Line Adjustment, Lands of Robert and Rhonda Rucinski and Marian & Kathleen Scott.

**Entered into Record:**

- Memo dated May 15, 2024 regarding Rucinski-Scott – Two Lot Line Adjustment: Subdivision Plan, Lot Line Change Application, Project Narrative, Short EAF, Deeds of Record, Tax Map from MNTM Engineering, Ryan Smithem, E.I.T.
- Memo dated May 31, 2024 regarding Rucinski-Scott – Two Lot Line Adjustment from Nelson Pope Voorhis, Ms. Bonnie Franson, AICP CEP

Mr. Ryan Smithem stated the project site is located on the northerly side of New Prospect Road at the intersection of Papuga Road and New Prospect Road. The project involves a two- tax parcels – it is a Lot Line Adjustment covering about 30 acres in size and adding 2-acres to the smaller parcel to bring it to 3.19 acres total.

**Application Signatures:**

Ms. Franson stated Marilyn Scott, Katherine Scott, and Rhonda Rucinski will need to sign the application if they are applicable as done on the first Lot Line Adjustment earlier this year and if still applicable. Mr. Smithem stated he is to going to double check with the signatures and owner's endorsement for Mr. Rucinski.

**Agriculture Data Statement:**

Ms. Franson stated you are within 500 feet of an Ag District and I do not see an Ag Data Statement and this is a lot line adjustment. Mr. Hoyt stated he will look into the Town Law as to whether the LLA needs an agricultural data statement.

**Lot Line Adjustment Regulations:**

Ms. Franson stated the lot line adjustment conditions appear to be met (see Ms. Franson's memo entered into record).

- No new lot to be created.
- No future subdivision.
- Shall not create any nonconformity.
- Shall not result in any future development
- Boundary lines need to be merged as part of approval and has not been met.

**Planning Board Decisions to Be Made:**

Ms. Franson reviewed the following (see Ms. Franson's memo entered into record).  
Owner's consent not provided from all lot owners – one application received.

- Revised metes and bounds not provided. Attorney to opine.
- Identification of area before and after.
- Bulk table must include "provided" column for both lots.
- Public hearing is not required and is optional.
- Planning Board GML review is not required.
- If there is a new driveway, the Highway Superintendent should review the plans and determine if the proposed driveway location is acceptable.

**Wetlands:**

Ms. Franson questioned if there are any wetlands in the depressional areas, and there was a pond present if you look at old aerials in this whole vicinity of where the house is going to be. Mr. Smithem stated there are two depressions from material movement and testing was done with no signs of water. Mr. Smithem to provide the Board with reports.

**SEQR:**

Ms. Franson stated a Lot Line Adjustment is a Type II Action in SEQR. No review is required but someone may want to see the parcel visually and confirm there are no wetlands. Mr. Watkins stated he will take a look at the parcel.

**A motion was made by Ryan Reid and seconded by Rich Barnhart to waive a Public Hearing. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

Mr. Watkins stated he would like Rucinski-Scott to be on next month's agenda to approve once updated documentation has been provided back to us. Mr. Smithem stated he will double check with the applicant and get back to us.

**Deed:**

Mr. Hoyt questioned Mr. Smithem regarding owners of tax parcel. Mr. Smithem stated the smaller parcel is owned by Mr. Rucinski and the larger parcel is own by Mrs. Scott. Mr. Hoyt stated when it is not in the same ownership, we would like the Deed transferring the property to Mr. Rucinski to go with the map to Kingston to avoid the situation where there is a lot line change but no land transfer. If we get that Deed submitted to us in recordable form, it can go with the signed map. Mr. Watkins stated that can also be a condition of approval. Mr. Hoyt agreed. Mr. Smithem questioned the description of the Deed?

Mr. Hoyt explained we are looking for the actual Deed from Mrs. Scott to Mr. Rucinski. This would not be required if Mr. Rucinski owned everything.

**Depression / Wetlands:**

Mr. Rucinski stated that was a gravel bank years ago. Watchtower came in and cut it deep so they can get to the stone causing the depression. They pushed the top soil up and you will see it all over. They went too deep when they were not supposed to go that far and it has been like that for years. Mr. Watkins questioned if the depression will be filled in. Mr. Rucinski stated he had a survey done for that and turned it over to Mr. Smithem showing that it is not wetlands. Mr. Watkins stated we will need those documents and then we can move forward.

**Breezy Valley, 52 Bruyn Turnpike: Three Lot Line Adjustment (Applicant No. 2024-05), SBL's:**

106.1-2-17.111 (70.2 acres) Address: 52 Bruyn Turnpike; - Breezy Valley  
106.1-2-16 (125' x 175' [0.5 acres]) Address: 82 Bruyn Turnpike – William & Linda Bender;  
106.1-2-24 (45.7 acres) Address: 1821 Albany Post Road – SVG Holdings, LLC  
Wallkill Central School District, Wallkill Fire District. Lot line change project.

**Entered into Record:**

- Memo dated May 15, 2024 regarding Breezy Valley Three Lot Line Adjustment: Subdivision Plan and Application, Project Narrative, Short EAF, Deeds of Record, Tax Map and 500 Foot Buffer from MNTM Engineering, Ryan Smithem, E.I.T.
- Memo dated May 31, 2024 regarding Breezy Valley Three Lot Line Adjustment from Nelson Pope Voorhis, Ms. Bonnie Franson, AICP CEP

Attorney Hoyt is recused, he left the dias.

Mr. Smithem stated this project site is located on the northerly side of Bruyn Turnpike. The proposed development involves two (2) lot line adjustments between three existing parcels. No new parcels will be created as a result of this project.

<u>Tax Parcel</u>	<u>Gross Area (Acres)</u>	<u>Net Area (Acres)</u>
106.1-2-16	2.16	2.16
106.1-2-17.111	65.63	55.81
106.1-2-24	50.70	47.08

William Bender will be adding to his land on the southeasterly side of the project from approximately 0.5 acres to 2.161 acres.

Mr. Watkins questioned if the old farm from the intersection of Bruyn and Albany Post belongs to Breezy Valley? Mrs. Denise Jackson from Breezy Valley, LLC stated yes. Mr. Watkins questioned 5 acres from Breezy Valley parcel will be going to SVG Holding? Mr. Smithem stated that is right. Mr. Watkins stated this is more of a conforming lot and questioned the board if there are any questions?

**Breezy Valley, LLC Representation:**

Ms. Franson requested evidence of the people who submitted the application represent the LLC's. The applicant needs to be signed by all parties and evidence should be submitted that the individuals can represent the respective LLCs. It does not appear all persons are listed and no evidence of representation for the LLC.

**Agriculture Data Statement:**

The site is within 500 feet of a state-certified agricultural district. An Agricultural Data Statement may be needed. We are getting an opinion on the prior lot line adjustment which can be applied.

**Public Hearing:**

Public Hearing can be waived, not required.

**A first motion was made by Rich Barnhart and seconded by John Szarowski to waive a Public Hearing. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

**Ms. Franson commented from her memo:**

- Lot line adjustment requirements have been met.
- Proof of representation for the LLC.
- Provide meets and bounds if they have not already.
- Location of wells and septic systems; not an issue because you are enlarging the one lot and the other one is in the back of vacant land.
- The before and after area to be provided. Mr. Smithem stated the before and after are included in the descriptions in each of the lots provided.
- General policy when a delineation of wetlands is not provided, hydric soils are also included in the acreage. This needs to be looked into.
- GML review is not required.
- Deeds required if they are transferring from one owner to the other.
- Type II Action, no further review required, exempt from SEQQR.
- Topography is not required for lot line adjustment.

Ms. Franson noted there is substantially more wetlands on the property and it should include the hydric soils for the record. Mr. Watkins indicated topography can be included but is not required as far as lot line adjustment regulations.

Mr. Watkins stated once the updated paperwork is provided, we can move forward.

**Hufcut / Boniface, Burlingham Road, Two Lot Proposed Subdivision  
(Applicant No.: 2025-07):**

SBL: 104.4-3-18 (21.16 acres), Address: Jason Boniface, Burlingham Road, Pine Bush School District, Walker Valley Fire (FD176), 2-Lot proposed subdivision project.

**Entered into Record:**

- Memo dated May 16, 2024 regarding Hufcut / Boniface, Burlingham Road, Two Lot Proposed Subdivision: Subdivision Plan and Application, Project Narrative, Short EAF, Deeds of Record, Tax from MNTM Engineering, Ryan Smithem, E.I.T.
- Memo dated May 31, 2024 regarding Hufcut / Boniface, Burlingham Road, Two Lot Proposed Subdivision from Nelson Pope Voorhis, Ms. Bonnie Franson, AICP CEP
- Memo Dated June 4, 2024 regarding Hufcut / Boniface, Burlingham Road Two Lot Proposed Subdivision from MHE Engineering, Mr. Shawn Arnott, P.E.

Mr. Smithem stated the project site is located on the southerly side of Burlingham Road at the intersection of Lakeshore Drive and Burlingham Road and land is located in the R-Ag2 zoning district. It is 21 acres in size to be subdivided into a 7.19-acre lot and a 13.65-acre lot.

<u>Lot Number</u>	<u>Gross Area (Acres)</u>	<u>Net Area (Acres)</u>
1	7.19	7.19
2	13.65	13.05

The project site is located in R-Ag 2 District. Lot 2 previously had the site septic design approved by the Ulster County Department of Health. Lot 1 recently completed septic system design.

The whole project would be accessed through flag lots from Burlingham Road and would have individual private driveways with individual wells and sewers.

**Land Fill / Gravel / Driveways:**

Mr. Watkins questioned how much fill did they put in Lot 2? Mr. Smithem stated he is not sure how to quantify it when they did the survey, but that it had already been placed there and knows the areas is gravel.

Mr. Watkins stated they are pushing things around when he visited the site and there is no rain on the dirt so they are still working on moving things around. I am not particularly happy with the fuel tank on Lot 1 and I understand they are running a business and you have to take precautions if there is a fuel spill. There is a lot of fill and unsure how NYS can sign-off on this. The far end of the fill-in appears to be 6 to 8 feet high. Mr. Smithem will look into this. Mr. Watkins stated there is a lot of site work and a brand-new driveway right across from Lakeshore. You mentioned in the notes there is an agreement for the other driveway. Mr. Smithem stated there are existing easements for the other driveways for accessing. Mr. Watkins stated there is a rope to keep the trucks off the lawn and was surprised to see because it is a tree company.

Mr. Watkins stated they are running a tree company business and all their trucks and equipment are in Lot 1. They built a loop that goes around. There is one truck over by the shed and then all the rest of the trucks and trailers are on Lot 1 with a couple of trailers up farther past the road.

**Stormwater Pollution Prevention Plan / Fill-in / Wide-open Field / Trees:**

Mr. Szarowski asked how much land is open right now? Mr. Watkins stated the whole thing, not a tree on it. Mr. Szarowski questioned if they have stormwater SWPPP and is the field that is wide open if it was dirt only? Mr. Watkins stated there is dirt on Lot 2 and I did take pictures. Mr. Szarowski questioned if they have a Stormwater Permit or is there a Town Permit for fill-in? Mr. Watkins stated he has something from the state and was the first thing I asked for. Mr. Smithem stated we will look into it. Mr. Watkins stated see the shed on Lot 2 circled, from the shed overpast the driveway is all fill. Ms. Franson questioned if they cut the trees? Mr. Watkins stated the whole thing is a field and is wide open.

Mr. Smithem stated he has not been there before any work was started but believes the one section was wide open already (pointing to the map). Mr. Watkins stated he has to go back out to compare it to the survey done on April 8th by MNTM, and I know there were trees there before.

**Septic:**

Mr. Szarowski questioned if the proposed house is on the hill. Mr. Smithem stated yes for Lot 1 proposed two-bedroom dwelling. Mr. Szarowski questioned where are you putting the septic system? Mr. Smithem stated it is in the rear. Mr. Szarowski questioned if it is off the fill? Mr. Smithem stated yes. This was designed by another engineer before we ever got involved.

**Variance on Flag Lots:**

Mr. Reid questioned the setback needing a variance for the two flag lots that are two separate entrances? Mr. Reid stated I do not think a variance is necessary considering they are two separate driveways. Ms. Franson stated it is a subdivision and you are only allowed one flag lot. The regulations state if you are under 5 lots you get one in a subdivision and if you have more than five lots you get two flag lots. For example, Harrier Ridge Estates, they are allowed to have up to 2 lots (this project has a total of 7 lots). If you subdivide two lots, only one lot can be a flag lot. Mr. Watkins stated because it is a subdivision, you cannot have flag lots and the access itself does not matter. Mr. Reid questioned if this is why they need a variance for the subdivision because of the two flag lots. Ms. Franson stated yes and the applicant stated it in the narrative. Mr. Watkins stated it is a formality that needs to be done with zoning for the variance. Mr. Leonette stated based on the zoning, it would be a required variance with two flag lots. Mr. Barnhart stated he agrees.

**Planning Board Discussion – Lot Activities:**

Mr. Szarowski stated he does not agree with the fill-in project going on while they are trying to do a subdivision because it is two different activities. Mr. Watkins stated we have another application doing the same and it is going to trigger a SWPPP. Mr. Szarowski stated as far as the lot line, I think it seems to meet the requirements. I am not happy they are actively changing the property as it is being discussed. Mr. Reid stated since they are both flag lots, they only can have a residential use on it so we can make a note referencing the requirements. Mr. Smithem questions if they do go forward with the subdivision and add measures with the flag lots, they would not be able to run a business out of those lots based on the zoning laws? Ms. Franson stated yes and unless it is determined to be a home occupation, it may still need a permit. Ms. Franson recited the zoning law: Flag lots shall only be used for the construction and one single-family detached dwelling where said use is allowed.

This is a minor subdivision; no preliminary approval and final plan approval on a minor subdivision. You can request a cluster but you can also waive the cluster for subdivisions with 3 lots or less or a parcel of 10 acres or less.

**A first motion was made by Rich Barnhart and seconded by John Szarowski to waive a Cluster Subdivision. Vote: All Ayes: 5, Nays: 0, Abstain: 0, Absent: 2**

Ms. Franson stated the following:

- A Public Hearing will be required for the subdivision.
- We discussed the flag lots and the area variance needed.
- Unsure about the 4" diameter; check the right measurement is being used.

**Subdivision Plan:**

Ms. Franson's comments:

- The flag lot requirements shall be met – see Section 177-11.I.a. The bulk table needs to reflect that the minimum lot area is 2x's that required in the zoning district.
- To show the 2x's setback requirement for the front yard.
- Provide the accessway width at both driveway locations.
- Add a note that only one single-family detached dwelling is permitted on each flag lot.
- The Planning Board should determine whether the "no further subdivision" note is applicable.
- Provide the grades for the driveway regulations.

Ms. Franson questioned why Sheet 204, of the maps, is only showing part of it? Mr. Smithem stated it was a preliminary plan and the next plan will have it.

**Wetlands:**

Ms. Franson stated there appears to be wetlands on the site and you may want the EMC to go out there. Ms. Franson questioned if it was graded out? Mr. Watkins stated he did not know. Mr. Smithem stated a small section was in the wooded area. Ms. Franson stated you might want the EMC to go out and everyone on the Board should take a look.

**Access Easements:**

Ms. Franson stated it is unclear whether the map shows the access easements clearly to the applicable lots. Which lot is Henry Tewes lot and provide SBL? There are three or four easements that apply to the small lots up by Burlingham and one might apply to the most southernly property. If that is the case, is access being provided?

**Disturbance:**

Ms. Franson stated to make sure the disturbance is only going to be around the building lot since the whole site has been raised. Ms. Franson questioned if the driveways are going to be paved? Mr. Smithem stated he will confirm with the applicant. Ms. Franson stated the driveways can only go where they are being shown. They are connected to the Ulster County roads and you should reach out to them for comments. Mr. Smithem stated there are existing easements on both flag lots and can be found in the tax assessor's office.

**Road Maintenance Agreement / Property Review:**

Mr. Watkins questioned if we are going to require a road maintenance agreement for the three parcels that are accessing off that lot? Mr. Hoyt stated make sure one does not already exist. Mr. Watkins stated the issue is only on the second flag lot. Mr. Smithem stated he will follow-up. Mr. Hoyt questioned if the issue was on both stems? Mr. Watkins stated the driveway to the north is a newer one and the one to the south is the one that has two lots being accessed. Mr. Watkins also stated the equipment is right on the fuel line. Ms. Franson questioned does that have to be updated because it is now gravel. Mr. Watkins stated that maps would have to be. Mr. Watkins stated he showed pictures of where the gravel area is to the members. Mr. Watkins also explained where the fuel tank is with the truck along the side of it. He also showed where the equipment location is and another road that is in the back with two trailers and a parking area. Mr. Watkins stated he will take another look of the property. Everything here is dirt and it drops off onto the other parcel and unsure where the divided line is located. Ms. Franson stated on the one map, it refers to gravel and the photos show a lot of fill-in. Ms. Franson stated an up-to-date aerial would be useful and can ask Mr. Shawn Arnott for his service.

Ms. Franson stated the EAF was submitted on a short form and you need to add the ZBA variance. Mr. Watkins read through Mr. Arnott's comments.

Mr. Hoyt questioned if Ramirez's use their own driveway to go to the highway? Mr. Smithem stated yes. Mr. Hoyt questioned on the eastern side, Solimine, tax lot 13, is there a house on that lot and how do they get to it? Mr. Smithem stated he has to confirm and get back to us.

Ms. Franson stated the aerials from 2021 show there was not a line. Mr. Watkins stated he does not recall seeing one. Mr. Hoyt stated we know we need a driveway agreement to the west, and I want to confirm if we do or do not need one for the east.

Mr. Watkins believes it is a clean fill and they are running a tree service. It is clean and not reclaimed. Mr. Szarowski stated the DEC regulations classify the soils for use and depending where it comes from, you can have contamination. Mr. Watkins stated they must have removed a lot of the trees but no stumps and it is all grass. They have been working on that site for over two years but never drove in there.

Mr. Smithem stated there was a separate plan with an approved plan by Ulster County that was provided to us and that is the layout that they wanted to go with. The map I have is an Ulster County septic plan. Mr. Watkins asked if it was the Department of Health? Mr. Smithem stated yes. Ms. Franson questioned do you know what the date and year?

Mr. Smithem stated it was 2023 but I can confirm. Ms. Franson questioned do you know if they have a building permit from the town? Mr. Smithem stated May 1st, 2023. Mr. Szarowski stated it needs to be on the plan.

***DISCUSSION:***

**Mr. Joseph Russek - Third Generation Homes (Applicant No. 2023-14):**

SBL: 104.1-3-27, 2.3 acres, Address: Corner of Weed Road and NYS Route 52 in Walker Valley, Commercial Site Plan 5,000 sq. ft. for three businesses, apartments on above with parking. Property Class: Vacant, SB (Small Business), Pine Bush School District, Walker Valley Fire Company

**Entered into Record:**

- Letter dated May 15, 2024 from the Department of Health and Site Plan Map from Steven Green, Land Surveyor
- Memo dated June 4, 2024 from MHE Engineering, Mr. Shawn Arnott, P.E.

Mr. Watkins stated the project was handed in after deadline submission date of June 17. We received project on May 23, 2023. Review was not done by consultants due to time constraints but Mr. Watkins spoke to Mr. Arnott and we were able to get his comments.

Mr. Green stated we already corrected and modified a lot of the items based on Mr. Arnott's comments. Mr. Russek stated the reason why we wanted to be on the agenda was to see if we could possibly have Public Hearing at the next Planning Board meeting in July?

Mr. Barnhart stated there should be nothing going on there until it is a legitimate project. I see no reason to put it off and I am not so sure a whole lot of people will show up. Mr. Szarowski stated he concurs. Mr. Reid stated he agrees with the previous comments and thinks it is consistent with the comprehensive plan for this district. Mr. Leonette stated he agrees. Mr. Green stated we need a 239 because we cannot get comments from agencies without the referrals from the town.

**A motion was made by Ryan Reid and seconded by Rich Barnhart to hold a Public Hearing on Tuesday, July 2<sup>nd</sup> for a Public Hearing. Vote: All Ayes: 5, Abstain: 0, Absent: 2**

Mr. Green stated the reason why we need the 239 is the DOT cannot respond without the referral from the municipality. Same as the Planning Department who has to review it according to the law. Mr. Russek stated we need a letter from the DOT stating he saw no issues with it and another document, but I am not sure what that is. Ms. Franson stated I do not think it refers to the county and do not know if anything has been said or done about it. Mr. Watkins stated I do not think anything has been done and it is not going to go to the county. The SEQR process and review has to be done and then it can go to the county. The Engineer advised he has an issue with the work you are still doing on the site that we asked you not to do. Material and things are being delivered to the site and spread around while you are under review with the Planning Board. Mr. Russek stated we have not spread anything around since the last time you asked us to stop. Mr. Watkins questioned how many trucks loads? Mr. Russek stated about 16 to 20 trucks. Mr. Watkins stated you are being made aware not to do any work. Ms. Franson stated the SEQR regulations require that there are no alterations to the site during SEQR review. Mr. Russek stated the Town put it on the site so they can truck it for shorter distance.

Ms. Franson questioned Mr. Russek if he spoke to the Highway Superintendent? I think he had questions about the access. Mr. Russek stated he had moved the access farther back which then crosses the 100 ft. buffer for the wetlands. Mr. Green stated there is wetland across the street on the opposite side of Weed Road.