

**TOWN OF NORTHAMPTON PLANNING BOARD
MARCH 26, 2014
7:00 P.M.
TOWN HALL**

MEETING NOTES

PRESENT:

**ROBERT SMITH, CHAIRMAN - VIA FACE TIME FROM
789 NORTH BRANCH
HORTONVILLE ROAD, NORTH BRANCH**

**STEVEN NAPLE
JACK GROFF**

**MATT GINTER, CODE ENFORCEMENT OFFICER
SCOTT D. HENZE, PLANNER/GIS FULTON COUNTY PLANNING DEPT.**

OTHER:

**SUPERVISOR GROFF
KEVIN FERGUSON
BRANDON FERGUSON, EDP
JOHN FERGUSON**

I. CALL MEETING TO ORDER:

The meeting was called to order at 7:00 p.m.

Chairman Smith called the meeting to order at 7:00 p.m. via facetime. Chairman Smith welcomed new Planning Board member Jack Groff to the board. Chairman Smith asked Scott Henze to resume the responsibility of going through the Agenda for the meeting due to the fact that he was in attendance remotely.

Scott Henze informed those in attendance that he and Bob Smith had verified that the remote connection via facetime prior to the meeting is in good working condition. Scott Henze requested that everyone remain silent when Chairman Smith is speaking due to the fact that we would not be able to hear him if there are other sounds in the room. The Planning

Board understood that Chairman Smith was to wave his hands whereby indicating that he wished to speak.

II. APPROVE MINUTES OF LAST REGULAR MEETING:

MOTION: To approve the minutes to the February 12, 2014 meeting.

MADE BY: Bob Smith

SECONDED: Steve Naple

VOTE: 3 in favor, 0 opposed

III. ADIRONDACK ESCAPE, LLC MAJOR SUBDIVISION CONT'D:

A. Background

1. During the February 12, 2014 meeting, the Planning Board determined the following under **Subsection D "Minor and Major Subdivision Application and Approval Procedure"**:

- That the Sketch Plan Requirements under Subsection D(2)(c) "Minor and Major Subdivision Application and Approval Procedure" have been satisfactorily met.

2. During the February 12, 2014 meeting, the Planning Board determined the following under **Subsection F "General Requirements and Design Standards for Subdivisions"**:

- That the Density calculation required under Subsection F(3) has been satisfactorily met.
- That Subsection(5)(l) regarding a minimum separation of no less than 100' between cul-de-sac and adjacent lot line has been met (proposal is for 102').

3. During the February 12, 2014 meeting, the Planning Board determined the following under **Subsection G "Required Data and Documents"**:

- The applicant has satisfied (2) General Requirements.
- The applicant has satisfied (7)(d) of the Preliminary Plat Requirements waiving the georeferencing information.
- The applicant has satisfied (7)(g) of the Preliminary Plat Requirements identifying property owners within 200' of the property boundary.
- The applicant has satisfied (7)(h) of the Preliminary Plat Requirements identifying a 50 foot private road ROW.
- The applicant has satisfied (7)(i) of the Preliminary Plat Requirements identifying a 1 1/4" existing waterline on Sheet 1 and 2 of the plan set.

4. During the February 12, 2014 meeting, the Planning Board determined the following under **Subsection G "Required Data and Documents (7) Preliminary Plat" application materials have been satisfactorily met.**

DISCUSSION: Scott Henze reviewed the background information with Planning Board members in attendance as outlined within the Agenda. There was no further discussion.

C. Public Hearing

- a. Within 62 days of receipt of a preliminary plat, the Planning Board shall hold a public hearing.
- b. The Planning Board set the Public Hearing date for March 12, 2014 (rescheduled to March 26, 2014).

DISCUSSION: Scott Henze stated that this is the first of two (2) public hearings that are required under Major Subdivision for the Town of Northampton. Scott Henze stated that the original public hearing date had been set for March 12, 2014. However, due to the threat of foul weather was rescheduled to March 26, 2014. Scott Henze asked Chairman Smith to move to open the public hearing. Chairman Smith opened the public hearing at 7:15.

OPEN PUBLIC HEARING:

1. There were no speakers.

CLOSE PUBLIC HEARING:

MOTION: To close the public hearing.

MADE BY: Steve Naple

SECONDED: Jack Groff

VOTE: 3 in favor, 0 opposed

C. SEQR

- SEQR shall be completed prior to approval of the Preliminary Plat.
- During the February 12, 2014 meeting, the Planning Board initiated the SEQR process by:
 - Classifying the action as an Unlisted Action.
 - Proposed that the Planning Board act as the Lead Agency for a Coordinated Review and to coordinate with the following interested agencies:
 1. NYS DEC
 2. NYS APA
 3. NYSOPRHP
 4. NYS DOH
 5. HRBRRD
 - Authorized Scott Henze to send out SEQR correspondence letters.
 - The following agencies have responded and are in agreement with the Planning Board acting as the Lead Agency (*See attachments):
 1. NYS DEC
 2. NYS DOH
 3. HRBRRD

DISCUSSION: Scott Henze stated that the Planning Board must complete SEQR prior to the approval of the preliminary plat. Mr. Henze stated that, during the February 12, 2014 meeting, the Planning Board initiated the SEQR process by classifying the action as an Unlisted Action and proposed to act as the Lead Agency within a Coordinated Review and identified the NYSDEC, APA, Office of Parks, Recreation and Historic Preservation, the NYSDOH and the Hudson River Black River Regulating District as potential involved Agencies. Scott Henze stated that the Planning Board authorized him to send out the SEQR correspondence to those involved agencies. Mr. Henze stated that upon completion of the 30-day coordination period, the Planning Board received three (3) SEQR Lead Agency determination letters back from the following; NYSDEC, NYSDOH and Hudson River Black River Regulating District. Mr. Henze stated that he was surprised at the lack of correspondence from the NYS

Office of Parks, Recreation and Historic Preservation due to the past history of the project property whereby the applicants were required to contain the original development within a specified boundary. Scott Henze asked Planning Board members to review the NYSDEC correspondence identifying that the correspondence indicates that the project is located in a general area known to contain archeological resources. Therefore, if future development is proposed at this location, the Project Sponsor should submit conceptual plan information to the NYS Office of Parks, Recreation and Historic Preservation and request a determination of project impact on cultural resources. Scott Henze recommended that the Planning Board request the applicant to contact NYS Office of Parks, Recreation and Historic Preservation to request a determination of the project impact on the cultural resources so that the Planning Board could be provided with a copy of that determination for their records. The consensus of the Planning Board was to request the applicant to contact NYS Office of Parks, Recreation and Historic Preservation and request a determination of project impact on cultural resources.

Scott Henze asked the Planning Board to review the NYSDOH correspondence and stated that the NYSDOH has indicated that the existing well located on Lot 1 that services the existing 3-unit residential building is no longer regulated under NYSDOH's Public Water Supply Regulations.

Mr. Bogdan noted that one (1) of the existing 3-unit residences is privately owned, one (1) is a long-term lease greater than 180 days and that the third (3rd) unit is a short-term lease.

Scott Henze indicated that the letter also includes language regarding the existing well servicing Lot 1 whereby given the proposed subdivision lot layout, NYSDOH has indicated that sufficient land is not being shown to be retained around the well head to provide for the necessary ownership and control required of a public water supply. Scott Henze stated that the letter indicates that, although the NYSDOH does not have an issue with the proposed lot layout, it is noted that if the applicant wished to, in the future, utilize the existing well as a public water supply, he would be unable to given the fact that he does not have sufficient control of the land around that well. Scott Henze asked the applicant whether or not he wanted to entertain and modify the plot plan to meet the standards of the NYSDOH regarding retaining the required land needed in order to utilize the existing well as a public water supply in the future.

Kevin Ferguson stated that he would like to entertain the option and will contact NYSDOH regarding this and amend the plot plan based upon the NYSDOH requirements.

Scott Henze asked the Planning Board to review the SEQR correspondence letter provided by from the Hudson River Black River Regulating District and

indicated that the letter identifies that, on sheet #3 of the plot plan, the Hudson River Regulating District has identified that there is language indicating that the NYS Access Permit areas are to be deeded to various lots within the proposed subdivision and that that language should be removed due to the fact the NYS land cannot be deeded.

Member Naple questioned whether or not the Hudson River Black Regulating District Access Permits were contiguous.

Mr. Bogdan indicated that one of the Access Permits are contiguous while the other one is not contiguous.

Member Naple asked whether or not the applicants were going to develop any portion of the Access Permit area located along County Highway 110.

The applicant's representative Brandon Ferguson from Environmental Design Partnership indicated that the Hudson River Black River Regulating District Permit extends from County Road 110 to the Great Sacandaga Lake.

Mr. Ferguson indicated that he does not believe that the Hudson River Black River Regulating District would allow for any modifications to the permit area and, therefore, he does not have any plans to do so.

Member Naple questioned whether or not the applicants were going to remove the existing guardrails to allow easier access to the Permit area. Member Naple indicated that he is concerned for pedestrian flow crossing County Highway Route 110.

Mr. Ferguson indicated that he has no intentions of removing the guardrails.

Bob Smith stated that the Hudson River Black River Regulating District Permit Area is not under the jurisdiction of the Planning Board.

Member Naple agreed. However, indicated that he was concerned about the safety of traffic flow, both vehicular and pedestrian, accessing the permit area.

Bob Smith indicated that that the Planning Board cannot regulate the State land.

- The Fulton County Planning Department recommends that the Planning Board hold off on designating itself as the SEQR Lead Agency at this time until the following additional items be discussed in order to accurately reflect the proposal to complete SEQR:

Additional Items for Review

Under F. General Requirements and Design Standards for Subdivisions:

- 4(e) - The plat shall provide each lot with satisfactory access to an existing public street or to a subdivision street that will be ceded to public use at the time of final plat approval. Private streets may be permitted only by resolution of the Town Board
 - The Town Board adopted Resolution #05 of 2014 (see attached)

DISCUSSION: Scott Henze stated that within the Subdivision Regulations concerning general requirements and design standards for subdivisions, it indicates that private streets may be permitted only by resolution of the Town Board. Scott Henze stated that, during the last meeting, the Planning Board asked him to correspond with the Town Board regarding a resolution. Scott Henze stated that he contacted Supervisor Groff regarding the regulations. Scott Henze stated that, on March 19, 2014, the Town Board discussed the proposed private street(and or otherwise known as road) and passed a resolution #5-2014 acknowledging that the Adirondack Escape, LLC proposal wishes to create a private street and that the Town Board understands that the street is not to be dedicated to the Town of Northampton. Scott Henze stated that this regulation within the Ordinance can be viewed as a placeholder so that, in the future, for whatever reason, if the property owners wish to request that the Town to take over the private road, the Town would have something on record as to when it was created.

Under F. General Requirements and Design Standards for Subdivisions:

- 5(p)(2) - "Written approval from the Town Superintendent of Highways and the Town's engineer shall be secured before approval of any private road"
 - See Town Superintendant of Highways letter.

DISCUSSION: Scott Henze stated that the Planning Board also requested him to coordinate with the Town Superintendent of Highways in order to satisfy the General Requirements and Design Standards that indicate that when a private road is created, the Town Superintendent of Highways must provide a letter to the Planning Board. Scott Henze stated that Kip Richardson, who is the Town Superintendent of Highways, and Code Enforcement Officer Matt Ginter visited the Adirondack Escape project site and actually drove the entire

existing private gravel road, measured the widths of the ingress and egress and noted that it was of his opinion that the existing private gravel road is satisfactory regarding its widths and means of ingress and egress for both residential access as well as for emergency vehicles. Mr. Richardson also noted that there is a row of existing mail boxes on the opposite side of County Highway 110 and that he has identified that there is sufficient space on either side of the existing driveway for Town garbage pickup. Scott Henze stated that Mr. Richardson also indicates within his letter that he reviewed the cross section of the private road within the plot plans and finds it adequate for both common residential access, as well as access for emergency vehicles, as long as it is properly maintained and, therefore, he's approving the creation of development of the private road as proposed.

Legal Memorandum

- Reconfigure proposal to change the Eastern Lot (part of Lot 5) to a separate Lot (6).
 - See Miller, Mannix, Schachner & Haffner memo.
- The legal memo outlines the following:
 - Lot 5 as proposed is not an acceptable lot due to being bisected by a lot of separate ownership (Lot 1).
- Based upon the legal opinion, the Planning Board should discuss option with the applicant and come to a conclusion.

DISCUSSION: Scott Henze has stated that the applicant has requested a waiver from the Planning Board regarding the requirement of a private road be maintained by an HOA if after consulting with the attorney for the Planning Board that a common drive maintained pursuant to a recorded maintenance agreement would provide the same protections to lot owners in the Town as the private road by the nature way.

Scott Henze stated that another question that the Planning Board requested of the Town Attorney was a legal opinion regarding the configuration of Lot 5 being bisected by the existing private road and whether or not Lot 5 could still be considered a viable lot.

Scott Henze stated that a third question the Planning Board wished to provide be provided with a legal opinion on was whether or not the proposed open space lot could also contain the existing proposed private road.

Scott Henze stated that the last request with a legal opinion that the Planning Board wished to be provided with was in regards to the nonexclusive natural area easement and agreement and whether or not this provides the same protections as would the formation of an HOA within the regulations.

Scott Henze stated that he has outlined within the Agenda a bulleted list of the comments provided from the attorney regarding the private road and the open space concerns. Scott Henze stated that the attorneys comments are organized so as to differentiate between the formation of an HOA or the continuation of the use of the proposed easements.

Scott Henze stated that the first question answered was whether or not Lot 5 as proposed is an acceptable lot due to being bisected by the private road. Scott Henze indicated that the legal memo identifies that Lot 5 as proposed is not an acceptable lot due to being bisected by a lot of separate ownership (identifying Lot 1). Scott Henze stated that if Lot 5 were only bisected by the private road, it would be acceptable. However, since there is a privately-owned lot between Lot 5, then it would not be. Scott Henze stated that the easiest way to resolve the issue as based upon the legal memorandum is to simply create a sixth lot.

Scott Henze asked Kevin Ferguson what he would like to do to resolve this issue

Mr. Ferguson asked whether or not the creation of a sixth lot would negatively affect decisions made by the Planning Board. Planning Board members indicated that, even though there would be a sixth lot, that sixth lot would also be considered as open space lot and would not be built upon.

Mr. Ferguson stated that he would entertain changing one side of Lot 5 to be Lot 6.

Under F. General Requirements and Design Standards for Subdivisions:

- 5(p)(8) - "The Planning Board may waive the requirement of a private road maintained by a HOA if it finds, after consulting with the attorney for the Planning Board or the Town Attorney, that a common drive maintained pursuant to a recorded maintenance agreement, executed by the applicant as a condition of subdivision approval, will provide the same protections to lot owners and the Town as would a private road owned by a HOA".
 - See Miller, Mannix, Schachner & Haffner memo.
- The legal memo outlines the following:

FORM HOA

- The easiest way to provide for maintenance of the private road and payment of the taxes on the open space and private road would be through the formation of a HOA. The HOA would:
 - Have the obligation to make sure that the road was plowed and remained passable for emergency vehicles and repaired as necessary.

CONTINUE TO ENTERTAIN USE OF EASEMENTS

- Proposed Lot 5 can include the Natural Area Easement and Private Road if a description of the road (ROW) is included within the Easement language.
 - The responsibility for taxes, maintenance and plowing be placed on one lot owner.
 - The lot owner would contract for road maintenance and the remaining three (3) lot owners would be responsible for contributing one fourth of the cost.
 - Each lot owner would have a potential cause of action against any of the other owners who did not meet their obligations under the agreement.
 - To be structured so that a lien could be placed against the lot of any defaulting landowner.
 - All easements would be noted on the plot plan before it is filed and the easement agreement filed in the Clerks Office.
- Based upon the legal opinion, the Planning Board should provide guidance to the applicant regarding the following:
1. Require the formation of an HOA as per 5(p) Private Roads.
 2. Require that a single lot owner take responsibility of the road maintenance/taxes.
 3. Other?

DISCUSSION: Scott Henze reviewed the information provided within the legal opinion as outlined within the Agenda with Planning Board members. Scott Henze stated that, based upon the legal opinion, the Planning Board should provide guidance to the applicant regarding whether or not they will require the formation of an HOA to maintain the private road or, as identified within the legal memo, discuss identifying that a single lot owner take responsibility of the road maintenance and taxes therefore modifying the proposed nonexclusive access agreement provided.

Member Naple identified the last paragraph of the legal memorandum provided to Planning Board members indicating that, as currently written, the attorney cannot supply an opinion regarding whether or not that the protections as proposed are equal to those that would be provided with creation of a Homeowner's Association and the grant of a conservation easement.

Member Naple stated that he's concerned regarding the proposed three (3) lot owners not having much say in how the private road would be maintained. Member Naple stated that the formation of an HOA would provide each lot owner with more say on how the road will be maintained.

Bob Smith stated that if he were a potential purchaser of one (1) of the three (3) proposed residential lots, he would be skeptical about purchasing one of those lots if there was no HOA established to provide security that the private road will be maintained properly.

Mr. Bogdan indicated that the Town Attorney has identified language that could be added to the proposed nonexclusive private access agreement that may bring it up to the standards of protection that would be provided as the HOA. Mr. Bogdan indicated that his attorney Mike Poulin has contacted the Town's Attorney several times and has not received a response from her yet.

Scott Henze recommended that the Planning Board provide as much guidance as possible to the applicant so that the process can keep moving forward. Scott Henze asked the applicant what he would like to continue to do.

Mr. Bogdan stated that he would like to continue to modify the proposed nonexclusive private access agreement with the assistance of the Town's Attorney and asked the Planning Board to contact their attorney in order to request her to contact his attorney so that they could work on the language needed within the agreements.

Under F. General Requirements and Design Standards for Subdivisions:

- 8(a)(1). **Preservation & Ownership of Open Space**

- See Miller, Mannix, Schachner & Haffner memo.

➤ The legal memo outlines the following:

FORM HOA

- The easiest way to provide for maintenance and payment of taxes on the open space would be through the formation of a HOA. The HOA would:
 - Require the four (4) lot owners contribute to maintenance costs and expenses of the open space lot(s).

CONTINUE TO ENTERTAIN USE OF EASEMENTS

- The non-exclusive natural area easement should clearly state that it is intended as a perpetual conservation easement.
- Language added to provide comparable protection be put in place by giving each lot owner a cause of action against the other lot owners if there is any breach of the easement.
- Include additional language within the easement to cover the natural area if:
 - It is destroyed by fire, wind, flood etc. in order to be able to restore it.
 - Ability to remove an evasive species.
 - Ability to create/enhance habitat for endangered species.

➤ Based upon the legal opinion, the Planning Board should provide guidance to the applicant regarding the following:

1. A perpetual Conservation Easement is required. Who will hold the easement?
 - Dedication to Town.
 - Qualified not-for-profit conservation organization (Nature Conservancy)
 - HOA (with amended easement)?
 - Other?

DISCUSSION: Scott Henze reviewed the preservation and ownership of open space information outlined within the Agenda with the Planning Board members. Scott Henze stated that since the proposal identifies a large area of open space that is proposed to be utilized and maintained by several individual lot owners, a perpetual conservation easement is required based upon the Town's subdivision regulation. Scott Henze stated that the conservation easement basically transfers any future development rights on the property to a third party. Scott Henze stated that the Nature Conservancy and NYSDEC would be the first two (2) organizations that he would suggest the applicant contact regarding the conservation easement.

Member Naple indicated that the Siera Club may also be a possibility.

Scott Henze stated that by the conservation easement transferring the development rights of the open space property to a third party, it protects indefinitely, any future development on that open space area if, for whatever reason, the property owners wished to develop it. Without the conservation easement being held by a third party, the property owners could amend the original agreement regulating the open space area using a mutual agreement of all landowners.

Mr. Ferguson questioned whether or not he could simply add additional lands of the open space lot to the proposed residential lots whereby the entire open space area would then be held in individual private ownership.

The Planning Board agreed that Mr. Ferguson could do so due to the fact that then the individual property owner is responsible to pay for all taxes and maintenance on their own property and not there would be no joint ownership if this were done.

Member Naple indicated, however, that by providing a conservation easement, the applicant may be able to obtain certain tax credits and that that maybe something the applicant should consider.

The applicant agreed that he would look into and pursue a conservation easement with one of the not-for-profit conservation organizations and would provide that information back to the Planning Board at a future date.

2. Ownership of Open Space Land. In what format?

- HOA
- Dedicate to Town, County, State
- Transferred to Not for Profit
- Private ownership (with amended easement)

DISCUSSION: The Planning Board discussed briefly the ownership of the open space land and indicated that they would discuss this further upon review of the amended nonexclusive private access agreement and the information provided by the applicant regarding the perpetual conservation easement.

➤ The Planning Board should discuss the following additional items with the applicant:

1. Garbage Collection
2. Mail Delivery
3. Other?

DISCUSSION: Scott Henze stated that there are a couple other items that the Planning Board should consider, which include garbage collection and mail delivery. Scott Henze stated that the Town Highway Superintendent's letter does indicate that there is sufficient area for residential garbage pails to be placed on either side of the private access road and that he sees no issues. Scott Henze stated that the Highway Superintendent's letter also indicates that there is a row of existing mail boxes and a paper tube on the opposite side of the road.

Member Naple indicated that he spoke to Town Councilman Ivar Anderson who informed him that the private road that he lives on, mailboxes are located at the end of each driveway.

Scott Henze stated that he was provided with a letter from the applicant regarding the existing mailboxes prior to the start of tonight's meeting. Scott Henze passed the letter down to Planning Board members for review.

Mr. Ferguson stated that the locations of the existing mailboxes were approved by the NYS Postal Service.

Bob Smith stated that the development that he lives in on Birchwood Road built a garbage hut at the end of the private road for the residents to place their garbage.

There was no further discussion by the Planning Board.

END

IV. BOJARSKI SUBDIVISION CONT'D

A. Background:

Mrs. Bajarski owns a 2.397 acre parcel at 478 Seven Hills Road SBL#: 46.2-1-12.1.

Tax Parcel 46.2-1-12.1 contains one (1) single family residence, unattached garage and is connected to a private well and septic system.

The entire property is located within the Town of Northampton's Medium Density Residential (MDR) Zoning District.

The property is located within the APA Moderate Intensity Land Use Area.

The property adjoins the lands of the HRBRRD.

B. Subdivision Proposal:

The applicant is seeking to subdivide the 2.397 acre parcel into two (2) lots as follows:

Lot 1 - 62,273+/-s.f. (Original submission 64,173+/-s.f.) that contains an existing house, garage, well and septic system. Lot 1 is not within the APA 50 foot shoreline setback.

Lot 2 - 42,147+/-s.f. (Original submission 40,247+/- s.f.) that identifies a proposed house location and sewage system. Lot 2 is within the APA 50 foot shoreline setback. It has been identified that all required setbacks will be adhered to.

C. Documentation Submitted:

1. Application for Subdivision form.
2. Short Environmental Assessment Form
3. The applicants recieved a response to their December 2, 2013 Jurisdictional Inquiry Form on December 20, 2013.
4. Copy of deed.
5. Modified Subdivision Plan revised March 4, 2014 (prepared by Licensed Land Surveyor sealed and signed).

D. Subdivision Approval Procedure

a. Sketch Plan Submission

- For applicant and Board to review and discuss the proposal and reach an agreement on requirements of Article VIII and to classify the subdivision as either Minor or Major.
- The required information to be included on a Sketch Plan is as follows:
 1. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.
 2. A density calculation as outlined in Subsection F.3. Density Calculation.
 3. Sketch plan on a topographic survey of the proposed area to be subdivided showing, in simple sketch form, the proposed layout of streets, lots and other features.
 4. General subdivision information necessary to explain and/or supplement the vicinity map and sketch plan.
- Does the Planning Board feel that the Sketch Plan requirements have been satisfactorily met?

DISCUSSION: The Planning Board did not review this item.

- If the Planning Board determined that the Sketch Plan requirements have been satisfactorily met (or can be met through conditional approval) then the Planning Board should classify the subdivision.

MOTION: The Planning Board classifies the proposed Bojarski Subdivision to be a _____ subdivision under Article VIII.

MADE BY:

SECONDED:

VOTE:

Schedule B Dimensional Standards:

- During the February 12, 2014 Planning Board meeting, the applicant and Planning Board discussed the proposed subdivision layout. The Planning Board determined that the original submission was not in compliance with Schedule B: Dimensional Standards regarding the Minimum Lot Width requirement of 75 feet.
- The Planning Board requested that the applicant's representative reconfigure the subdivision in order to comply within the minimum lot width based upon the front yard setback requirement that equals 20 feet or the average of the prevailing setbacks within 200 feet whichever is greater.
- If the Planning Board determines that the application cannot meet the required 75 foot minimum lot width as required under Schedule B, the Fulton County Planning Department recommends that the applicant seek an Area Variance from the Zoning Board of Appeals via Section 277 (6) of Town Law that states:

"Application for area variance. Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the ZBA for an area variance pursuant to section 267 B of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. In reviewing such application the ZBA shall request the Planning Board to provide a written recommendation concerning the proposed variance".

DISCUSSION: John Ferguson reviewed the revised March 4, 2014 survey map showing proposed subdivision of remaining lands of Linda A. Bojarski.

John Ferguson stated that Lot 2 has been configured so that the width of both Lots 1 and 2 are 75' at the prevailing setback distance using adjacent property owners of Naughtner, Bojarski, Downs and Rowbothan and Doneley on the northeast side of Seven Hills Roads. John Ferguson stated that, as per the request of the Planning Board, within the Schedule B Dimensional Standards, he used the required front yard setback language within the medium density residential district that states "20' or the average of the prevailing setbacks within 200', whichever is greater".

Planning Board members asked Mr. Ferguson whether or not the Adirondack Park Agency had any issues with the density of the subdivision.

John Ferguson indicated that the jurisdictional determination received from the Adirondack Park Agency identifies that the subdivision does not require a permit from the Agency.

Scott Henze stated that the Planning Board expressed concerns, during previous meetings, that the minimum lot width requirement within Schedule B Dimensional Standards indicates that medium density residential requires a minimum lot width of 75'.

There was a long discussion regarding how minimum lot width is interpreted and be measured. Matt Ginter, CEO stated that his interpretation of the definition of minimum lot width is to be measured from one side lot line to the other side lot line, being measured at right angles to the lots depth and that the measurement takes place along the same lot line as the street line and located within the front yard.

Member Naple questioned the definition as it pertains to being measured at a "point" from the front lot line.

The Planning Board could not come to an agreement or consensus regarding Matt Ginter, CEO's interpretation of how minimum lot width is measured. Planning Board members could not come to an agreement whether or not the revised Bojarski subdivision plan dated March 4, 2014 complies with the minimum lot width requirement as configured within the Ordinance.

Member Naple questioned how the driveway as proposed would work.

John Ferguson stated that the driveway could be at the beginning a shared driveway whereby he would provide an easement area that would be identified on the plot plan.

Scott Henze stated that he believes that there is a statement within the Subdivision Regulations where shared driveways are encouraged.

Scott Henze stated that he has included within the Agenda Section 277 Subsection 6 of Town Law that states that an application may be made to the ZBA for an area variance without the necessity or decision or determination of an administrative official and, in reviewing such application, the ZBA shall request the Planning Board to provide a written recommendation concerning the proposed variance.

Scott Henze indicated that the Planning Board could forward the application to the ZBA for an area variance from the 75' minimum lot width.

Planning Board members discussed whether or not this was the appropriate way of proceeding with the subdivision. Planning Board members continued to

discuss once again how the minimum lot width of 75' requirement is interpreted.

Scott Henze stated that the Planning Board could forward the application to the ZBA seeking an area variance. Scott Henze stated that, upon the ZBA's review and potential approval of the area variance, the Planning Board would then continue to review the proposed subdivision without needing to review whether or not the minimum lot width requirement has been met.

Scott Henze indicated that the ZBA's area variance would be identified on the plot plan map and would be specific as to the lot width and how it would be measured. Scott Henze stated that John Ferguson would need to work with the ZBA and amend the plot plan to reflect the area variance if issued.

Planning Board members continued to discuss how their own interpretation of how minimum lot width is determined.

Scott Henze stated that the Planning Board could request a decision from the ZBA regarding the interpretation of the minimum lot width definition and how it is measured.

Matt Ginter, CEO, stated that if the project is forwarded to the ZBA, the ZBA would be forced to interpret how minimum lot width is measured in order to come to the conclusion of whether or not to issue the area variance in the beginning.

Planning Board Member Naple provided the following motion:

MOTION: To approve the lot configuration as revised on March 4, 2014.

MADE BY: Steve Naple

SECONDED: Jack Groff

VOTE: 2 in favor, 1 opposed (Bob Smith)

Scott Henze stated that the motion has been denied due to requiring a majority vote of the entire board.

Bob Smith stated that he believes that there is no other way of dealing with this issue right now but sending it to the ZBA for the area variance as has been identified within the Agenda.

John Ferguson stated that he wished to have the Planning Board forward the November 26, 2013 subdivision plan to the ZBA for the area variance and not seek an interpretation by the ZBA. John Ferguson stated that he, however, would like some kind of guidance from the Planning Board that if and when the

ZBA approves the area variance, that the Planning Board would most likely approve the subdivision plan. Mr. Ferguson expressed his displeasure regarding the process that he has had to follow since he first proposed the subdivision on behalf of his client. Mr. Ferguson indicated that he would first need to contact his client to update her with information from tonight's meeting and inform her that she would need to provide the necessary monies in order to go before the ZBA. Mr. Ferguson also requested that the Planning Board's letter that would go along with the November 26, 2013 plot plan would be a positive recommendation concerning the proposed area variance.

The consensus of the Planning Board was to request Scott Henze to prepare a letter on their behalf indicating that the subdivision as proposed will not negatively affect any adjacent property owners, to include that all setback requirements could be met.

- If the Planning Board determines that the Dimensional standards outlined within Schedule B have been satisfactorily (or can be met through conditional approval) then the Planning Board should review the following with the applicant:

Subsection F: General Requirements and Design Standards:

DISCUSSION:

Subsection G(8): Required Data and Documents - Final Plat

DISCUSSION:

END

V. MATTHEW J. & LISA A. KEICHER LOT LINE ADJUSTMENT CONT'D

B. Background & Information Submitted:

- Application for Lot Line Adjustment
- Submission Waiver for Lot Line Adjustment
- Administrators Deed
- APA Jurisdictional Determination
- Schedule A - Lot Description
- County Clerk Recording Page - Attachment C
- Copy of Tax Map - Attachment B
- Ferguson and Foss Addendum to APA JIF
- Ferguson and Foss Survey Map as revised August 26, 2013

START OF LOT LINE ADJUSTMENT PROCEDURE

1. An applicant may request that the subdivision review process be waived when a proposed subdivision is a lot line adjustment that meets the following criteria:

- (a) It would not create an additional lot.
 - (b) It is a minor modification of an existing lot line; or is the conveyance and merger of a portion of one parcel to an adjoining parcel.
 - (c) It would not create a nonconforming parcel or cause any other parcel to become nonconforming under this Law or the New York State Adirondack Park Agency Act and Adirondack Park Land Use and Development Plan.
 - (d) It would comply with all applicable zoning requirements of this Law and applicable New York State Department of Health regulations pertaining to well and septic system distances from parcel boundaries.
- During the February 12, 2014 meeting, the Planning Board identified that the existing properties are nonconforming and therefore if approved, the Planning Board would not be creating a new nonconforming lot.

DISCUSSION: John Ferguson reviewed the changes to the lot line adjustment map that were identified by the Planning Board during their last meeting. John Ferguson stated that he added the garage and house locations on lands of Carol Roberts. John Ferguson stated that he amended the title block to indicate that the map is showing the proposed lot line adjustment involving lands of Matthew J. and Lisa A. Keisher, Carol C. Roberts and Kurt Cramer. John Ferguson stated that he has included a location map identifying the properties based upon the Fulton County tax parcel database as an inset. John Ferguson stated that he has also added within the notes section on the plan that identifies that, as a result of the completion of the lot line adjustment, that the lands adjusted were adjusted as added portions only and not as parcels which can be conveyed separately as individual building lots.

Scott Henze asked John Ferguson whether or not he has started to work on the restricted deed covenants that will be filed in the County Clerk's Office along with the lot line adjustment map.

Mr. Ferguson indicated that the Roberts and Cramer properties updated deed descriptions would be provided by their representative attorney, Michael Poulin, and he (Mr. Ferguson) would be providing the updated deed descriptions for his client being Mr. Keicher.

Member Naple questioned whether or not the Planning Board would need to see the restricted deed covenant before approval.

The Planning Board agreed that the restricted deed covenants should be provided for review.

John Ferguson stated that once the Planning Board approves the lot line adjustment map, all the deeds will need to be updated. However, he's concerned whether or not they will be able to be updated and filed within the Fulton County Clerk's Office within thirty (30) days of the approval date.

Planning Board members had no concerns regarding the thirty (30) day requirement.

2. Submission requirements

To request a lot line adjustment waiver, the applicant shall submit:

- (a) A waiver application that shall be signed by the parcel owners, or their duly authorized agents, of both affected parcels.

- (b) A plat or map of the parcels affected by the proposed adjustment, showing all existing buildings, the location of existing utility or other easements or rights of the location of existing utility or other easements or rights-of-way of wells and of septic systems. The map shall show the existing lot lines and the location of the proposed new lot line, and the existing and new setback distances to any existing buildings.

The map shall have the title "LOT LINE ADJUSTMENT between properties of (name) and (name)", and shall include a restriction to the effect that the land added to the existing parcel, and the existing parcel are combined to form a single, undivided lot.

- (c) A fee as established by the Town Board in the Schedule of Fees.

- During the February 12, 2014 meeting, the Planning Board requested the applicant's representative to draft a restrictive deed covenant that would identify that all of the lots would be non-buildable.
- Does the Planning Board feel that the existing Lot Line Adjustment Map provided meets all of the submission requirements above?

3. State Environmental Quality Review

- Article II: Permits and Approvals Process Section E SEQRA (Page 4 In Ordinance):

"The Town shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations. Upon receipt of any complete application, the Town or any officer, department, board of the Town shall initiate the New York State Environmental Quality Review process by issuing a determination of significance".

- The applicant's representative provided Part 1 of the Short Environmental Assessment Form on March 26, 2014.
- The Fulton County Planning Department has reviewed the proposed Lot Line Adjustment and Part 1 of the Short Environmental Assessment form in reference to 6NYCRR Part 617 SEQRA and is recommending that the Planning Board classify the action as an Unlisted Action under SEQRA, designate itself as the Lead Agency to perform an Uncoordinated Review of the proposed

action and authorize the Fulton County Planning Department to prepare Part II and Part III on the Boards behalf.

DISCUSSION: Scott Henze stated that since the Planning Board has discretionary authority over lot line adjustments as outlined within the Ordinance, the lot line adjustment is subject to SEQR. Scott Henze reviewed the State Environmental Quality Review process as outlined within the Agenda.

MOTION: That the Planning Board classifies the action as an Unlisted Action under SEQR and designates itself as the Lead Agency to perform an Uncoordinated Review of the proposed lot line adjustment and authorizes Scott Henze of the Fulton County Planning Department to prepare Part 2 and 3 on the Board's behalf.

MADE BY: Steve Naple
SECONDED: Jack Groff
VOTE: 3 in favor, 0 opposed

- Does the Planning Board feel that any additional information should be provided as part of the SEQR process?

DISCUSSION: The Planning Board felt as though all SEQR information has been sufficiently provided.

- Does the Planning Board wish to issue a Determination of Significance under SEQR at this time?

MOTION: To file a negative declaration under SEQR for this proposed action since:

1. There will be no traffic implications resulting from the proposed action.
2. There will be no physical disturbance as a result of the proposed action.
3. Restricted deed covenants will be drafted identifying unbuildable lots.

MADE BY: Steve Naple
SECONDED: Jack Groff
VOTE: 3 in favor, 0 opposed

4. Planning Board Review and Approval Procedure

- (a) Upon submission of a complete application, the Planning Board shall, within 62 days, review the application and shall either approve or deny the application. Approval may be granted when the Planning Board determines that the proposed adjustment meets all requirements for a Lot Line Adjustment and would not adversely affect the site's development or neighboring properties, would not alter the essential characteristics of the neighborhood or adversely affect the health, safety or welfare of Town residents.
- (b) No public hearing shall be required.
- (c) If the waiver is granted, the applicant shall file a map with the Fulton County Clerk within 30 days of the approval date. The map shall be signed by an empowered duly authorized officer of the Town of Northampton Planning Board. No person shall file plans for any lot line adjustment without first obtaining the Planning Board's signature on the plans.
- (d) If the Planning Board denies the request for waiver, the applicant may proceed with the minor subdivision review process as set forth in this Article.

DISCUSSION: Scott Henze stated that since the Planning Board has completed the SEQR that they could entertain a motion to approve the lot line adjustment if they so choose.

The consensus of the Planning Board was that they would entertain a conditional approval based upon the acceptance of the restricted deed covenants that would be drafted. The Planning Board agreed to allow Bob Smith to review the restricted deed covenants and to approve them on the Planning Board's behalf.

MOTION: To conditionally approve the proposed lot line adjustment involving lands of Matthew J. and Lisa A. Keicher, Carol C. Roberts and Kurt Cramer with the stipulation that written restricted deed covenants be provided to the Planning Board clearly showing that the areas added to each lot are portions only and not as parcels which can be conveyed separately as individual building lots. The Planning Board authorizes Bob

Smith to review said restricted deed covenants for completeness.

MADE BY: Jack Groff
SECONDED: Steve Naple
VOTE: 3 in favor, 0 opposed

END

VI. CODE ENFORCEMENT REPORT:

Matt Ginter, CEO provided application materials for a proposed subdivision along Bunker Hill Road.

VII. OTHER BUSINESS:

DISCUSSION: Code Enforcement Officer Matt Ginter asked whether or not Planning Board members could meet on an alternate date in order to allow for more participation of members. He indicated that he has spoke to Jim Conkling who advised him that he would be available on the Tuesdays before the regularly-scheduled Wednesday meetings of the Planning Board. Planning Board members agreed to hold their next meeting on April 8, 2014, at 7:00 p.m.

VIII. CLOSE OF THE MEETING:

MOTION: To close the meeting at 9:45 p.m.

MADE BY: Bob Smith
SECONDED: Steve Naple
VOTE: 3-0