

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

LANDS OF TERRIZI  
(2006-48)

West side of Route 32  
Section 4; Block 2; Lot 5  
RR Zone

- - - - - X

PUBLIC HEARING  
FOUR-LOT SUBDIVISION

Date: September 6, 2007  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JOHN NOSEK

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

LANDS OF TERRIZI

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

CHAIRMAN EWASUTYN: Good evening,  
ladies and gentlemen. I would like to  
welcome you to the Town of Newburgh Planning  
Board meeting of the 6th of September. At  
this time we'll call the meeting to order  
with a roll call vote starting with Frank  
Galli.

MR. GALLI: Present.  
MR. BROWNE: Present.  
MR. MENNERICH: Present.  
MR. PROFACI: Here.  
CHAIRMAN EWASUTYN: Myself present.

14 The Planning Board has experts that  
15 provide input and advice to the Planning Board in  
16 reaching various SEQRA determinations. I ask  
17 that they introduce themselves.  
18 MR. DONNELLY: Michael Donnelly,  
19 Planning Board Attorney.  
20 MR. HINES: Pat Hines with McGoey,  
21 Hauser & Edsall, Consulting Engineers.  
22 MR. COCKS: Bryant Cocks, Planning  
23 Consultant with Garling Associates.  
24 MS. ARENT: Karen Arent, Landscape  
25 Architectural Consultant.

LANDS OF TERRIZI

1 3  
2 CHAIRMAN EWASUTYN: At this time I  
3 would like to turn the meeting over to Cliff  
4 Browne.  
5 MR. BROWNE: Would you please rise with  
6 me.  
7 (Pledge of Allegiance.)  
8 MR. BROWNE: Would you all please turn  
9 off your cell phones or pagers.  
10 CHAIRMAN EWASUTYN: This evening we  
11 have posted four public hearings. Before I have  
12 Mr. Mennerich read the first notice of hearing  
13 and we introduce the first project, I'd like to  
14 turn to our Planning Board Attorney, Mike  
15 Donnelly, for those of you here this evening to  
16 explain the purpose of a public hearing.  
17 MR. DONNELLY: The four public hearings  
18 on the agenda this evening are all for  
19 subdivisions. Subdivisions are proposals to  
20 divide a piece of land into a series of lots.  
21 State law requires that a public hearing be held,  
22 and that public hearing is held after the  
23 Planning Board determines that the application is  
24 complete. Some of these applications have been  
25 pending before the Planning Board for some period

LANDS OF TERRIZI

1 4  
2 of time now. The purpose of the public hearing  
3 is for you, the members of the public, to bring  
4 to the Planning Board's attention issues or  
5 concerns that the Planning Board and its  
6 consultants may not yet have recognized or  
7 studied so that before the Planning Board takes  
8 action on the project they can factor those  
9 concerns in. The applicant in each of the public  
10 hearings will begin by giving a presentation to  
11 the public and the Board, a brief overview of the  
12 project. After that the Chairman will ask those  
13 who wish to speak to raise your hand. When you  
14 are recognized we would ask that you stand up and  
15 come forward. As tempting as that microphone is,  
16 it's not on, it won't do you any good. Tell us

17 your name, spelling it for the Stenographer so we  
18 get it correctly in the transcript, and if you  
19 would please tell us where you live so we have  
20 some idea of your perspective in relation to the  
21 project. We would ask you to address your  
22 comments to the Board. If you have questions the  
23 Chairman can direct those either to the  
24 applicant's representative or to one of the  
25 Town's consultants.

LANDS OF TERRIZI

1 5

2 I think that's the general overview of  
3 the procedure.

4 CHAIRMAN EWASUTYN: Thank you, Mr.  
5 Donnelly.

6 The first item of business we have this  
7 evening is the lands of Terrizi. It's a public  
8 hearing for a four-lot subdivision located in an  
9 RR Zone. It's being represented by John Nosek.

10 I'll ask Mr. Mennerich to read the  
11 notice of hearing.

12 MR. MENNERICH: "Notice of hearing,  
13 Town of Newburgh Planning Board. Please take  
14 notice that the Planning Board of the Town of  
15 Newburgh, Orange County, New York will hold a  
16 public hearing pursuant to Section 276 of the  
17 Town Law on the application of lands of Terrizi  
18 for a four-lot subdivision on premises Route 32,  
19 five hundred feet south of Mill Street in the  
20 Town of Newburgh, designated on Town tax map as  
21 Section 4; Block 2; Lot 5. Said hearing will be  
22 held on the 6th day of September 2007 at the Town  
23 Hall Meeting Room, 1496 Route 300, Newburgh, New  
24 York at 7 p.m. at which time all interested  
25 persons will be given an opportunity to be heard.

LANDS OF TERRIZI

1 6

2 By order of the Town of Newburgh Planning Board.  
3 John P. Ewasutyn, Chairman, Planning Board Town  
4 of Newburgh. Dated July 25, 2007."

5 CHAIRMAN EWASUTYN: Thank you, Mr.  
6 Mennerich.

7 Dina Haines, Planning Board Secretary.

8 MS. HAINES: The public hearing notice  
9 was published in The Mid-Hudson Times on  
10 August 29, 2007 and in The Sentinel on August 31,  
11 2007. The certified mailings, eighteen were sent  
12 and sixteen were returned. All the mailings are  
13 in order.

14 CHAIRMAN EWASUTYN: Thank you, Dina.  
15 Mr. Nosek.

16 MR. NOSEK: Good evening. I'm John  
17 Nosek, the engineer for the project. This is a  
18 proposed four-lot subdivision on the west side of  
19 New York State Route 32, approximately five

20 hundred feet south of the intersection with Mill  
21 Street.

22 The applicant is proposing to construct  
23 a private road, a relatively short private road  
24 ending in a cul-de-sac, a small cul-de-sac, and  
25 he's proposing four single-family homes. These

LANDS OF TERRIZI

1  
2 are single-family homes with access off of the  
3 proposed private road.

4 All the lots will be serviced by  
5 individual wells and subsurface septic systems.  
6 Percolation tests and deep test pits have been  
7 performed to verify that the soil conditions are  
8 satisfactory to support the sewage disposal  
9 systems.

10 We've also proposed a relatively small  
11 stormwater management pond at the entrance just  
12 off of Route 32 to collect the increase in runoff  
13 that is generated as a result of the development  
14 to sort of offset the peak development runoff in  
15 which case the stormwater will discharge out of  
16 the pond and into an existing Route 32 culvert  
17 under Route 32.

18 The property is adjacent to the  
19 existing deli. I'm not sure of the name of it  
20 but it's right here off of Route 32. Our  
21 proposed driveway is just off the property line  
22 to the north.

23 CHAIRMAN EWASUTYN: Thank you. The  
24 Planning Board would like to open the meeting for  
25 questions and comments from the public. As Mr.

LANDS OF TERRIZI

1  
2 Donnelly had said earlier, please raise your hand  
3 and give your name and address.

4 The lady in the back.

5 MS. McCOWEN: Robin McCowen,  
6 M-c-C-O-W-E-N, I live at 176 Mill Street. My  
7 husband and I are just really concerned. We  
8 already have water in the basement already as it  
9 is. What I understand with new development is it  
10 raises the water table. We're just really  
11 concerned we're going to have more trouble with  
12 the water in our basement.

13 CHAIRMAN EWASUTYN: John, would you  
14 care to address that comment?

15 MR. NOSEK: There are some existing  
16 wetlands that are shown on the map. They do  
17 project onto -- I believe adjacent to ours  
18 slightly onto your piece. I think this is your  
19 piece right here.

20 MS. McCOWEN: Right next to it.

21 MR. NOSEK: Our proposed lots are up in  
22 elevation from the wetlands. We're not proposing

23 to do any sort of construction other than to do a  
24 very small crossing of the driveway at this  
25 location right here. We've done deep test pits

LANDS OF TERRIZI

1 in the area of the sewage disposal systems. We 9  
2 did not encounter groundwater, so I believe where  
3 our houses are situated we're high enough that we  
4 shouldn't have really any issues regarding  
5 basement flooding. We will be proposing footing  
6 drains so that if there is a high water table,  
7 specifically like in the springtime, that would  
8 help to keep the basements dry.  
9

10 If I'm not mistaken, I believe our  
11 drainage flows this way and eventually down to  
12 here. I believe we're downstream of you. I  
13 don't think anything we're going to do is going  
14 to impact you.

15 MS. McCOWEN: Can you guarantee that?

16 MR. NOSEK: I would have to actually go  
17 out and walk the site to confirm that. If I  
18 remember, this stonewall was uphill of this house  
19 which would put your property above us.

20 MS. McCOWEN: Okay.

21 MR. HINES: In reviewing the topography  
22 provided on the maps, this project is down  
23 gradient of your residence. The drainage flow is  
24 away from the residence, along with the fact that  
25 there's a detention pond proposed to attenuate

LANDS OF TERRIZI

1 the peak runoff. There's a pond proposed to be 10  
2 constructed by Route 32. Your house is shown to  
3 be up gradient from the site.  
4

5 MS. McCOWEN: So it's higher than?

6 MR. HINES: Higher, yes.

7 CHAIRMAN EWASUTYN: Additional comments  
8 from the public?

9 (No response.)

10 CHAIRMAN EWASUTYN: There being no  
11 further comments from the public at this time,  
12 I'll turn to our consultants for their reviews  
13 and recommendations to the Planning Board.

14 Pat Hines.

15 MR. HINES: As I just stated, we  
16 reviewed the stormwater management plan for the  
17 project, we commented on it previously, and  
18 received some additional information that we  
19 requested. That has been provided.

20 We found the drainage to be acceptable.

21 Operation and maintenance of the  
22 detention pond will be part of the private road  
23 access and maintenance agreement. The entire  
24 pond is located on lot 1 but all lots in the  
25 subdivision will share in the cost of that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

maintenance.

The wells and septic meet the appropriate guidelines.

There is a fifty-foot right-of-way depicted on the map but I think that should be called out of the metes and bounds of that right-of-way so it's clear where that is for future potential extension of the cul-de-sac. It's kind of just shown as a picture there right now.

MR. NOSEK: Okay.

MR. HINES: We talked at work session about the Dickinson lot. That's kind of just out there in the -- landlocked within the middle of this parcel. It's an existing condition, it doesn't really impact the subdivision.

The only outstanding item is a final signoff from DOT. I know they have a conceptual approval letter requesting one access point. We don't have anything definitive from them.

MR. NOSEK: I did have a bunch of comments I went over with Cindy. They wanted different radiuses, they wanted the angle point. She was comfortable with the sight distances.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

There were some -- definitely did not want curbing, so we removed the curbing detail. Some issues like that. She forwarded it up to Poughkeepsie, Poughkeepsie sent a letter stating they wanted only one driveway, which that was really all we're proposing. I asked her if I could get a clarification. I assume they were questioning as to whether we could try to combine the deli lot with our proposed driveway. I haven't heard back from her yet, apparently she's out on disability. I'm stilling wait to hear back from them. The only concern I have is I did go out and take a look at it and this is really kind of -- I'm assuming that -- she said that it was possible he was referring to the wrong project because it didn't make sense that he was only asking for one entrance when that's in fact what we're proposing.

MR. HINES: Actually the letter we got does say driveway, unless it's a private road and not a driveway.

MR. NOSEK: She thought maybe he had the wrong project. The concern was if it was -- if there was any possibility of trying to combine

1

2 it with the adjoining lot on the deli. That is  
3 really like a parking lot. If you've gone out  
4 there it's entirely paved right to the edge of  
5 the road the entire width or a good portion of  
6 the width of the lot. It's almost like a parking  
7 lot off the DOT right-of-way, or off the DOT road  
8 surface. I'm not a hundred percent sure that  
9 they're going to want that. I'm trying to  
10 resolve that with them. I think once they see it  
11 out there and they see what in fact exists  
12 they're not going to really want us to try to  
13 combine our private road with their parking lot  
14 so to speak. That's really the only issue.

15 The other design issues I've taken care  
16 of. I'm hoping to resolve that within the next  
17 couple weeks.

18 CHAIRMAN EWASUTYN: Thank you.  
19 Bryant Cocks, Planning Consultant.

20 MR. COCKS: We reviewed this project  
21 and as of now the lots all conform to zoning.

22 We're going to need a wetland  
23 delineation note signed on the plans before final  
24 approval.

25 The private roadway maintenance

#### LANDS OF TERRIZI

1 agreement that Pat spoke of has to be submitted 14  
2 to Mike Donnelly before final approval can be  
3 given.

4 The applicant indicated that the Town  
5 Board approved the road name.

6 MR. NOSEK: Yes.

7 MR. COCKS: And you put a note on the  
8 plans stating the stonewalls are to be preserved.  
9 We just have a little different language that  
10 I'll give you for that note.

11 MR. NOSEK: Sure.

12 MR. COCKS: We're going to need a  
13 surveyor's seal and signature on the plans.

14 MR. NOSEK: Yes.

15 CHAIRMAN EWASUTYN: Karen  
16 Arent, Landscape Architect.

17 MS. ARENT: The stormwater management  
18 basin should be landscaped so that it's  
19 aesthetically pleasing from Route 32.

20 MR. NOSEK: I'm sorry?

21 MS. ARENT: The stormwater management  
22 basin should be landscaped so that it's  
23 aesthetically pleasing from Route 32.

24 MR. NOSEK: We added some shrubbery and  
25

#### LANDS OF TERRIZI

1 some trees around the pond. I don't know if you 15  
2 had a chance to look at that. It was on sheet 2,  
3 Karen.  
4

5 MS. ARENT: I guess the plans came in  
6 after --  
7 MR. NOSEK: I'm sorry.  
8 MS. ARENT: I'll review that. And the  
9 street trees shown on the detail should be shown  
10 within five feet of the property line but on the  
11 private property.  
12 MR. NOSEK: On the private property  
13 within five feet of the roadway?  
14 MS. ARENT: Yes. Not so far away from  
15 where the property line is.  
16 On the plans that I reviewed the street  
17 trees are shown but they're not listed on the  
18 plant list. If you could just include a plant  
19 list.  
20 MR. NOSEK: It's on the legend.  
21 MS. ARENT: On the legend you have it?  
22 MR. NOSEK: I don't know if you have  
23 the plans but underneath the legend --  
24 CHAIRMAN EWASUTYN: John, what you had  
25 done in your cc letter, if you look at your cc

LANDS OF TERRIZI

1 16  
2 letter, you had corresponded with Bryant Cocks,  
3 Planning Consultant, and you had a cc with Pat  
4 Hines, Drainage Consultant, but you did not cc  
5 Karen Arent. So if she's deficient in your  
6 review it's because your resubmittal wasn't  
7 complete. We won't take the opportunity now but  
8 to say that she wasn't properly submitted.  
9 MR. NOSEK: I didn't send her copies of  
10 the response comments?  
11 CHAIRMAN EWASUTYN: According to your  
12 cc, Karen was not part of that cc.  
13 MS. ARENT: I'll just send my comments  
14 to you. I'll look for the latest plan. I guess  
15 you should just send me the latest plan and I'll  
16 double check.  
17 MR. NOSEK: Okay.  
18 CHAIRMAN EWASUTYN: It's a minor point.  
19 MS. ARENT: You're going to need a  
20 landscape cost estimate.  
21 CHAIRMAN EWASUTYN: Any additional  
22 comments from the Board before I turn to the  
23 Planning Board Members for their final comments?  
24 (No response.)  
25 CHAIRMAN EWASUTYN: Okay. Frank Galli?

LANDS OF TERRIZI

1 17  
2 MR. GALLI: No additional.  
3 CHAIRMAN EWASUTYN: Cliff Browne?  
4 MR. BROWNE: No.  
5 MR. MENNERICH: No questions.  
6 CHAIRMAN EWASUTYN: Joe Profaci?  
7 MR. PROFACI: No.



8 CHAIRMAN EWASUTYN: I'll move for a  
9 motion to close the public hearing for the lands  
10 of Terrizi, a four-lot subdivision located in an  
11 RR Zone on Route 32.  
12 MR. GALLI: So moved.  
13 MR. MENNERICH: Second.  
14 CHAIRMAN EWASUTYN: I have a motion by  
15 Frank Galli. I have a second by Ken Mennerich.  
16 Any discussion of the motion?  
17 (No response.)  
18 CHAIRMAN EWASUTYN: I'll move for a  
19 roll call vote starting with Frank Galli.  
20 MR. GALLI: Aye.  
21 MR. BROWNE: Aye.  
22 MR. MENNERICH: Aye.  
23 MR. PROFACI: Aye.  
24 CHAIRMAN EWASUTYN: Myself yes. So  
25 carried.

LANDS OF TERRIZI

1 18  
2 At this time I'll turn to Mike  
3 Donnelly, Planning Board Attorney, to give us the  
4 conditions of approval.  
5 MR. DONNELLY: Yes. You will need  
6 sign-off letters from Garling Associates, Pat  
7 Hines' office and Karen on the items they just  
8 mentioned that have been changed on the plans. I  
9 have been given a private roadway easement and  
10 maintenance agreement. I did send a letter to  
11 the applicant's attorney approving it in form but  
12 I realized during the work session that it needs  
13 to also include provision for the maintenance of  
14 drainage structures and facilities, so I'll drop  
15 them a note they're to amend it. The submission  
16 of that will be a condition of approval. A  
17 landscaping security and inspection fee will be  
18 required. A private road security and inspection  
19 fee. The payment of parkland fees.  
20 CHAIRMAN EWASUTYN: Thank you. Having  
21 heard the conditions of approval for the four-lot  
22 subdivision for the lands of Terrizi, I would  
23 move for that motion.  
24 MR. PROFACI: So moved.  
25 CHAIRMAN EWASUTYN: I have a motion by

LANDS OF TERRIZI

1 19  
2 Joe Profaci.  
3 MR. MENNERICH: Second.  
4 CHAIRMAN EWASUTYN: I have a second by  
5 Ken Mennerich. Any discussion of the motion?  
6 (No response.)  
7 CHAIRMAN EWASUTYN: I'll move for a  
8 roll call vote starting with Frank Galli.  
9 MR. GALLI: Aye.  
10 MR. BROWNE: Aye.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. MENNERICH: Aye.  
MR. PROFACI: Aye.  
CHAIRMAN EWASUTYN: And myself yes. So  
carried.  
Thank you, John.  
MR. NOSEK: Thank you.  
  
(Time noted: 7:18 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

20

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_

DATED: September 14, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9

21

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

CHESTERFIELD COURT  
(2006-48)

Lakeside Road  
Section 28; Block 1; Lot 14.11  
R-1 Zone

- - - - - X

PUBLIC HEARING  
TEN-LOT SUBDIVISION

Date: September 6, 2007  
Time: 7:19 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: LEWIS POWELL

- - - - - X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

CHESTERFIELD COURT

1  
2 CHAIRMAN EWASUTYN: The following item 22  
3 of business this evening is Chesterfield Court.  
4 It's a public hearing for a ten-lot subdivision  
5 located on Lakeside Road. It's in an R-1 Zone  
6 and it's being represented by Lewis Powell.  
7 I'll have Mr. Mennerich read the notice  
8 of hearing.  
9 MR. MENNERICH: "Notice of hearing,  
10 Town of Newburgh Planning Board. Please take  
11 notice that the Planning Board of the Town of  
12 Newburgh, Orange County, New York will hold a  
13 public hearing pursuant to Section 276 of the  
14 Town Law on the application of Chesterfield Court  
15 for a ten-lot subdivision on premises Lakeside  
16 Road north of Penny Lane in the Town of Newburgh,  
17 designated on Town tax map as Section 28; Block  
18 1; Lot 14.1. Said hearing will be held on the  
19 6th day of September at the Town Hall Meeting  
20 Room, 1496 Route 300, Newburgh, New York at 7  
21 p.m. at which time all interested persons will be  
22 given an opportunity to be heard. By order of  
23 the Town of Newburgh Planning Board. John P.  
24 Ewasutyn, Chairman, Planning Board Town of  
25 Newburgh. Dated July 24, 2007."

CHESTERFIELD COURT

2 CHAIRMAN EWASUTYN: Thank you, Mr.  
3 Mennerich.  
4 Dina Haines.  
5 MS. HAINES: The public hearing notice  
6 was published in The Mid-Hudson Times on  
7 August 29, 2007 and in The Sentinel on August 31,  
8 2007. Ten certified letters were sent and nine  
9 were received. All the mailings are in order.  
10 CHAIRMAN EWASUTYN: Thank you, Dina.  
11 Mr. Powell, would you give your  
12 presentation please.  
13 MR. POWELL: Thank you. Good evening.  
14 I'm Lou Powell from Eustance & Horowitz  
15 Engineering. We're the engineers for the  
16 applicant, Steven Shulkin and Nicholas  
17 Cardaropoli. This is a proposed ten-lot  
18 subdivision known as Chesterfield Court. It's on  
19 the easterly side of Lakeside Road approximately  
20 a half a mile south of its intersection with  
21 Union Avenue Extension.  
22 The project is in the Town water and  
23 sewer district.  
24 It calls for a new Town road  
25 approximately 600 feet long which will service

CHESTERFIELD COURT

1 six lots. One lot will access off of Lakeside 24  
2 Road and then there are three lots to the rear  
3 which will be off of a common driveway.  
4 There will be a formation of a drainage  
5 district for this particular piece of property.  
6 There are two stormwater basins, one in  
7 the front and one to the rear.  
8 CHAIRMAN EWASUTYN: Thank you.  
9 Is there anyone here this evening who  
10 has comments or questions, please raise your hand  
11 and give your name and your address.  
12 MS. WAGNER: My name is Agnes Wagner,  
13 24 Roslyn Lane. My question is I was wondering  
14 where that property -- sorry -- if it's towards  
15 where my property is at?  
16 MR. POWELL: Where are you?  
17 MS. WAGNER: Roslyn Lane. I don't know  
18 if you have like the whole big picture type  
19 thing.  
20 MR. POWELL: Are you on one of these  
21 roads that goes to the right off of Lakeside?  
22 Does your street go to the --  
23 MS. WAGNER: I'm off of 300 Extension.  
24 MR. POWELL: You're off of 300. You  
25

CHESTERFIELD COURT

1 must be up here. 25  
2  
3 MS. WAGNER: Then my road goes down  
4 this way.

5 MR. POWELL: Maybe you're to the rear.  
6 MS. WAGNER: That's what I'm thinking.  
7 CHAIRMAN EWASUTYN: I think she's even  
8 north of 11.2.22. You're getting closer to  
9 Monte's farm.  
10 MS. WAGNER: Correct. I'm fine. I saw  
11 one of my neighbors so I know exactly where I'm  
12 at. Thank you.  
13 CHAIRMAN EWASUTYN: Roslyn Lane is  
14 getting that much closer to the intersection  
15 of --  
16 MS. WAGNER: Yeah.  
17 CHAIRMAN EWASUTYN: He would be below  
18 you.  
19 MS. WAGNER: Thank you.  
20 CHAIRMAN EWASUTYN: Additional comments  
21 from the public? Sir.  
22 MR. COPPOLA: Jay Coppola, 30 Ten  
23 Broeck Lane, Orange Lake, Vice President of  
24 Orange Lake Civic Association. A question really  
25 for the Board, and a comment. Dick was -- Mr.

CHESTERFIELD COURT

1 26  
2 Shulkin was good enough to come to us some three  
3 months ago and show us the proposed plan. In our  
4 board I explained that the plan is not something  
5 that we review, the Town reviews. Our board  
6 understands that. We have absolutely no problem  
7 with that.  
8 My question is that of the Board and  
9 the consultants, a question I've asked before on  
10 these projects. I'll preface that by right now  
11 we're involved with weeds in the lake that are  
12 prolific. DEC has been out, Federation of Lakes  
13 has been out. The weed that we have now is not  
14 going away. We're looking at in excess of  
15 \$50,000, in the minimal, cost of trying to  
16 prevent this. Our testing program states that  
17 one of the main causes is the drainage that comes  
18 off of Lakeside Road through open piping into the  
19 lake. This is feeding a lot of the weeds. I've  
20 asked this before on projects of the detention  
21 process. I have not reviewed these drawings,  
22 only the one Dick gave me, one sheet.  
23 With the storm drainage coming out of  
24 your detention basins, I'm sure it's attenuated,  
25 where is it going and how is it eventually

CHESTERFIELD COURT

1 27  
2 getting to the lake?  
3 CHAIRMAN EWASUTYN: Pat Hines.  
4 MR. HINES: We reviewed a stormwater  
5 management plan which included, because of the  
6 size of the project, a stormwater pollution  
7 prevention plan. The project was designed with

8 two extended detention basins which are designed  
9 as wet ponds to provide for treatment of nitrogen  
10 and phosphorous loadings included in the  
11 stormwater. They are wet ponds so they function  
12 as a biological filter. Those ponds, one  
13 discharges to the wetland on the south side of  
14 the site which then continues obviously on, and  
15 the other one discharges to a swale along  
16 Lakeside Road. They are designed in compliance  
17 with the DEC phase II stormwater regulations. We  
18 did comment on them and received revised plans in  
19 response to our comments. They have been  
20 provided with two separate parcels that will  
21 become owned by the drainage district. The ten  
22 lots in the subdivision will be taxed for the  
23 operation and maintenance of those stormwater  
24 management facilities.

25 MR. COPPOLA: Is the phase II DEC

CHESTERFIELD COURT

1 28

2 similar to the MS-4?

3 MR. HINES: Yes. That's one in the  
4 same.

5 MR. COPPOLA: Good. That answers me.

6 The other question I have is I presume  
7 that of the applicant, or maybe the Town also has  
8 been informed, is there any lake access deeded to  
9 these lots?

10 MR. POWELL: There's none that I know  
11 of.

12 CHAIRMAN EWASUTYN: Is that a yes or  
13 no?

14 MR. CARDAROPOLI: No, there's not.

15 MR. COPPOLA: Good. Thank you.

16 CHAIRMAN EWASUTYN: Additional comments  
17 from the public?

18 (No response.)

19 CHAIRMAN EWASUTYN: At this time I'll  
20 turn to our consultants for their comments. Pat  
21 Hines, Drainage Consultant.

22 MR. HINES: This project is before the  
23 Board tonight for preliminary approval. After  
24 that it would require DEC approval for the sewer  
25 main extension and Health Department approval for

CHESTERFIELD COURT

1 29

2 the water main extension proposed to service the  
3 project.

4 As I just commented, we reviewed the  
5 stormwater management plan for the project,  
6 provided comments to the applicant. The plan was  
7 appropriately revised based on those comments.

8 The proposed Town roadway is utilizing  
9 retaining walls to reduce impacts to the Federal  
10 jurisdictional wetlands on the site. The Town

11 Board and the town highway superintendent have  
12 approved the use of those retaining walls within  
13 the proposed right-of-way to reduce those  
14 impacts.  
15 They've addressed our previous comments  
16 and are looking for a preliminary approval to  
17 head out to the outside agencies.  
18 CHAIRMAN EWASUTYN: Thank you.  
19 Bryant Cocks, Planning Consultant.  
20 MR. COCKS: The applicant went before  
21 the Town Board and received a waiver for having  
22 three lots using a common driveway. We have that  
23 letter.  
24 The common driveway maintenance  
25 agreement has to be submitted to Mike Donnelly

CHESTERFIELD COURT

1 before approval. 30  
2  
3 The applicant has provided screening  
4 from Lakeside Road. Karen Arent is going to  
5 comment on that further.  
6 All lots meet zoning.  
7 We have no problem with this as of this  
8 time.  
9 CHAIRMAN EWASUTYN: Thank you.  
10 Karen Arent, Landscape Architect.  
11 MS. ARENT: This is a new comment that  
12 I just noticed. All the houses on lots 4, 5 and  
13 6 are very close to, if not on, the setback line.  
14 The grades look like you could easily move them  
15 fifteen feet or more away from the setback line  
16 so if these people want decks or something like  
17 that they can have them. If you can look at that  
18 and possibly move the houses as far away from the  
19 setback lines as the grades allow, that would be  
20 great.  
21 You have my other comments to put some  
22 notes regarding the disturbance limit line on the  
23 stormwater prevention plan as well as the grading  
24 plan.  
25 Include the following notes: To not

CHESTERFIELD COURT

1 store any containers of debris within the no 31  
2 disturbance areas. Do not allow vehicles or  
3 construction equipment in these areas.  
4 The tree clearing note to get  
5 permission from the Town of Newburgh to clear any  
6 trees within these areas before you go ahead and  
7 clear them.  
8 We spoke last time about this. The  
9 screening of the stormwater management basin  
10 should be a little bit more interesting instead  
11 of the same row of white pines.  
12 There are existing trees on lot 9 that  
13

14 would help screen the house that you're proposing  
15 on lot 9. If you could just preserve some of  
16 those existing trees to screen lot 9 from the  
17 other road. That's it.  
18 Oh, and just put all your landscaping  
19 on one plan.  
20 MR. POWELL: Are some of those new?  
21 MS. ARENT: No. They're old.  
22 MR. POWELL: They're old?  
23 MS. ARENT: The one that's new is about  
24 the houses on the back of the property, if you  
25 can move those forward.

CHESTERFIELD COURT

1 32  
2 MR. POWELL: I thought they were all  
3 taken care of. I'll check them.  
4 CHAIRMAN EWASUTYN: Any further  
5 comments from the public at this time?  
6 (No response.)  
7 CHAIRMAN EWASUTYN: Jay, you mentioned  
8 earlier there would be a cost of approximately  
9 \$50,000 to help the problem with the lake. Will  
10 that be an annual cost for maintenance of the  
11 lake?  
12 MR. COPPOLA: No. That will be the  
13 initial cost. Again, that's the least amount.  
14 There will be an additional cost, and then  
15 because of an encasement that we would have to  
16 deal with there would be a maintenance almost two  
17 or three times a year to keep the encasement free  
18 for water flow.  
19 CHAIRMAN EWASUTYN: Thank you.  
20 At this point I'll turn to our Planning  
21 Board Members for their comments. Frank Galli?  
22 MR. GALLI: No additional comment.  
23 CHAIRMAN EWASUTYN: Cliff Browne?  
24 MR. BROWNE: Nothing more.  
25 CHAIRMAN EWASUTYN: Ken Mennerich?

CHESTERFIELD COURT

1 33  
2 MR. MENNERICH: No questions.  
3 CHAIRMAN EWASUTYN: Joe Profaci?  
4 MR. PROFACI: Nothing.  
5 CHAIRMAN EWASUTYN: Having heard from  
6 the public, having heard from our consultants,  
7 I'll move at this time to close the public  
8 hearing for the ten-lot subdivision for  
9 Chesterfield Court located --  
10 MR. HINES: John, you have someone.  
11 CHAIRMAN EWASUTYN: Excuse me. Sir.  
12 MR. ANDERSON: Could I ask a question?  
13 CHAIRMAN EWASUTYN: Sure. Give your  
14 name please.  
15 MR. ANDERSON: I'm Gordon Anderson, 226  
16 Gardnertown Road.



17 CHAIRMAN EWASUTYN: Okay.  
18 MR. ANDERSON: I wonder where the  
19 subdivision that you're speaking of is in  
20 relation to Leland Avenue?  
21 CHAIRMAN EWASUTYN: Leland is right  
22 around by O'Malley's, what used to be called  
23 O'Malley's, and this would be approximately,  
24 approximately a half a mile further north of  
25 that. This is the old -- do you know the old

CHESTERFIELD COURT

1  
2 Wolf property? 34  
3 MR. ANDERSON: Yes.  
4 CHAIRMAN EWASUTYN: This is a  
5 contiguous piece of property which is actually  
6 divided by the road but this was part of the Wolf  
7 estate. It was the piece on the other side of  
8 Lakeside Road. You would end where the Lagus  
9 property was, and after the Lagus property became  
10 the Wolf property and this is the subject  
11 property we're discussing this evening.  
12 MR. ANDERSON: I wonder if the  
13 gentleman could speak as to whether people who  
14 would buy these lots would have lake rights, what  
15 we call lake rights? I heard you say as far as  
16 you knew --  
17 MR. POWELL: Well --  
18 MR. ANDERSON: I heard you say that  
19 earlier this evening.  
20 MR. POWELL: Right.  
21 MR. CARDAROPOLI: I said there's no  
22 lake rights. We're on the wrong side of the road.  
23 MR. ANDERSON: There are no lake rights  
24 on that side of the road?  
25 MR. CARDAROPOLI: Absolutely none.

CHESTERFIELD COURT

1  
2 Unless you want to give us some. 35  
3 MR. ANDERSON: Would that be in the  
4 minutes of this meeting then?  
5 CHAIRMAN EWASUTYN: Everything that's  
6 being said is being recorded as part of the  
7 minutes. Correct.  
8 MR. ANDERSON: There are no lake  
9 rights?  
10 CHAIRMAN EWASUTYN: For the record sir,  
11 would you give your name?  
12 MR. CARDAROPOLI: Nicholas J.  
13 Cardaropoli, C-A-R-D-A-R-O-P-O-L-I, Senior.  
14 MR. ANDERSON: That answers my  
15 question.  
16 CHAIRMAN EWASUTYN: Thank you, Mr.  
17 Anderson.  
18 Any further comments from the public?  
19 (No response.)

20 CHAIRMAN EWASUTYN: I was moving for a  
21 motion to close the public hearing for the ten-  
22 lot subdivision of Chesterfield Court located on  
23 Lakeside Road in an R-1 Zone. The motion is now  
24 on the table.

25 MR. GALLI: So moved.

CHESTERFIELD COURT

36

1 MR. MENNERICH: Second.  
2 CHAIRMAN EWASUTYN: I have a motion by  
3 Frank Galli. I have a second by Ken Mennerich.  
4 Any discussion of the motion?

5 (No response.)

6 CHAIRMAN EWASUTYN: I'll move for a  
7 roll call vote starting with Frank Galli.

8 MR. GALLI: Aye.

9 MR. BROWNE: Aye.

10 MR. MENNERICH: Aye.

11 MR. PROFACI: Aye.

12 CHAIRMAN EWASUTYN: Myself yes. So  
13 carried.

14 At this time I'll turn to Planning  
15 Board Attorney, Mike Donnelly, to discuss with  
16 the Board the conditions for preliminary  
17 approval.

18 MR. DONNELLY: You'll need before final  
19 approval a sign-off letter from Karen Arent  
20 addressing the items in her memo as well as the  
21 relocation of the houses as she mentioned  
22 earlier. You'll need to obtain approval from the  
23 Orange County Health Department and the New York  
24 State Department of Environmental Conservation.  
25

CHESTERFIELD COURT

37

1 You'll need to meet with the Town Board and get  
2 their consent to the creation of a drainage  
3 district, and you'll ultimately need to create  
4 that district before the plat can be signed. I'm  
5 going to leave in the resolution the approval of  
6 the road name as well as the approval granted for  
7 three lots on a common driveway but I will  
8 indicate that that condition has already been  
9 satisfied. You'll need to obtain approval from  
10 the City of Newburgh for the sewer flows to be  
11 put into the sewer system from this project.

12 Are there street trees, Karen, on the  
13 plan now or they'll have to be shown as part of  
14 the final submission?

15 MS. ARENT: They are on the plan I  
16 believe.

17 MR. DONNELLY: I'm going to leave the  
18 condition in just to make sure they're part of  
19 final if they're not there now.

20 MS. ARENT: They're there.

21 MR. DONNELLY: As overall conditions a  
22

23 common driveway easement and maintenance  
24 agreement will need to be provided. A condition  
25 of the resolution of final approval when it's

CHESTERFIELD COURT

1 38  
2 issued will require the clearing limits be marked  
3 in the field and if they are violated an  
4 additional replacement planting of equivalent  
5 basil area be provided. There's a need for a  
6 cross-grading easement in certain locations.  
7 You'll need to provide that to me before the plat  
8 is signed. A landscape security and inspection  
9 fee, a stormwater improvement security and  
10 inspection fee, a water main extension security  
11 and inspection fee, a sewer main extension  
12 security and inspection fee, a Town road security  
13 and inspection fee, the offers of dedication for  
14 the roadway, the payment of fees in lieu of  
15 parklands.

16 CHAIRMAN EWASUTYN: Thank you.  
17 Having heard the conditions for  
18 preliminary approval from our attorney, Mike  
19 Donnelly, for Chesterfield Court, a ten-lot  
20 subdivision located on Lakeside Road, I'll move  
21 for that motion.

22 MR. PROFACI: So moved.

23 CHAIRMAN EWASUTYN: I have a motion by  
24 Joe Profaci.

25 MR. MENNERICH: Second.

CHESTERFIELD COURT

1 39

2 CHAIRMAN EWASUTYN: I have a second by  
3 Ken Mennerich. Any discussion of the motion?  
4 (No response.)

5 CHAIRMAN EWASUTYN: I'll move for a  
6 roll call vote starting with Frank Galli.

7 MR. GALLI: Aye.

8 MR. BROWNE: Aye.

9 MR. MENNERICH: Aye.

10 MR. O'DONNELL: Aye.

11 CHAIRMAN EWASUTYN: And myself yes. So  
12 carried.

13 Thank you, Mr. Powell.

14 MR. POWELL: Do we need SEQRA, Mr.  
15 Chairman?

16 MR. DONNELLY: A negative declaration  
17 was issued on July 19, 2007.

18 MR. POWELL: Okay. Thank you.

19  
20 (Time noted: 7:34 p.m.)  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_

DATED: September 14, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

LANDS OF CONNOLLY  
(2007-11)

Connolly Way  
Section 7; Block 1; Lot 64  
AR Zone

- - - - - X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: September 6, 2007  
Time: 7:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

19 ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
20 BRYANT COCKS  
PATRICK HINES  
21 KAREN ARENT

22 APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

23 - - - - - X  
MICHELLE L. CONERO  
24 10 Westview Drive  
Wallkill, New York 12589  
25 (845)895-3018

LANDS OF CONNOLLY

1 42  
2 CHAIRMAN EWASUTYN: The next item of  
3 business we have this evening is the lands of  
4 Connolly. It's a public hearing for a two-  
5 lot subdivision located on Connolly Way,  
6 it's in an AR Zone and it's being represented  
7 by Ken Lytle.

8 I'll ask Mr. Mennerich to read the  
9 notice of hearing.

10 MR. MENNERICH: "Notice of hearing,  
11 Town of Newburgh Planning Board. Please take  
12 notice that the Planning Board of the Town of  
13 Newburgh, Orange County, New York will hold a  
14 public hearing pursuant to Section 276 of the  
15 Town Law on the application of lands of Connolly  
16 for a two-lot subdivision on premises Connolly  
17 Way off of Lattintown Road in the Town of  
18 Newburgh, designated on Town tax map as Section  
19 7; Block 1; Lot 64. Said hearing will be held on  
20 the 6th day of September 2007 at the Town Hall  
21 Meeting Room, 1496 Route 300, Newburgh, New York  
22 at 7 p.m. at which time all interested persons  
23 will be given an opportunity to be heard. By  
24 order of the Town of Newburgh Planning Board.  
25 John P. Ewasutyn, Chairman, Planning Board Town

LANDS OF CONNOLLY

1 43  
2 of Newburgh. Dated July 24, 2007."

3 CHAIRMAN EWASUTYN: Thank you, Mr.  
4 Mennerich.

5 Dina Haines.

6 MS. HAINES: The public hearing notices  
7 were published in The Mid-Hudson Times on  
8 August 29, 2007 and in The Sentinel on August 31,  
9 2007. There were eighteen certified letters sent  
10 and eighteen returned. All the mailings are in  
11 order.

12 CHAIRMAN EWASUTYN: Thank you, Dina.  
13 Ken, would you give your presentation  
14 please.

15 MR. LYTLE: Good evening. This  
16 property is a little over five acres located

17 along Connolly Way, a private road, which  
18 actually accesses off of Lattintown Road.  
19 It's again an existing residence and  
20 we're dividing one lot off of that and providing  
21 a new building lot.  
22 The septic tanks have been designed  
23 according to the Orange County standards.  
24 The road maintenance agreement will be  
25 revised to incorporate the additional lot and

LANDS OF CONNOLLY

1 44  
2 divide the maintenance fees up accordingly.  
3 I believe we've addressed all the  
4 consultants' comments.  
5 CHAIRMAN EWASUTYN: Okay. We'll  
6 entertain comments and questions from the public  
7 at this time. If you would raise your hand and  
8 give your name and address.  
9 Sir.  
10 MR. COSMAN: Larry Cosman, I live on  
11 Merritt Lane. I own the property directly to the  
12 north. How close will the proposed house be to  
13 the property line?  
14 MR. LYTLE: Right now it's shown at  
15 approximately fifty feet off the line. The rear  
16 yard setback, the closest -- I'm showing about a  
17 hundred feet off the line. The closest it could  
18 be is fifty feet off the property line.  
19 MR. COSMAN: I believe they thinned out  
20 most of the trees. There isn't much of a buffer.  
21 MR. LYTLE: They've taken out all the  
22 underbrush.  
23 MR. COSMAN: It is an active apple farm  
24 and probably will be that way for a while yet. A  
25 little bit of concern, mostly noise, possibly

LANDS OF CONNOLLY

1 45  
2 some drift. Just to make sure they're aware that  
3 there is -- I don't know if there's been any  
4 changes in the AR or ag as far as buffering or  
5 what it would be. Is there any specification as  
6 far as any buffering, Karen, to farmland?  
7 CHAIRMAN EWASUTYN: Karen.  
8 MS. ARENT: I'm going to have to check  
9 into that.  
10 MR. COSMAN: I know the houses that  
11 were approved on the first subdivision, they  
12 pretty well cleared -- the property is clearcut  
13 right up to the property line so it's quite an  
14 unobstructed path between the apple orchard and  
15 their houses. There hasn't been any issues, any  
16 problems with the neighbors.  
17 MR. HINES: Just to speak to that,  
18 because it's in the AR Zone there are  
19 agricultural notes on the plans alerting the

20 neighbors to the standard notes we require  
21 regarding farming, the timing, the spring, noise  
22 and such as that, letting children play. There  
23 are ag notes alerting any potential buyer to  
24 that.

25 CHAIRMAN EWASUTYN: Thank you, Pat.

LANDS OF CONNOLLY

46

1  
2 Additional comments from the public?  
3 (No response.)

4 CHAIRMAN EWASUTYN: At this time I'll  
5 turn to our consultants. Pat Hines.

6 MR. HINES: We have no outstanding  
7 comments on this.

8 Our July 19th letter identified that  
9 they provided us with the revised topography  
10 based on the as-built road conditions.

11 The percolation tests that were  
12 originally provided we had some questions on.  
13 Representatives of my office witnessed new  
14 percolation testing and that was found  
15 acceptable. Based on that we have no outstanding  
16 comments.

17 CHAIRMAN EWASUTYN: Bryant Cocks,  
18 Planning Consultant.

19 MR. COCKS: We have no outstanding  
20 comments on the subdivision at this time.

21 I'm actually looking up to see if  
22 there's any buffering required. This is a  
23 residential to residential zone. The new  
24 buffering law takes into account business and  
25 interchange business zones to residential. I

LANDS OF CONNOLLY

47

1  
2 don't believe that there is going to be any  
3 buffering requirements necessary.

4 CHAIRMAN EWASUTYN: Thank you.  
5 Frank Galli?

6 MR. GALLI: No additional comment.

7 CHAIRMAN EWASUTYN: Cliff Browne?

8 MR. BROWNE: None.

9 CHAIRMAN EWASUTYN: Ken Mennerich?

10 MR. MENNERICH: No questions.

11 CHAIRMAN EWASUTYN: Joe Profaci?

12 MR. PROFACI: No thank you, John.

13 CHAIRMAN EWASUTYN: Any additional  
14 comments from the public?

15 (No response.)

16 CHAIRMAN EWASUTYN: There being no  
17 further comments from the public, having heard  
18 from everyone, I'll move for a motion to close  
19 the public hearing for the two-lot subdivision  
20 for the lands of Connolly located on Connolly Way  
21 off of Lattintown Road in an AR Zone.

22 MR. PROFACI: So moved.

23 MR. GALLI: Second.  
24 CHAIRMAN EWASUTYN: I have a motion by  
25 Joe Profaci. I have a second by Frank Galli. Any

LANDS OF CONNOLLY

1 48  
2 discussion of the motion?  
3 (No response.)  
4 CHAIRMAN EWASUTYN: I'll move for a  
5 roll call vote starting with Frank Galli.  
6 MR. GALLI: Aye.  
7 MR. BROWNE: Aye.  
8 MR. MENNERICH: Aye.  
9 MR. PROFACI: Aye.  
10 CHAIRMAN EWASUTYN: And myself. So  
11 carried.  
12 At this time I'll turn to Mike  
13 Donnelly, Planning Board Attorney, to give us the  
14 conditions for approval for the two-lot  
15 subdivision for the lands of Connolly.  
16 MR. DONNELLY: There's a potential  
17 issue first. I didn't realize my notes didn't  
18 tell me this, that this was in an agricultural  
19 district. If it is or within five hundred feet  
20 of one it needs to be referred to the Orange  
21 County Planning Department and I don't know  
22 whether we did that.  
23 CHAIRMAN EWASUTYN: Good question.  
24 Bryant?  
25 MR. DONNELLY: My notes don't reflect

LANDS OF CONNOLLY

1 49  
2 that we've discussed that.  
3 CHAIRMAN EWASUTYN: Neither do mine.  
4 MR. COCKS: Let me check. No, we did  
5 not.  
6 MR. DONNELLY: If that's the case I  
7 think we need to refer it before we can act. I  
8 would ask the applicant to extend the sixty-two  
9 day time period within which we must act because  
10 we lack jurisdiction to act until the County has  
11 reported.  
12 MR. LYTLE: That's fine.  
13 CHAIRMAN EWASUTYN: Do you waive that?  
14 MR. LYTLE: Yes.  
15 CHAIRMAN EWASUTYN: At this point I'll  
16 rescind our motion to consider final approval for  
17 the two-lot subdivision. I'll have Mr. Lytle  
18 provide plans to Bryant Cocks, our Planning  
19 Consultant, to coordinate this with the Orange  
20 County Planning Department. Thank you.  
21 MR. DONNELLY: It's going to need an  
22 agricultural data statement to accompany it.  
23 CHAIRMAN EWASUTYN: All right. What  
24 we'll do is, allowing for response, we'll set  
25 this up for Board Business for the meeting of the



LANDS OF CONNOLLY

50

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

18th of October.

MR. BROWNE: Do we have to vote on the rescind?

CHAIRMAN EWASUTYN: No, because he waived -- to rescind the motion all together?

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion to rescind the motion that was being considered for approval for the two-lot subdivision for the lands of Connolly.

MR. BROWNE: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Cliff Browne. I have a second by Frank Galli. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Mike Donnelly, thank you for paying attention.

LANDS OF CONNOLLY

51

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Dina, would you make a point of setting this up for Board Business for our meeting of October 18th?

MS. HAINES: Yes, sir.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 7:42 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

---

DATED: September 14, 2007

1  
2

STATE OF NEW YORK : COUNTY OF ORANGE

52

TOWN OF NEWBURGH PLANNING BOARD

3 - - - - - X

In the Matter of

4

5

EASTERN ORANGE DEVELOPMENT  
(2005-42)

6

Equestrian Drive off Prospect Hill Road  
Section 1; Block 1; Lot 67  
AR Zone

7

8

- - - - - X

9

PUBLIC HEARING  
FIVE-LOT SUBDIVISION

10

11

Date: September 6, 2007

12

Time: 7:43 p.m.

13

Place: Town of Newburgh  
Town Hall

14

1496 Route 300  
Newburgh, NY 12550

15

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

16

17

18

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

19

20

21

APPLICANT'S REPRESENTATIVE: JAMES RAAB

22

23

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive

24

Wallkill, New York 12589  
(845)895-3018

25

EASTERN ORANGE DEVELOPMENT

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

CHAIRMAN EWASUTYN: The next item of  
business we have is Eastern Orange Development.  
It's a public hearing for a five-lot subdivision  
located on Equestrian Drive off of Prospect Hill  
Road, it's in an AR Zone and it's being  
represented by Jim Raab.

I'll ask Mr. Mennerich to read the  
notice of hearing.

MR. MENNERICH: "Notice of hearing,  
Town of Newburgh Planning Board. Please take  
notice that the Planning Board of the Town of  
Newburgh, Orange County, New York will hold a  
public hearing pursuant to Section 276 of the  
Town Law on the application of Eastern Orange

16 Development, L.L.C. for a five-lot subdivision on  
17 premises Equestrian Drive off of Prospect Hill  
18 Road in the Town of Newburgh, designated on Town  
19 tax map as Section 1; Block 1; Lot 67. Said  
20 hearing will be held on the 6th day of  
21 September 2007 at the Town Hall Meeting Room,  
22 1496 Route 300, Newburgh, New York at 7 p.m. at  
23 which time all interested persons will be given  
24 an opportunity to be heard. By order of the Town  
25 of Newburgh Planning Board. John P. Ewasutyn,

EASTERN ORANGE DEVELOPMENT

1 54  
2 Chairman, Planning Board Town of Newburgh. Dated  
3 July 25, 2007."

4 CHAIRMAN EWASUTYN: Dina Haines.  
5 MS. HAINES: The public hearing was  
6 published in The Mid-Hudson Times on August 29,  
7 2007 and in The Sentinel on August 31, 2007.  
8 There were ten certified letters sent and ten  
9 were received. All mailings are in order.

10 CHAIRMAN EWASUTYN: Thank you.  
11 Mr. Raab.

12 MR. RAAB: Thank you, Mr. Chairman.  
13 This is an eighteen-acre parcel located at the  
14 end of both Equestrian Drive and Hammond Lane.  
15 It was part of the original Hammond subdivision,  
16 lot 4 of that subdivision. It's proposed by  
17 Eastern Orange Development, L.L.C. to cut out  
18 four residential lots of an acre -- all of about  
19 an acre in size.

20 They will be served by individual well  
21 and septic systems.

22 The road has been placed, as we were  
23 directed by the Planning Board, to shift it away  
24 from the Sarubi property line and the existing  
25 stonewall along that edge.

EASTERN ORANGE DEVELOPMENT

1 55  
2 House placement, also as directed by  
3 the Planning Board and their consultants, were  
4 situated -- re-situated so that they have -- it's  
5 better for grading, better for the offsets to the  
6 rear property lines.

7 What we propose to do here is to extend  
8 Equestrian Drive as per an easement that was on  
9 the existing Equestrian Drive subdivision map  
10 approximately four hundred feet to serve the four  
11 lots we propose hereon. That's it.

12 CHAIRMAN EWASUTYN: Okay. At this time  
13 I'll turn the meeting over to the public. If you  
14 would please raise your hand and give your name  
15 and address. Sir.

16 MR. BACON: My name is Jim Bacon, I'm  
17 an attorney for Kirk and Kelly Cleveland, they  
18 are at 2 Equestrian Drive at Prospect Hill Road.

19 My address is P.O. Box 575, New Paltz, New York  
20 12561.

21 Good evening, Mr. Chairman and Members  
22 of the Board. I think this project presents an  
23 interesting question about easements and when  
24 they are expressed and when they are implied and  
25 whether or not Equestrian Drive has a natural

EASTERN ORANGE DEVELOPMENT

1 easement to the developer's property in the back 56  
2 of that.  
3

4 There are really two categories of  
5 easements. There's expressed easements where the  
6 specific language between the grantee and grantor  
7 that conveys an easement interest either in a  
8 deed or some type of maintenance agreement, an  
9 acknowledgement, recorded instrument, then  
10 there's also implied easements that can be taken  
11 from other recorded instruments, such as a filed  
12 map. In this case when you look at the filed  
13 maps for Equestrian Drive and also for Hammond  
14 Lane it's clear that the Equestrian Drive filed  
15 map does not present a prescriptive easement for  
16 the applicant's property. The way that we know  
17 that is that the applicant's property is not a  
18 numbered lot on that filed map. If it were there  
19 would be no question that they have an implied  
20 right to use Equestrian Drive for ingress and  
21 egress to Prospect Hill Road. The failure of  
22 that project -- of that property to be on that  
23 filed map means that no prescriptive right  
24 arises.  
25

Now, I understand the Planning Board

EASTERN ORANGE DEVELOPMENT

1 has asked the applicant to provide a title report 57  
2 to show that there is actually insurable access  
3 over Equestrian Drive. I certainly appreciate  
4 that the Board has done that. My client actually  
5 went to an attorney across the river and asked  
6 that same question of him, Donald Capolino,  
7 Capolino & Rothchild. If I may I would like to  
8 present that letter to the Board.  
9

10 CHAIRMAN EWASUTYN: I would appreciate  
11 in the future that we receive something like that  
12 and have the opportunity to review it before the  
13 meeting. I will accept it now but we're at a  
14 disadvantage.

15 Did you receive it today?

16 MR. BACON: No, I didn't receive it  
17 today actually.

18 CHAIRMAN EWASUTYN: Out of courtesy I  
19 did receive your letter initially which I took  
20 the time to run off fourteen copies and circulate  
21 to everyone --

22 MR. BACON: I think that was a more  
23 important one.  
24 CHAIRMAN EWASUTYN: -- so we could be  
25 prepared. Equally as so in the future, if you're

EASTERN ORANGE DEVELOPMENT

1 58  
2 doing business with us I prefer you give us the  
3 opportunity of having the document in duly  
4 prepared time so we can --

5 MR. RAAB: I certainly will.  
6 CHAIRMAN EWASUTYN: Out of courtesy.  
7 Thank you.

8 MR. BACON: I think my letter really  
9 gets to the heart of the matter. That's more of  
10 a general letter about the title access.

11 CHAIRMAN EWASUTYN: Enough said.

12 MR. BACON: So when you look at the  
13 available documents that have been filed you find  
14 that the Equestrian Drive deeds do not talk about  
15 the extension of Equestrian Drive to any other  
16 properties, and the maintenance agreement that  
17 was filed that includes the Equestrian Drive lots  
18 also does not contemplate an extension of  
19 Equestrian Drive. Now, when you take that  
20 information and contrast it with the information  
21 on Hammond Lane, what comes into sharp relief is  
22 that every one of those deeds, or at least the  
23 deeds I've seen, specifically say that Hammond  
24 Lane be open to the public and to any other  
25 adjoining properties that are adjacent to Hammond

EASTERN ORANGE DEVELOPMENT

1 59  
2 Lane. Once more, the filed map, as the applicant  
3 had stated, for the original subdivision clearly  
4 had the developer's property as part of the  
5 Hammond Lane development.

6 In the Hammond Lane access scenario  
7 there's both express and implied easements that  
8 are created by the filing of that map which I've  
9 identified in my comments, plus the deeds which  
10 have gone from the grantor to the grantee. On  
11 the other side, again there was no really privity  
12 of contract, no connection between the grantor  
13 and the grantee of the developer's property that  
14 shows a connection of Equestrian Drive to the  
15 applicant's property. I understand there is a  
16 note on the map, and that might have been the  
17 Planning Board's intent just -- I'm the planning  
18 board attorney at Wallkill and it's not unusual  
19 to say Mr. Applicant, when you're developing this  
20 there may be some type of development in the  
21 future, why don't you just put a note on the map.  
22 Without something further going into the deed or  
23 the maintenance agreement, it doesn't really  
24 confirm that an easement has been created. I

25 think that's what the title company will bear out

EASTERN ORANGE DEVELOPMENT

1 60

2 once they do get the Board a copy, or once they  
3 examine this and provide a report to the Board.

4 The other reason why I think that's  
5 clear is normally, although in a perfect world a  
6 private road such as Equestrian Drive would have  
7 all the neighbors working in harmony to keep  
8 their road in perfect order. Unfortunately, as  
9 we all know -- I don't think I've ever heard of a  
10 case where there's more than four or five lots  
11 where that actually happens. In the Town of  
12 Wallkill we try to limit private roads to about  
13 four lots. There's no official policy but that's  
14 what we try to do. Unfortunately in this case,  
15 on Equestrian Drive the neighbors haven't been  
16 really on the same page with keeping the road  
17 maintained. To extend it now beyond that and add  
18 another five lots I think would exacerbate an  
19 already difficult problem for the current  
20 neighbors.

21 If the Board would consider those  
22 factors in looking at that, we would certainly  
23 appreciate that.

24 CHAIRMAN EWASUTYN: At this point, Mr.  
25 Bacon, I think for the betterment of all of us

EASTERN ORANGE DEVELOPMENT

1 61

2 here and since the Board itself doesn't have  
3 experience and knowledge on these facts, I would  
4 like to turn to Mike Donnelly, Planning Board  
5 Attorney, to seek his advice. Mike.

6 MR. DONNELLY: There appears to be, as  
7 Mr. Bacon has described it, an interesting -- of  
8 course it depends upon where you sit as to how  
9 interesting it is, but certainly a real legal  
10 issue presented as the rights of this developer  
11 to utilize Equestrian Way. This was something  
12 that was brought to our attention before your  
13 letter and we had told the applicant from the  
14 beginning that the best way, as far as my  
15 recommendation, to have that resolved is to have  
16 a title company report to us that there is  
17 insurable title on that access. I do not believe  
18 that a Planning Board is the appropriate forum  
19 where we can determine these competing claims.  
20 Certainly the applicant claims and has presented  
21 me with materials that the applicant claims  
22 support the position that they do have the right  
23 of access. Mr. Bacon has written the Board a  
24 letter which lays out his client's position. My  
25 advice to you is when an issue like that is

EASTERN ORANGE DEVELOPMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

brought to your attention, that you ensure that the applicant has demonstrated to you a firm basis for the claim that there is a legal right of access here, and I think that title report would do it. If that doesn't satisfy you I think it's for the courts to make the determination as to who is correct.

My recommendation to the Board then is that we're not going to resolve this tonight, that you conduct the hearing and if it seems appropriate to close it, that you only close it if the applicant extends the sixty-two day time period to act on an indefinite basis until that documentation is provided. If it is not provided -- by documentation I mean either a title report or a determination of a court as to what the rights of the parties are. Absent one of those two things within some reasonable period of time, I would think you would have to disapprove the subdivision. I think if the applicant can come forward with that, either a title report or a court judgment, you would be in a position to act on it, and if all else was in order that you could approve it at that time.

EASTERN ORANGE DEVELOPMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Do you find that to be a reasonable device?

MR. BACON: Yes, Mr. Chairman. I would just say if a title report does come in, just as a matter of courtesy could we have a copy forwarded to us for us to --

CHAIRMAN EWASUTYN: Can I send it to you ten minutes before you have to make your decision?

MR. BACON: I got my letter to you.

CHAIRMAN EWASUTYN: Fair is fair. Okay. By all means. We pride ourselves in communicating. That's the only reason why I ask that we get things earlier, so everyone has an opportunity to think and respond. By all means.

MR. RAAB: As we've already agreed to the conditions, that's still under review. Of course they're going to take their time looking at it now since Mr. Bacon's letter has reached the title underwriter. They are going to take their time looking into it. We'll extend the sixty-two day period to the Planning Board. There's no problem with that.

MR. BACON: Thank you, Mr. Chairman.

EASTERN ORANGE DEVELOPMENT

1  
2  
3

CHAIRMAN EWASUTYN: Additional comments from the public? Ma'am.

4 MS. CRUZ: My name is Olga Cruz, I live  
5 at 29 Madison Court. That's in the Margate  
6 Meadow subdivision. I would like to know where  
7 this would be related to where I live? I live on  
8 the cul-de-sac.  
9 MR. RAAB: You live up on the  
10 cul-de-sac. That would be over here. These lots  
11 are over here.  
12 MS. CRUZ: It would not be directly  
13 behind me?  
14 MR. RAAB: It would be on the other  
15 side of the street. They would be to the rear of  
16 the lots on the other side of the street. Are  
17 you on the cul-de-sac here or in the corner?  
18 MS. CRUZ: I'm on the corner right next  
19 to Hammond Lane. Like the back is -- my back is  
20 towards Hammond Lane.  
21 MR. RAAB: Are you on the cul-de-sac?  
22 MS. CRUZ: Yes.  
23 MR. RAAB: If you're on the cul-de-sac  
24 you would probably be right in here somewhere.  
25 Either here or in the middle lot because there's

EASTERN ORANGE DEVELOPMENT

1 a middle lot there. I'm not quite sure where you 65  
2 are.  
3  
4 MS. CRUZ: So the road to that is not  
5 anywhere near -- the road to that extends from  
6 Equestrian Drive down?  
7 MR. RAAB: The road in question, yes.  
8 It extends from Equestrian.  
9 MS. CRUZ: Thank you.  
10 CHAIRMAN EWASUTYN: I believe there was  
11 someone in the back. Sir.  
12 MR. ZIMMERMAN: My name is Michael  
13 Zimmerman, I'm here on behalf of my wife Sharon  
14 and I. We live on 21 Equestrian Drive. It's  
15 more or less just a note to the Board because I  
16 don't know how this is going to affect the water  
17 situation, the drainage situation, the whole nine  
18 yards. Half of my property is always flooded,  
19 period. I don't think it's going to have any  
20 positive impact on it besides a negative impact.  
21 What I wanted to bring forward is we  
22 moved from Poughkeepsie off of Route 9. We  
23 purchased this home to be away from traffic and  
24 from stress and the whole nine yards. As it is  
25 now there are so few houses on this road there's

EASTERN ORANGE DEVELOPMENT

1 people that try to pass you on the road. It's 66  
2 what, not even half a mile long. I mean I don't  
3 know what the rush is to get home that much.  
4 I've got to cut my grass too but I have two more  
5 seconds to get home. I have two little children,  
6



7 I have two little dogs. We purchased this home  
8 to have peace and quiet. We purchased in the  
9 cul-de-sac, a small one so there would not be any  
10 issues or hassle. Now this reopens a whole other  
11 can of worms for us. I personally don't like it  
12 because, like I said, that's why we purchased the  
13 home. We moved from Poughkeepsie here and we  
14 tried to keep the home as nice as possible on the  
15 inside, outside so it looks nice for the  
16 neighbors too.

17 Like somebody else had mentioned, even  
18 the road. People can't agree on maintaining the  
19 road. It's only a handful of people. Now you  
20 add more people to it it's going to be more of a  
21 disaster than it is already. Somebody plows from  
22 here to there, somebody plows from here to there,  
23 this one doesn't speak to that one and back and  
24 forth. Like somebody said in the perfect world.  
25 We don't live in the perfect world. I would like

#### EASTERN ORANGE DEVELOPMENT

1 that to be taken into consideration. I mean if 67  
2 the Town of Newburgh Board makes a decision to  
3 grant this project, the Town of Newburgh should  
4 be responsible for maintaining that road.

5 CHAIRMAN EWASUTYN: Okay. The impact  
6 that we're responsible to look at under SEQRA,  
7 the potential for an adverse impact, would be the  
8 first one that you brought to the floor this  
9 evening, that is drainage. I'll have Pat Hines,  
10 our Drainage Consultant, speak to you as to how  
11 the plans have been looked at to date for the  
12 impacts of drainage.

13 MR. HINES: My office reviewed the  
14 stormwater management plans for this project.  
15 Initially when the project came before this Board  
16 there were plans to extend the closed pipe  
17 drainage system, a series of culverts and catch  
18 basins, down Equestrian Drive and tie into the  
19 existing drainage within Equestrian Drive.  
20 Knowing the history there we questioned whether  
21 that was the best way to do it and whether or not  
22 the applicant had the right to cross all those  
23 driveways and put those improvements within the  
24 private roadway. Subsequent to that the  
25

#### EASTERN ORANGE DEVELOPMENT

1 applicant came back and gave two different 68  
2 drainage scenarios with detention ponds located  
3 on either part of the applicant's property.

4 I believe you received an easement or  
5 need to get an easement from Sarubi.

6 They received a discharge point on the  
7 lands of Sarubi which is located on the end of  
8 the Equestrian Drive cul-de-sac. A stormwater  
9

10 detention pond is located on lots 1 and 2.  
11 That's been designed in compliance with the  
12 regulations. The water will discharge across the  
13 proposed extension onto lands of Sarubi and enter  
14 the existing DEC regulated wetlands that are down  
15 below there.

16 Initially the water was going to be  
17 directed down Equestrian Drive. We questioned  
18 that and sent the applicant back and they've  
19 designed a stormwater system that keeps the water  
20 up on their portion of the project. The question  
21 is still out there whether or not they can  
22 improve that roadway to the extent they are. So  
23 we did look at the drainage. They were initially  
24 sending it down towards your house and that's  
25 been modified.

EASTERN ORANGE DEVELOPMENT

1 69

2 MR. ZIMMERMAN: Everything comes  
3 downhill already.

4 CHAIRMAN EWASUTYN: In other words,  
5 there was a comment made earlier this evening by  
6 Mr. Bacon as far as the number of homes that  
7 could be serviced by a private road in the Town  
8 of Newburgh. I'll have Bryant Cocks, Planning  
9 Consultant, speak to you on if there is a  
10 limitation.

11 MR. COCKS: Let me check. I'm not  
12 sure.

13 MR. HINES: There's none.

14 CHAIRMAN EWASUTYN: There is none.

15 MR. HINES: The Town of Newburgh does  
16 not have a limit on the number of houses that can  
17 be served by a private roadway. We do see a lot  
18 of subdivisions that are involved with private  
19 roadways. The people want that peace and quiet  
20 that you had mentioned. We do see large  
21 subdivisions, twenty, twenty-five lot  
22 subdivisions, serviced by private roads in the  
23 Town. There is no limit on the number of houses  
24 in the Town.

25 CHAIRMAN EWASUTYN: Traffic control,

EASTERN ORANGE DEVELOPMENT

1 70

2 I'll have Mike Donnelly, Planning Board Attorney,  
3 touch on that. I mean that's even true -- we  
4 hear at public hearings how people speed on Town  
5 roads. Now you're also talking about controlling  
6 traffic on a private road. I'll have Mike  
7 Donnelly, our Attorney, speak to that.

8 MR. DONNELLY: One of the functions of  
9 the Planning Board is to look at the protection  
10 of the general safety, health and welfare of the  
11 community. In addition to looking at whether or  
12 not the subdivision in terms of the size of its

13 lots, the setback of the homes, the by-the-book  
14 requirements have been satisfied, the Planning  
15 Board also looks, as the Chairman mentioned  
16 earlier, at the potential environmental impacts.  
17 It also looks at the protection of the general  
18 safety, health and welfare of the community.

19 This private road is not one that has a  
20 great number of lots by Newburgh standards. As  
21 Pat mentioned a moment ago, we have subdivisions  
22 with twenty and twenty-five and more homes. We  
23 do have a traffic consultant and when a  
24 sufficient threshold is met and the potential  
25 traffic impacts need to be examined we call upon

EASTERN ORANGE DEVELOPMENT

1 71  
2 the traffic consultant to examine into it.  
3 Single-family residential homes do not create  
4 tremendous volumes of traffic. There are all  
5 kinds of books and studies and literature on  
6 that. The Board has looked at this private road.  
7 The Town provides a specification for that road,  
8 it has to be of a certain material and width and  
9 so forth. This road, if it were extended, would  
10 have to comply with those specifications.

11 MR. ZIMMERMAN: So there's no speed  
12 limit?

13 MR. DONNELLY: There are no speed  
14 limits on private roads.

15 MR. ZIMMERMAN: That's worse than Route  
16 9. I hate to say it.

17 MR. DONNELLY: There are certainly  
18 advantages of private roads. One of the  
19 advantages, just so you understand, if Town roads  
20 are proposed the Planning Board in many cases  
21 will look to see that provision or opportunity is  
22 made to connect the lands with those Town roads  
23 to adjoining lands that are to be developed in  
24 the future so that a roadway system where people  
25 can travel from neighborhood to neighborhood will

EASTERN ORANGE DEVELOPMENT

1 72  
2 exist rather than requiring people who live here  
3 who want to visit a friend that's only five  
4 hundred feet away as the crow flies from having  
5 to drive out onto roadways, around and back in.  
6 However, the Planning Board feels that's an  
7 inappropriate burden for private roads because,  
8 after all, private roads are paid for and  
9 maintained by the citizens that live on them and  
10 therefore the general public should not have the  
11 right to utilize them to get to other locations.  
12 You often have that advantage with a private  
13 road, that it remains relatively private subject  
14 to the potential, if provision is made for it, to  
15 its extension in the future by those who would

16  
17  
18  
19  
20  
21  
22  
23  
24  
25

also share in the cost of upkeep. That is clearly an advantage that you obtain.

The Town doesn't have a legal right to enforce traffic regulations on a private roadway. In some cases, in shopping centers and multi-family residential developments, developers have petitioned the Town Board under a provision of the Vehicle and Traffic Law to allow the town police force to enter upon those private roads and to enforce Vehicle and Traffic violations

EASTERN ORANGE DEVELOPMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

73

against those who utilize them. That's not the case with a private road here. Generally it's thought that they are not likely, given their size, layout and length, to have the kind of traffic problems that a Town road would.

MR. ZIMMERMAN: Thank you.

CHAIRMAN EWASUTYN: Michael, I think that addressed most of your comments tonight almost as completely as we possibly could.

Additional comments from the public?

Sir.

MR. TOWNSEND: I'm Marty Townsend, 26 Equestrian Drive. One thing I'm wondering is why I didn't get notified. I'm only about 145.02 feet away from this property.

Michael has touched on the drainage. I had a question on the drainage. I guess my biggest concern is if this goes through who is responsible for the road and fixing any kind of damage that's done? Is there going to be a bond issued to make sure that any damage gets fixed? We do own the road, not the Town.

MR. DONNELLY: If it is established that this developer has the right to utilization

EASTERN ORANGE DEVELOPMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

74

we would require that a recorded instrument that supplements the existing one that would require the new lot owners to share in the cost of the existing section of roadway maintenance be provided, and further that only the residents in the new section share in the cost of maintaining the drainage structures that are for the benefit of those new homeowners. So in addition to the existing private roadway easement and maintenance agreement the applicant would have to supplement it with a declaration that would require these landowners to share in the cost of maintenance as well.

MR. TOWNSEND: What about the damage that occurs bringing heavy equipment up the road?

MR. DONNELLY: The Town does have a

19 requirement that a bond be posted to ensure that  
20 a private roadway is installed according to the  
21 specifications of the Town and as shown on the  
22 plan, and it also includes provision for  
23 inspection by the town engineer or the highway  
24 superintendent. I forget who does that.

25 MR. HINES: The town engineer.

EASTERN ORANGE DEVELOPMENT

75

1  
2 MR. DONNELLY: The town engineer. I  
3 assume to some extent they would look at whether  
4 or not damage has been done to existing roadways  
5 where they had to come in to provide services.

6 MR. TOWNSEND: Who is liable at that  
7 point? Legally liable let's just say?

8 MR. DONNELLY: Again, this is not the  
9 forum where we determine such things. Generally  
10 the person who would cause the damage would be  
11 the one who would be liable for that damage,  
12 meaning the developer, its contractor, whoever it  
13 may be.

14 MR. RAAB: I don't think there would be  
15 a problem with putting an item -- a line item in  
16 the bond estimate for repair of the road. I  
17 think there's something that could be worked out  
18 very well there.

19 CHAIRMAN EWASUTYN: Marty, we checked  
20 the mailing list for your name and you weren't on  
21 the mailing list. I'll have Dina Haines walk you  
22 through the process of how we come up with the  
23 names that are given to the applicant's  
24 representative to send out a certified mailing.

25 Dina.

EASTERN ORANGE DEVELOPMENT

76

1  
2 MS. HAINES: What we do is we send a  
3 memo to our assessor, our town assessor. This  
4 one was only for property owners that are  
5 contiguous and across the street from the  
6 project. The assessor comes up with a list and  
7 the applicant then has to send certified letters  
8 to every single person on that list, which this  
9 applicant did do. Unfortunately, like John said,  
10 you were not on that list.

11 MR. DONNELLY: The good news is you're  
12 here.

13 MR. TOWNSEND: Yeah. I found out three  
14 days ago so I didn't prepare. Thank you.

15 CHAIRMAN EWASUTYN: Additional comments  
16 from the public?

17 (No response.)

18 CHAIRMAN EWASUTYN: At this point I'll  
19 turn to comments from our consultants. Pat  
20 Hines, Drainage Consultant.

21 MR. HINES: We reviewed the stormwater

22 management plan as I had stated earlier.  
23 In addition we reviewed the four  
24 subsurface sanitary sewer disposal systems. They  
25 propose to use Elgin indrain systems. It's a

EASTERN ORANGE DEVELOPMENT

77

1 proprietary product that is accepted by the  
2 Health Department. Those have been detailed on  
3 the plans based on the soils information provided  
4 by the applicant's representative.

5 Well locations have been shown and they  
6 meet the separation distances.

7 I think it's lot 4 has a retaining wall  
8 shown in order to provide adequate area, usable  
9 area with less than fifteen percent grades.  
10 That's been depicted.

11 The grading and driveways have been  
12 modified somewhat to preserve a couple large  
13 diameter trees on the site. The applicant has  
14 complied with those.

15 Our technical comments have been  
16 addressed realizing that there's the access issue  
17 still out there.

18 CHAIRMAN EWASUTYN: Thank you.  
19 Bryant Cocks, Planning Consultant.

20 MR. COCKS: The applicant also moved  
21 the road about fifteen feet south to preserve the  
22 stonewall that's existing there.

23 He also included a retaining wall on  
24 the far lot to provide the basic lot area that's  
25

EASTERN ORANGE DEVELOPMENT

78

1 needed.

2 We received comments back from the Town  
3 of Plattekill stating they have no issues with  
4 the subdivision.

5 The plans were forwarded to the Orange  
6 County Planning Department. They never sent back  
7 a 289 review but they did send back a letter  
8 granting us designation of lead agency, so they  
9 have seen the plans.

10 Other than that we have no more issues.

11 CHAIRMAN EWASUTYN: Okay. Karen Arent,  
12 Landscape Architect.

13 MS. ARENT: The consultant addressed  
14 all the previous comments. The landscape cost  
15 estimate in the amount of \$18,455 was submitted  
16 and is acceptable. If and when this project is  
17 approved that will be forwarded to the Town  
18 Board.

19 CHAIRMAN EWASUTYN: Frank Galli,  
20 Planning Board Member?

21 MR. GALLI: No additional.

22 CHAIRMAN EWASUTYN: Cliff Browne?

23 MR. BROWNE: Just waiting on that title  
24

25 search report.

EASTERN ORANGE DEVELOPMENT

79

1  
2 CHAIRMAN EWASUTYN: Ken Mennerich?  
3 MR. MENNERICH: No questions.  
4 CHAIRMAN EWASUTYN: Joe Profaci?  
5 MR. PROFACI: Nothing further.  
6 CHAIRMAN EWASUTYN: Any additional  
7 comments from the public at this time?  
8 (No response.)  
9 CHAIRMAN EWASUTYN: As I said earlier  
10 in the evening, we would move for a motion to  
11 close the public hearing for Eastern Orange  
12 Development, the five-lot subdivision located off  
13 of Equestrian Drive and Prospect Hill Road,  
14 subject to the applicant waiving the sixty-two  
15 day decision time.  
16 MR. GALLI: So moved.  
17 MR. BROWNE: Second.  
18 CHAIRMAN EWASUTYN: I have a motion by  
19 Frank Galli. I have a second by Cliff Browne.  
20 Any discussion of the motion?  
21 (No response.)  
22 CHAIRMAN EWASUTYN: I'll move for a  
23 roll call vote starting with Frank Galli.  
24 MR. GALLI: Aye.  
25 MR. BROWNE: Aye.

EASTERN ORANGE DEVELOPMENT

80

1  
2 MR. MENNERICH: Aye.  
3 MR. PROFACI: Aye.  
4 CHAIRMAN EWASUTYN: Myself. So  
5 carried.  
6 For the record, I'll have Planning  
7 Board Attorney Mike Donnelly speak to Jim Raab,  
8 the applicant and the Board as to what will be  
9 necessary for them to demonstrate their rights of  
10 access to this.  
11 MR. DONNELLY: One thing before I do  
12 that. To supplement what Bryant said earlier, we  
13 did send a request for a report to the Orange  
14 County Planning Department under the General  
15 Municipal Law Section 239-M. While they have not  
16 responded, the time within which they are given  
17 to respond passed some time ago so we are capable  
18 of jurisdiction to act.  
19 What the applicant needs to do is to  
20 provide this Board, and to copy Mr. Bacon, with a  
21 title report that demonstrates a right to utilize  
22 Equestrian Drive and to extend it for the use of  
23 these additional landowners. You will also need  
24 to work out, if that is demonstrated, the  
25 supplemental private roadway easement and

EASTERN ORANGE DEVELOPMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

maintenance agreement which will require these lot owners to explicitly share in the cost of the existing maintenance and solely share in the cost of the drainage facilities. I'm sure that can be accomplished when the time comes. There are a number of conditions but I don't know it's helpful to go over all of them now.

MR. RAAB: Let me verbally say I understand what Mr. Donnelly said and we agree.

CHAIRMAN EWASUTYN: Okay.

MR. RAAB: I also agree to the sixty-two day extension.

CHAIRMAN EWASUTYN: Thank you.

Dina, would you make it a point of making copies for all the consultants and all the Planning Board Members for the submittal we receive for Mr. Bacon, and we'll have a copy sent to Mr. Raab also?

MS. HAINES: Absolutely.

CHAIRMAN EWASUTYN: Thank you all for attending. I appreciate it.

(Time noted: 8:15 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_

DATED: September 14, 2007

1  
2  
3

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of



4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHARLES PELELLA & WILLIAM BELL  
(2007-29)

End of Lockwood Lane & south side of Calvin Lane  
Section 8; Block 1; Lot 8.12  
AR Zone

----- X

CONCEPTUAL SKETCH PLAN  
FOUR-LOT SUBDIVISION

Date: September 6, 2007  
Time: 8:18 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

CHARLES PELELLA & WILLIAM BELL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

CHAIRMAN EWASUTYN: The next item we have of business this evening is Charles Pelella and William Bell. It's a conceptual sketch plan for a four-lot subdivision located at the end of Lockwood Lane and the south side of Calvin Lane. It's in an AR Zone and it's being represented by Jim Raab.

Jim.

MR. RAAB: Thank you, Mr. Chairman. A little over three years ago we came in with a two-lot subdivision where I showed a sketch of how this eleven-and-a-half acres would be subdivided in the future. What had originally been proposed was to expand the common driveway that was serving the property to the south and the existing house on this which is -- which was lot number 1. We couldn't get the parties to

19 agree to it because we had the apple orchard  
20 people to the west, and Bell and Pelella, and  
21 also the Amity Foundation to the north. It was  
22 decided then, after having a field inspection  
23 with Daryl Benedict, it was only an initial thing  
24 to see what his thoughts were, it wasn't anything  
25 official at all, is would there be a way of

CHARLES PELELLA & WILLIAM BELL

85

1 getting a road up in here and the possibilities  
2 of bringing it up and extending it and giving it  
3 a cul-de-sac to Lockwood Lane. That was then  
4 brought to the Amity Foundation who owns the  
5 property to the north of Calvin Lane, and  
6 actually Calvin Lane up to the police chief's  
7 house. So then myself and Tectonic Design, as  
8 you can tell it's a Tectonic design map with our  
9 name on it, the two companies got together and we  
10 proposed -- we put together this plan which  
11 basically has the same lot layout only with the  
12 road moved from the westerly side into the  
13 interior of the property near Mr. Bell's existing  
14 house which is on the residual acreage on lot 2.

15 It's going to be wells and septic.

16 We know that there's issues to be  
17 worked out as far as grading and that. This is  
18 an initial sketch plan presentation.

19 What we would like to do is in the  
20 future meet with Daryl Benedict, and Pat Hines,  
21 and Jim Osborne out in the field to discuss the  
22 fine points of what's going on here, including  
23 the K factors Mr. Hines brought up in his review.

24 CHAIRMAN EWASUTYN: Okay. We had

CHARLES PELELLA & WILLIAM BELL

86

1 discussed this during our work session and that  
2 is really what the Board had decided on. We were  
3 thinking along the same lines.

4 I would like to turn at this point to  
5 our consultants for any additional comments they  
6 may have on the plans that are presented this  
7 evening.

8 Pat Hines.

9 MR. HINES: A lot of our comments would  
10 be after sketch but I think they're pertinent  
11 now. Again, whether or not you have the rights  
12 to regrade or access to Calvin Lane is something  
13 you need to figure out. Three years ago just  
14 where Lockwood Lane starts, begins, stops and  
15 ends there was always a question of whether or  
16 not this extension will meet up to where the Town  
17 does own and maintain which we'll address at that  
18 meeting with the highway superintendent and the  
19 town engineer.

20 I just noted for the Planning Board the  
21

22 access regarding the driveways to the rear of the  
23 proposed parcels. I don't know if that access  
24 could be resolved off the cul-de-sac somehow to  
25 eliminate the driveways behind the proposed

CHARLES PELELLA & WILLIAM BELL

87

1 houses.  
2  
3 MR. RAAB: You mean this one here?  
4 MR. HINES: The rear of lot 4 and 5  
5 proposed. Up further. They are going to have a  
6 driveway.  
7 MR. RAAB: You're not talking about the  
8 path, are you?  
9 MR. HINES: On the other end of the  
10 map. Those lots have a driveway basically in  
11 their backyard.  
12 MR. RAAB: It's not really in their  
13 backyard. If you've been to the property you  
14 know that there's a severe elevation differential  
15 between the houses and this driveway. It runs  
16 along the side of the creek going back to Adel's  
17 house.  
18 MR. HINES: It looks like lot 1 could  
19 come off the cul-de-sac and eliminate that much.  
20 MR. RAAB: I don't have a problem with  
21 that. They don't really have the rights since  
22 that's been sold off now. I don't think there  
23 will be a problem.  
24 MR. HINES: It's actually touching  
25 their lot, so it may work out.

CHARLES PELELLA & WILLIAM BELL

88

1 You had mentioned the K values for the  
2 vertical curves. That would need a Town Board  
3 waiver if they are going to remain. That's  
4 something we can discuss in the future.  
5  
6 Lot 5, the septic design references  
7 proprietary product. There's a problem with the  
8 notes on lots 4 and 5 regarding whether it's an  
9 Elgin indrain, one is and one is not, or a galley  
10 system.  
11 That's the extent of our comments at  
12 this point. I think the road issue and the  
13 access issue need to be resolved.  
14 CHAIRMAN EWASUTYN: Who will arrange  
15 for the appointment with Daryl, Jim Osborne,  
16 yourself?  
17 MR. HINES: Typically we leave that to  
18 the applicant to make sure everyone is available.  
19 It's often difficult to chase us all down. Jim's  
20 office can handle it.  
21 CHAIRMAN EWASUTYN: Bryant Cocks.  
22 MR. COCKS: Jim, under the existing  
23 conditions is that whole area paved above the  
24 existing lot where all the driveways meet?

25

MR. RAAB: No, it's not all paved.

CHARLES PELELLA & WILLIAM BELL

1

89

2

MR. COCKS: It just looked like there was a large --

3

4

MR. RAAB: We'll try to bring that up a little bit, take some of the stuff that's on here off and answer some of the questions that were in your review.

5

6

MR. COCKS: Okay. There's going to be some kind of traffic control?

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. RAAB: Yes. What's going to happen here -- it's not shown on here because these plans were submitted -- Calvin Lane is going to have to come in at a right angle to that curve. I know it, Pat knows it, everybody knows it. We didn't want to do anything until we discussed it. We've already discussed it with the Amity Foundation and they have no problem with it. There's an agreement between Bell and Pelella and the Amity Foundation about grading this road and letting the Calvin Lane people improve their portion of the road also which has been a question for the Bonnie Jones subdivision for quite some time.

MR. COCKS: I also made the comment about connecting lot 1 to the cul-de-sac.

CHARLES PELELLA & WILLIAM BELL

1

90

2

MR. RAAB: That's a good idea.

3

4

MR. COCKS: Side-loaded garages on the house.

5

6

MR. RAAB: Is there a reason for that comment?

7

8

9

MR. COCKS: The design standards --

10

11

12

13

14

15

16

17

MR. RAAB: It's got to be one of your better comments.

MR. COCKS: The design standards are trying to use that in the Town from now on.

MR. RAAB: I think they just use the easiest portions. We'll change them around.

MR. COCKS: Okay. An engineer's seal and signature. Orange County Planning and the highway department, you're going to need their approvals.

Really the only issue is the lot. All the lots meet zoning right now.

18

19

20

21

22

23

24

25

MR. RAAB: Street trees.

CHAIRMAN EWASUTYN: Karen.

MS. ARENT: He knows. What are they, Jim?

MR. RAAB: Stonewalls, street trees.

MS. ARENT: Street trees. There's

CHARLES PELELLA & WILLIAM BELL

1 91  
2 going to be a stormwater management basin within  
3 view of the public road, screen that.  
4 MR. RAAB: Landscaping around it?  
5 MS. ARENT: You've got it.  
6 CHAIRMAN EWASUTYN: Okay. Comments  
7 from the Board Members. Frank Galli?  
8 MR. GALLI: No additional.  
9 CHAIRMAN EWASUTYN: Cliff Browne?  
10 MR. BROWNE: No.  
11 MR. MENNERICH: No questions.  
12 MR. PROFACI: No, thank you.  
13 MR. DONNELLY: Did I hear this was in  
14 an agricultural zone?  
15 MR. RAAB: I submitted paperwork for  
16 it.  
17 MR. DONNELLY: So this is a type I. At  
18 some point, sooner rather than later, we should  
19 think in terms of lead agency.  
20 MR. RAAB: Absolutely. Let's not leave  
21 it until the public hearing.  
22 CHAIRMAN EWASUTYN: Jim, at this point  
23 the Board discussed during the work session  
24 holding off taking an action on conceptual sketch  
25 plan approval until there's a meeting in the

CHARLES PELELLA & WILLIAM BELL

1 92  
2 field.  
3 MR. RAAB: Can I make a suggestion? Is  
4 there going to be a consultants' work session  
5 coming up?  
6 CHAIRMAN EWASUTYN: I think, Jim,  
7 before we go --  
8 MR. RAAB: I don't mean for us to go to  
9 it. I mean to plan the meeting out in the field  
10 the same day.  
11 CHAIRMAN EWASUTYN: Oh. Again, that  
12 kind of timing thing, I don't want to start  
13 planning that.  
14 MR. RAAB: That's all right.  
15 CHAIRMAN EWASUTYN: It's a good thought  
16 but I -- there's too many people to think that  
17 way.  
18 MR. RAAB: Okay.  
19 CHAIRMAN EWASUTYN: We'll have to  
20 remember next time around we will have to declare  
21 our intent for lead agency. For right now we're  
22 holding off on conceptual sketch plan approval  
23 and we're making the revisions subject to a  
24 meeting in the field with Pat Hines, Jim Raab,  
25 Daryl Benedict and Jim Osborne to review the

CHARLES PELELLA & WILLIAM BELL

1 93  
2 rights of access from Lockwood Lane to Calvin  
3 Lane and all the other road issues related.

4 MR. RAAB: Okay. Well, can I ask this  
5 question?  
6 CHAIRMAN EWASUTYN: Go ahead.  
7 MR. RAAB: Is there a consultants'  
8 meeting coming up? It's only because Pat will be  
9 in the Town for it.  
10 MR. HINES: I'll be in the chair here.  
11 MR. RAAB: I know that.  
12 MR. HINES: The last Tuesday of every  
13 month. The fourth Tuesday of every month.  
14 Sometimes they change it.  
15 MR. RAAB: Would you have a problem if  
16 we scheduled it in the morning?  
17 MR. HINES: As long as you can get  
18 everyone together. Preferably around noon would  
19 be better.  
20 MR. RAAB: Preferably around noon?  
21 MR. HINES: They start at 1.  
22 MR. RAAB: Okay. Thank you very much.  
23  
24 (Time noted: 8:30 p.m.)  
25

94

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_  
DATED: September 14, 2007

1  
2  
3  
4  
5

95

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

NOAH ESTATES  
(2007-27)

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

Rock Cut Road  
Section 86; Block 1; Lot 95  
R-2 Zone

----- X

CONCEPTUAL SKETCH PLAN  
FIVE-LOT SUBDIVISION

Date: September 6, 2007  
Time: 8:30 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: ROBYN SCOPTEUOLO

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

NOAH ESTATES

CHAIRMAN EWASUTYN: The next item of business we have this evening is the lands of Noah Estates. It's a conceptual sketch plan for a five-lot subdivision located on Rock Cut Road in an R-2 Zone. It's being represented by Robyn Scopteuolo.

Robyn has asked that we move this along expeditiously tonight because she may be having a child very shortly and she would like to get in a position to manage that.

MS. SCOPTEUOLO: Not soon enough. It is a five-lot subdivision with one house currently built with a fairly recent certificate of occupancy on the main parcel. There would be four lots subdivided off of that one main parcel.

CHAIRMAN EWASUTYN: I wish we had more people that presented things as well as that. Thank you.

MS. SCOPTEUOLO: No problem.

CHAIRMAN EWASUTYN: I'll turn to Pat

22 Hines, our Drainage Consultant.  
23 MR. HINES: We've reviewed the project.  
24 It's going to require a permit from the Orange  
25 County Department of Public Works for access from

NOAH ESTATES

1 the County highway for the private road. 97  
2  
3 I just have a note an existing driveway  
4 will be eliminated once this roadway is  
5 constructed.  
6 The roadway has been substantially  
7 constructed. There's an access to the existing  
8 house under the current state.  
9 We reviewed the plans. The stormwater  
10 management plan has been provided which utilizes  
11 dry swales for water quality.  
12 There's an existing Federal wetland  
13 along the property frontage that is to be  
14 utilized for water quantity control. The rear of  
15 the property contains DEC jurisdictional wetlands  
16 and a buffer. There's a slight amount of  
17 stormwater going there but it's a minimal amount  
18 so it's an appropriate place to put it.  
19 We need a signed freshwater wetland  
20 boundary validation from the DEC, to have that  
21 filled out.  
22 A private road access and maintenance  
23 agreement acceptable to Mike Donnelly which  
24 includes the two existing houses that will access  
25 the private road needs to be done.

NOAH ESTATES

1 The private road notes on the plan, in 98  
2 reviewing that I noticed that Mr. Yanish must  
3 have used them from a different subdivision.  
4 They refer to Kings Hill Road and Route 300.  
5 Those need to be cleaned up.  
6 We reviewed the septic systems and well  
7 locations and found those to be adequate.  
8 It does need to go to County Planning  
9 and you do need to do lead agency.  
10 CHAIRMAN EWASUTYN: Thank you.  
11 Bryant Cocks, Planning Consultant.  
12 MR. COCKS: The topography needs to be  
13 shown on the site plans.  
14 You also need to have what street trees  
15 are going to be provided. These have to be shown  
16 and whatever other landscaping is proposed.  
17 Pat mentioned that this has to go to  
18 DPW and Orange County.  
19 Currently all the lots meet the zoning  
20 requirements. No variances will be needed.  
21 That's all we have.  
22 CHAIRMAN EWASUTYN: Karen Arent,  
23 Landscape Architect.  
24



25

MS. ARENT: The plans should be revised

NOAH ESTATES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

99

to accurately portray the vegetation that will be preserved on the site.

The following notes should be shown on the erosion control plan: To survey and mark the clearing limit lines, install orange fencing, install safety fencing along or outside the drip line of the tree canopy. There should be no storage of equipment or materials inside the clearing limits. No equipment is permitted within the clearing limits. The fencing should remain in good condition from the start of the construction period. Also include a note that requires tree replacement in accordance with the Town of Newburgh buffer regulations if trees are removed within these no disturbance areas. A substantial buffer should be preserved along Rock Cut Road to screen the houses and property from the road.

Houses are shown very close to the rear lot lines on lots 4 and 5. One house is shown only eight feet away from the rear yard setback which is not acceptable because if they want a deck or something they won't be able legally to build a deck. You know, a decent size deck. The

NOAH ESTATES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

100

houses should move closer to the front property line to give more space in the rear.

There might be some grade issues but if possible the house on lot number 1 should also move closer to the cul-de-sac so that if future owners of this home want a swimming pool or something there's plenty of space to do that. The grading might preclude that possibility.

MS. SCOPTEUOLO: That's actually --

MS. ARENT: We need to see the topography.

MS. SCOPTEUOLO: That one actually the house already has a CO. I think they'll be mad if I ask if I can move it.

MS. ARENT: I didn't realize that was the house.

MS. SCOPTEUOLO: Sorry.

MS. ARENT: Cross that right out.

Species of street trees should be specified along with the total quantity of street trees. Use native and indigenous trees of a minimum size of two to two-and-a-half inches in caliber.

Notes should be placed on the drawing

NOAH ESTATES

1  
2 if topsoil should be stripped a minimum of six  
3 inches of topsoil should be spread in the  
4 disturbed areas.  
5 CHAIRMAN EWASUTYN: You received the  
6 review comments from the consultants; correct?  
7 MS. SCOPTEUOLO: From?  
8 CHAIRMAN EWASUTYN: From our  
9 consultants.  
10 MS. SCOPTEUOLO: Yes. I received them  
11 yesterday and today.  
12 CHAIRMAN EWASUTYN: Additional comments  
13 from Planning Board Members. Frank Galli?  
14 MR. GALLI: No additional.  
15 MR. BROWNE: Conceptual is good.  
16 MR. MENNERICH: No questions.  
17 MR. PROFACI: Nothing.  
18 CHAIRMAN EWASUTYN: I'm going to move  
19 for a motion that will include several actions at  
20 this point. I'll move for a motion to grant  
21 conceptual approval, to declare our intent for  
22 lead agency, to circulate to the Orange County  
23 Planning Department, and also to circulate to the  
24 Orange County Department of Public Works for the  
25 five-lot subdivision known as Noah Estates

NOAH ESTATES

1  
2 located on Rock Cut Road.  
3 MR. GALLI: So moved.  
4 MR. PROFACI: Second.  
5 CHAIRMAN EWASUTYN: I have a motion by  
6 Frank Galli. I have a second by Joe Profaci.  
7 Any discussion of the motion?  
8 (No response.)  
9 CHAIRMAN EWASUTYN: I'll move for a  
10 roll call vote starting with Frank Galli.  
11 MR. GALLI: Aye.  
12 MR. BROWNE: Aye.  
13 MR. MENNERICH: Aye.  
14 MR. PROFACI: Aye.  
15 CHAIRMAN EWASUTYN: Myself. So carried.  
16 Robyn, if you would make it a point of  
17 getting plans to Bryant Cocks, our Planning  
18 Consultant, and he'll manage the circulation.  
19 MS. SCOPTEUOLO: Okay. That would be  
20 great.  
21 When did you need those by?  
22 MR. COCKS: It's up to you.  
23 MS. SCOPTEUOLO: If I have everything  
24 done by the end of next week, would that be  
25 acceptable?

NOAH ESTATES

1  
2 MR. COCKS: That's fine with me.  
3 MR. HINES: When they get sent out it

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

starts those thirty-day clocks.  
CHAIRMAN EWASUTYN: Thank you.  
MS. SCOPEUOLO: Thank you very much.  
  
(Time noted: 8:35 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_  
DATED: September 14, 2007

104

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD  
----- X

In the Matter of

LANDS OF DZIEWATOWSKI  
(2007-06)  
296 Forest Road  
Section 1; Block 1; Lot 118  
AR Zone

----- X

THREE-LOT SUBDIVISION

Date: September 6, 2007  
Time: 8:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: HOWARD WEEDEN

23  
24  
25

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

LANDS OF DZIEWATOWSKI

105

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The next item of business this evening is the lands of Dziejatowski. It's a two-lot subdivision located on Forest Road in an AR Zone. It's being represented by Howard Weeden.

MR. WEEDEN: This is a three-lot subdivision on Forest Road, two lots with a remainder lot in the back.

CHAIRMAN EWASUTYN: I'll have to correct that to three lots.

MR. WEEDEN: We've been going through the approval process on this. Mr. Dziejatowski currently has three outbuildings on proposed lot 2. He wishes to keep these buildings until he sells lot 2 for a house site, which means we have to go to the Zoning Board of Appeals to get a variance to have those buildings remain until he decides to sell that lot. There is a note on the map that I'm going to keep on there that prior to any construction on lot 2, that the buildings will be removed.

CHAIRMAN EWASUTYN: Mike Donnelly, Planning Board Attorney, are we in a position to refer this to the ZBA at this time?

LANDS OF DZIEWATOWSKI

106

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

MR. DONNELLY: Normally I would say yes, however the buildings you're talking about actually encroach into County property as I understand it. I'm not sure that it's appropriate to ask either the Planning Board or the Zoning Board to grant variances or give approvals that would in essence increase the level of what's going to occur out there without some idea from the County whether they consent to what you propose, which is to leave them there until construction begins. I think if we had a consent from whoever it is in the County Government that would handle that, then at that point I think the Board would be in a position to refer this to the Zoning Board.

MR. WEEDEN: Okay. I will talk to Pat Kennedy about that. Right now Mr. Dziejatowski does own the property that the barn is on but we're dedicating it to the County. So it's like a catch 22 situation.

MR. DONNELLY: It will only become an encroachment after you dedicate it?

24 MR. WEEDEN: Correct.  
25 MR. DONNELLY: I assume if they are

LANDS OF DZIEWATOWSKI

1 107  
2 satisfied-- they're not going to accept the  
3 dedication with the shed on it, they're going to  
4 require they remove it at some point. So if you  
5 get whatever their agreement is to what your  
6 proposal is, then I think we can refer it to the  
7 Zoning Board.  
8 MR. WEEDEN: I'll get that in writing.  
9 CHAIRMAN EWASUTYN: Okay. That being  
10 said, then the action before us, Mr. Donnelly, is  
11 to refer this to the ZBA for a front yard and  
12 side yard variance?  
13 MR. DONNELLY: I think we should wait  
14 until -- if you want to refer it but you need to  
15 get the report before you can apply.  
16 MR. WEEDEN: We'll submit to the ZBA  
17 with that letter.  
18 CHAIRMAN EWASUTYN: So the motion I  
19 would move for this evening is to refer this to  
20 the ZBA for a front and side yard variance  
21 subject to the applicant understanding that he  
22 could not apply to the ZBA until he receives a  
23 letter from Patrick Kennedy who is --  
24 MR. WEEDEN: Orange County DPW.  
25 CHAIRMAN EWASUTYN: -- a responsible

LANDS OF DZIEWATOWSKI

1 108  
2 individual for Orange County DPW as far as  
3 acceptance of dedication for the lands that will  
4 be offered to the County.  
5 MR. MENNERICH: So moved.  
6 MR. BROWNE: Second.  
7 CHAIRMAN EWASUTYN: I have a motion by  
8 Ken Mennerich. I have a second by Cliff Browne.  
9 Any discussion of the motion?  
10 (No response.)  
11 CHAIRMAN EWASUTYN: I'll move for a  
12 roll call vote starting with Frank Galli.  
13 MR. GALLI: Aye.  
14 MR. BROWNE: Aye.  
15 MR. MENNERICH: Aye.  
16 MR. PROFACI: Aye.  
17 CHAIRMAN EWASUTYN: Myself. So  
18 carried.  
19 Thank you.  
20 MR. WEEDEN: Thank you. One further  
21 comment. We did receive our Orange County  
22 Department of Public Works letter for the  
23 entrance permit. I believe you were given a copy  
24 of that.  
25 Thank you very much.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Time noted: 8:40 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_

DATED: September 14, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

PATTY CAKE CHILDCARE  
(2007-31)

NYS Route 9W and North Hill Lane  
Section 24; Block 1; Lot 2.1

B Zone

- - - - - X

CONCEPTUAL SITE PLAN

Date: September 6, 2007  
Time: 8:40 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS

20  
21  
22  
23  
24  
25

PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

PATTY CAKE CHILDCARE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

111

CHAIRMAN EWASUTYN: The last item we have of Board Business this evening is Patty Cake Childcare. It's a conceptual site plan located on the northeast corner of New York State Route 9W with North Hill Lane. It's in a B Zone and it's being represented by Gregory Shaw.

MR. SHAW: Thank you, Mr. Chairman and good evening. As you mentioned, the project is located on the east side of Route 9W at its intersection with North Hill Lane.

There are presently two parcels which we are proposing to combine if we're successful in getting the approvals from the Town of Newburgh. All totaled the parcels will equal 1.36 acres. What we're proposing to construct is a two-story addition to Patty Cake Playhouse which will total 5,200 square feet of floor area between the two floors. We plan on revamping the entire site, that being the parking area, the sewage disposal system, bringing in Town water to sprinkler the building and providing underground stormwater detention.

With respect to the parking spaces, as we indicated on our schedule we're anticipating

PATTY CAKE CHILDCARE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

112

twenty-three employees at full build out. To that we've also provided six spaces for visitors and parents meeting with administrators, and finally six spaces for parents who are dropping off their children.

We're coming before the Board tonight for a referral to the Zoning Board of Appeals. This parcel is quite unique. We're in a B Zone and we butt up against an R-3 Zone. A daycare center is not permitted in the B Zone. I guess you would consider us to be an existing nonconforming use. It is permitted in the R-3 Zone. Had that R-3 line encapsulated our property we would not have to go to the Zoning Board of Appeals for an expansion of the use variance, but because it is not and it is in a B Zone we do have to go. We also have to go for a rear yard setback because we're obligated to

20 provide fifty feet in the R-3 Zone which are the  
21 bulk requirements that we have to comply with  
22 even though we're in the B Zone and we're only  
23 providing thirty.

24 Finally, with the enactment of the  
25 buffer and setback regulations by the Town, we

PATTY CAKE CHILDCARE

1 113  
2 are obligated to buffer from the zone that  
3 permits us as a permitted use.

4 So with that being said, we're also  
5 going to have to go to the Zoning Board of  
6 Appeals and get a variance because we are not  
7 meeting the setback of fifty feet with respect to  
8 the buffer and setback regs and we're not  
9 providing the fifty feet of buffer. A little  
10 confusing but we will get it straightened out.

11 With that, that's a brief overview of  
12 the project, we are looking for the Board to take  
13 lead agency, to possibly refer to the Orange  
14 County Department of Planning and to prepare a  
15 referral to the Zoning Board of Appeals to allow  
16 us to pursue the variances that I mentioned.

17 CHAIRMAN EWASUTYN: I'll turn to Mike  
18 Donnelly, Planning Board Attorney. At this point  
19 I don't believe we could act on lead agency until  
20 the ZBA decides --

21 MR. DONNELLY: Actually I think we  
22 should act on lead agency because unlike the  
23 normal variance that is before the Zoning Board  
24 for residential properties that are type II, this  
25 would not be a type II variance and someone

PATTY CAKE CHILDCARE

1 114  
2 should be lead agency. So I think we can take  
3 that position.

4 I have two questions, though. The  
5 first is has this ever been before the Zoning  
6 Board?

7 MR. SHAW: To the best of my knowledge  
8 no.

9 MR. DONNELLY: So it would be then for  
10 the initial use variance because it's an  
11 expansion of the protected use, for an area  
12 variance for the rear yard setback and for an  
13 area variance from the buffering requirements.

14 MR. SHAW: And the setback  
15 requirements.

16 MR. DONNELLY: Rear yard setback.

17 MR. SHAW: In both cases, bulk and  
18 setback and buffers.

19 MR. DONNELLY: Right. I think you  
20 should do lead agency before you send it to the  
21 Zoning Board.

22 CHAIRMAN EWASUTYN: But at the same



23 time we can act tonight to refer it to the ZBA  
24 for the use variance, the rear yard variance and  
25 a variance of the requirement of a fifty-foot

PATTY CAKE CHILDCARE

115

1  
2 buffer.  
3 I'll move for a motion to declare our  
4 intent for lead agency.  
5 MR. PROFACI: So moved.  
6 MR. MENNERICH: Second.  
7 CHAIRMAN EWASUTYN: I have a motion by  
8 Joe Profaci. I have a second by Ken Mennerich.  
9 Any discussion of the motion?  
10 (No response.)  
11 CHAIRMAN EWASUTYN: I'll move for a  
12 roll call vote starting with Frank Galli.  
13 MR. GALLI: Aye.  
14 MR. BROWNE: Aye.  
15 MR. MENNERICH: Aye.  
16 MR. PROFACI: Aye.  
17 CHAIRMAN EWASUTYN: Myself. So  
18 carried.  
19 I'll move for a motion from the Board  
20 to refer this to the ZBA for a use variance, a  
21 rear yard variance and an area variance subject  
22 to what is currently the fifty-foot buffer  
23 requirement.  
24 MR. MENNERICH: So moved.  
25 MR. GALLI: Second.

PATTY CAKE CHILDCARE

116

1  
2 CHAIRMAN EWASUTYN: I have a motion by  
3 Ken Mennerich. I have a second by Frank Galli.  
4 Any discussion of the motion?  
5 (No response.)  
6 CHAIRMAN EWASUTYN: I'll move for a  
7 roll call vote starting with Frank Galli.  
8 MR. GALLI: Aye.  
9 MR. BROWNE: Aye.  
10 MR. MENNERICH: Aye.  
11 MR. PROFACI: Aye.  
12 CHAIRMAN EWASUTYN: Myself yes. So  
13 carried.  
14 MR. SHAW: Thank you. Good night.  
15  
16 (Time noted: 8:45 p.m.)  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_

DATED: September 14, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

DRISCOLL SUBDIVISION  
(2005-46)

Interconnection between Driscoll Subdivision  
and Kroll Development

- - - - - X

BOARD BUSINESS

Date: September 6, 2007  
Time: 8:45 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS

20  
21  
22  
23  
24  
25

PATRICK HINES  
KAREN ARENT

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

DRISCOLL SUBDIVISION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

119

CHAIRMAN EWASUTYN: Basically a few things. Dina had the opportunity during our work session to discuss with our consultants proper billing.

Frank, what we discussed during the work session was kind of like a follow up to the public hearing that we had on Driscolls. I had spoken with Ken Wersted and we talked lightly about the truck traffic and the impact on the roads. Ken didn't think it was that significant.

We also discussed the comments of the public. We discussed as a Board this access to Kroll development. It was just a general discussion. It seemed to be the consensus of the Board at the time that we would still like to move forward with having this walkway going into Kroll development. Our belief at the time was that it seems like we're looking at the Town not so much for today but ten and fifteen years down the road when it grows that we would like to see interconnecting things within the community. It seemed like in the comprehensive plan, as Bryant had mentioned -- Bryant, do you want to speak to that?

DRISCOLL SUBDIVISION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

120

MR. COCKS: During the comprehensive planning process the Town discussed several ways to enhance community character and also provide pedestrian connections between developments which would provide for walking trails to help people exercise and what not. They really viewed it as a good way to keep the community together and, you know, just as good planning practice.

CHAIRMAN EWASUTYN: I think what I was looking to do tonight was sort of summarize in general any comments we as a Planning Board may have that would be part of the final comments that would go to Ross Winglovitz by the 10th of September at 4:30.

MR. GALLI: The only concern I had was where they were putting it and that particular neighbor, the guy that lives right next door to the actual walking trail. The majority of the

20 neighbors that were here were all against it.  
21 Not just the gentleman that it was going through  
22 his yard but the one lady that was standing up  
23 there. You know, we're placing that on the  
24 applicant to actually put it in and the  
25 neighborhood we want to put it into is against

DRISCOLL SUBDIVISION

1 121  
2 it. You're in a catch 22 situation. I know what  
3 the Town wants to do but personally I think if  
4 it's going through next to that guy's house and  
5 he's against it and the neighbors are against it  
6 and this one is against it, I don't see a reason  
7 why we should put it on the applicant to connect  
8 it. If that's the direction the Town wants to  
9 go, that's fine. I don't think we should. I  
10 wouldn't want my development connected with that  
11 development if there's going to be a problem  
12 where every time, someone walks through there  
13 they're going to be calling the police and  
14 arguing. It's a constant battle I think you're  
15 going to get into.

16 CHAIRMAN EWASUTYN: We kind of took it  
17 in another light. Number one, the connection is  
18 a very natural connection based upon the  
19 stonewalls, based upon the cul-de-sac. The other  
20 way we looked at it is the likelihood is going to  
21 be the opposite, there will be people going from  
22 Kroll development going into this development  
23 because there's all these recreation facilities  
24 being offered. Again I'm just speaking for  
25 myself. I want to hear from everyone else.

DRISCOLL SUBDIVISION

1 122  
2 There comes a point in time, again depending upon  
3 your concept, that the reality of changing  
4 neighborhoods and future planning sort of has to  
5 be the big gulp that you take that assists you in  
6 your decision making.

7 The other issue that's always discussed  
8 in a general sense is people -- like even  
9 tonight, people want us to buffer residential  
10 from residential. You reach a point where either  
11 people are going to learn that the Town is  
12 growing and they have to accept change or we're  
13 going to be I think making decisions backwards  
14 rather than being positive. I want to hear from  
15 others.

16 MR. BROWNE: I can make a few comments  
17 on that, John. I did earlier. My basic  
18 observation in general is that people don't like  
19 change, period. No matter if it's good or bad  
20 they don't like change. One of the things that  
21 we're charged with as a Board is to look forward  
22 to plan the best we can for not just now but for

23  
24  
25

the future.

With that, one of the items that we've heard for years going to planning seminars and

DRISCOLL SUBDIVISION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

123

different things is to try to get people where they can walk more, they can do more, the sidewalks, we keep pushing the sidewalks, and to interconnect the different neighborhoods wherever it's possible and appropriate. Knowing that the immediate people will never like it, that's just normal. They just will never like it because it's next to me, it's my backyard, that whole scenario. That's constant. That's continuing. I think what we're charged with from a planning perspective is it's the appropriate thing to do and I think we need to do it. That's where I'm coming from.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: It's an open board for discussion.

MR. MENNERICH: Karen made the point there's already a natural connection between the two properties so in effect the people in the Kroll development now are using that to get into this area because there's nothing else there. I think it's not like it's a new interconnection. There's going to be a new neighborhood but the interconnection is already there. Some time down the road if they want to have municipal sewers in

DRISCOLL SUBDIVISION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

124

the Kroll development, to have that there's definitely got to be a connection between the Driscoll and Kroll development.

MR. HINES: More than one actually.

MR. MENNERICH: More than one connection. So the people in Kroll development, they can't have it both ways.

MR. GALLI: They need the services.

MR. DONNELLY: Your job is to look out for those new residents who today don't have a voice but in the big picture of what is best for all of the citizens of the Town.

MR. COCKS: One other point is it's seen all over the world that people are going to make walking paths to wherever they want to go. When the people from the Kroll development do realize Driscoll has these great amenities, they're going to walk through there whether it's planned or not. That happens all over the world everywhere you go. Kids are going to do it no matter what. At some point it might just be better to provide it so it will be safer and well maintained instead of just beating a beaten path through the woods.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. ARENT: Frank, where they're proposing this walkway there's two stonewalls about twelve feet.

MR. GALLI: On Circle Drive.

MS. ARENT: It goes right to their cul-de-sac. Not on anybody's property, to the public road. The man who is complaining, the developers have offered to give him a fence along his property line. He's going to be pretty well protected. If you wanted to put another fence up the side of the road to protect his backyard, I mean he can do that but he's on the public -- it's a connection from public space to public space, it's not a connection through anybody's private space or anywhere near it. With these high walls, they're high, it's not like people can just cut across and go off the beaten trail. You can't. You would have to literally climb them. I think that would even be hard. So you're confining people from public space to public space. I don't think there's going to be trespassing issues.

MR. DONNELLY: The draft master plan also speaks to providing pedestrian access

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

wherever possible. I think the design guidelines refer to it in places as well. They are announced Town policies. It doesn't mean that in every case you have to provide pedestrian access but I think of those situations that had been presented here, the natural place for it plus a subdivision that's gone out of its way to offer public amenities in terms of recreation and a walking path along the river, it might really be, despite the opposition of the Kroll neighbors, one of the stronger cases you've ever had for provision for pedestrian access.

CHAIRMAN EWASUTYN: In conclusion of that we'll be receiving from our consultants in the course sometime next week your final summaries to Ross Winglovitz on comments raised at the public hearing and items we want them to look at further. Is that what will be forthcoming?

MR. HINES: I think I included mine in the packet.

MR. COCKS: I also included it in the comment packet. We'll look through -- I just got the minutes from the meeting so we can look

1

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

through and really make sure that all the issues will be addressed.

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: Should we provide comment on what we just spoke about?

CHAIRMAN EWASUTYN: Please. That was the purpose of it.

(Time noted: 8:55 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_  
DATED: September 14, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

CHARLES PELELLA & WILLIAM BELL  
(2007-29)

Send to Ken Wersted for review

----- X

BOARD BUSINESS

Date: September 6, 2007  
Time: 8:55 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

21  
22  
23

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

24  
25

CHARLES PELELLA & WILLIAM BELL

129

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

CHAIRMAN EWASUTYN: The other thing I would like to add and you had mentioned in your review for -- I was looking at my agenda notes -- Pelella and Bell we should get Ken Wersted's opinion.

MR. HINES: Yes.

CHAIRMAN EWASUTYN: If it turns out that Ken Wersted is available that day when you're out in the field to look at road designs, I think the Board would agree to have Ken be part of this.

MR. HINES: That was because of the roadway alignment. I see a problem with that. Jim Raab had mentioned he's acknowledging there's a problem, too.

(Time noted: 8:56 p.m.)

18  
19  
20  
21  
22  
23  
24  
25

130

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

\_\_\_\_\_



23 DATED: September 14, 2007  
24  
25

131

1  
2 STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD  
3 ----- X

4 In the Matter of

5  
6 EXECUTIVE SESSION  
7  
8

9 ----- X

10 BOARD BUSINESS

11 Date: September 6, 2007  
12 Time: 8:56 p.m.  
13 Place: Town of Newburgh  
Town Hall  
14 1496 Route 300  
Newburgh, NY 12550

15 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
16 CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

17 ALSO PRESENT: DINA HAINES  
18 MICHAEL H. DONNELLY, ESQ.  
19 BRYANT COCKS  
PATRICK HINES  
20 KAREN ARENT  
21  
22

23 ----- X

24 MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
25 (845)895-3018

132

1 CHAIRMAN EWASUTYN: All right. What I  
2 would like to do now is to move for a motion to  
3 enter into executive session to discuss pending  
4 litigation.  
5

6 MR. PROFACI: So moved.

7 MR. BROWNE: Second.

8 CHAIRMAN EWASUTYN: I have a motion by  
9 Joe Profaci. I have a second by Cliff Browne.  
10 I'll ask for a roll call vote starting with Frank  
11 Galli.

12 MR. GALLI: Aye.

13 MR. BROWNE: Aye.  
14 MR. MENNERICH: Aye.  
15 MR. PROFACI: Aye.  
16 MR. DONNELLY: Just for the record, the  
17 matter is the Muir, Kane lawsuits and the various  
18 Market Place lawsuits.  
19 (Executive session was held from  
20 8:56 p.m. until 9:21 p.m.)  
21 CHAIRMAN EWASUTYN: I'll move for a  
22 motion to enter out of executive session.  
23 MR. GALLI: So moved.  
24 MR. BROWNE: Second.  
25 CHAIRMAN EWASUTYN: I have a motion by

1 133  
2 Frank Galli. I have a second by Cliff Browne.  
3 Discussion of the motion?  
4 (No response.)  
5 CHAIRMAN EWASUTYN: I'll ask for a roll  
6 call vote starting with Frank Galli.  
7 MR. GALLI: Aye.  
8 MR. BROWNE: Aye.  
9 MR. MENNERICH: Aye.  
10 MR. PROFACI: Aye.  
11 CHAIRMAN EWASUTYN: Myself. So  
12 carried.  
13 For the record, no action or decisions  
14 were made during the executive session.  
15 I'll move for a motion to close the  
16 Planning Board meeting of the 6th of September.  
17 MR. GALLI: So moved.  
18 MR. MENNERICH: Second.  
19 CHAIRMAN EWASUTYN: I have a motion by  
20 Frank Galli. I have a second by Ken Mennerich.  
21 Roll call vote starting with Frank Galli.  
22 MR. GALLI: Aye.  
23 MR. BROWNE: Aye.  
24 MR. MENNERICH: Aye.  
25 MR. PROFACI: Aye.

1 134  
2 CHAIRMAN EWASUTYN: And myself. So  
3 carried.  
4 (Time noted: 9:22 p.m.)  
5

6 C E R T I F I C A T I O N  
7  
8  
9

10 I, Michelle Conero, a Shorthand  
11 Reporter and Notary Public within and for  
12 the State of New York, do hereby certify  
13 that I recorded stenographically the  
14 proceedings herein at the time and place  
15 noted in the heading hereof, and that the  
16 foregoing is an accurate and complete  
17 transcript of same to the best of my

18 knowledge and belief.

19

20

21

22

23

24

25

---

DATED: September 14, 2007