

**APPROVED**  
**Town of Red Hook Planning Board**  
**Meeting Minutes**  
**December 5, 2011**

**CALL TO ORDER/ DETERMINATION OF QUORUM**

The meeting was opened at 7:35 p.m., and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, members Sam Phelan, Kris Munn, Sam Harkins and Pat Kelly and Charlie Laing. Wil LaBossier and alternate Brian Walker were absent. Also present was planner Michele Greig.

**BUSINESS SESSION**

Christine Kane confirmed the agenda as published. There were no available draft minutes to consider.

There was one announcement. Christine Kane said that the Dutchess County Planning Federation's program on affordable housing had been rescheduled to March 13, 2012.

**PUBLIC HEARINGS**

**Michael Horkan – 274 Spring Lake Rd. – Lot Line Alteration**

Marie Welch, L.S., and Michael Horkan were present for the public hearing on an application for a Lot Line Alteration/Subdivision Plat approval to convey 3.36 acres from the 25.388-acre Lands of Horkan to the adjoining 5.2-acre Lands of East Bridge Realty, LLC.

Christine Kane read the public hearing notice that appeared November 29, 2011 in the Kingston Daily Freeman. Ms. Welch explained the project saying that some buildings on the East Bridge parcel encroached on the Horkan property and that Mr. Cohen of East Bridge Realty wished to have a buffer area. She said she had submitted a copy of the East Bridge deed that contained the access easement, which, she said, was on a different parcel. She said that she would correct the Horkan lot size noted on the plat. Christine Kane then opened the hearing for public comment.

Robert McKeon, Crestwood Rd., said that he and his wife had considered buying the East Bridge parcel when it was offered for sale by the previous owner, the Cokertown Rod and Gun Club. He said that he had had the parcel tested for lead contamination and that the lead count had been very high. He conjectured that the lead was from years of accumulated ammunition on the ground.

Mr. Horkan said that Mr. Cohen would only use the property in the summer and that he could not subdivide the property because of the access issue. He said the current access was over an old railroad bed.

Sam Phelan noted that properties near roadways sometimes have high lead counts. Charlie Laing said that both the NYS DEC and the NYS DEP had become more interested and more

involved in lead contamination. The Board agreed, however, that while the East Bridge property owner should know about the lead, the Planning Board could not consider it in the review of this action.

The Board then completed the EAF part 2. Sam Phelan made a motion that the Board issue a Negative SEQR Declaration for the project. Sam Harkins seconded the motion, and all members present voted in favor.

Since there were no further comments from the public, Kris Munn made a motion to close the public hearing. Sam Harkins seconded the motion, and all members present voted in favor.

The Board then reviewed a draft resolution granting the requested lot line alteration. The Board added conditions about correcting the lot acreage and deed liber number on the plat and adding the Ag and Markets Notice to the plat. Pat Kelly made a motion to adopt the revised resolution. Kris Munn seconded the motion, and all members present voted in favor.

### **REGULAR SESSION - OLD BUSINESS**

#### **Oaks/Preserve at Lakes Kill – Feller Newmark Road – Sketch Plan - Major Subdivision**

Mike Bodendorf was present for continued discussion of an application for preliminary subdivision plat approval to create 11 lots on a + 100.45-acre parcel in the AB (Agricultural Business) Zoning District.

Mr. Bodendorf said that the revised habitat report addressed the concerns expressed by Dr. Klemens and the Board, that the length of the cul de sac was now just under 1,000 ft. and that some of the houses had been moved around to provide more privacy and to maximize sun exposure since the developer would be seeking LEED credits for green building.

He said that there was some concern about the shared driveway and whether frontage was needed for some of the lots. Michele Greig said the applicant could request that the Town Board designate this as an "Open Development Area" under Town Law 280-a, which would permit access via an easement. Alternatively, she said, Town Law appeared to permit 15 ft. of frontage. She added that if the Town Board approved an Open Development Area and access was provided by an easement, the shared driveway would be owned and maintained by a Homeowners Association, which was preferable to its being owned by an individual lot owner. Charlie Laing said that in either case, a road maintenance agreement would be necessary.

Mr. Bodendorf went on to say that Lot 5 had been moved out of the quarried habitat area and that the size of the lots had been reduced so that none touched on the stream or wetlands adjacent areas. Michele Greig said that she had spoken to a DEC representative who said that now a fence or wall would not be required by DEC to prevent encroachment into those areas. Sam Phelan and Kris Munn said people tend to extend their yards and that they thought a fence or wall was still a good idea.

Asked about access to the large open space or passive recreation area, Mr. Bodendorf said that the old road might not be usable. He said that a walking access could be created but that the stream crossing was quite narrow. Sam Phelan said that only by crossing one of the lots could someone reach the open space. Some members thought a more accessible pathway, possibly about 10 ft. wide, should be created so that the conservation easement portion of the property could be monitored with a vehicle. Others thought that such an access would invite all-terrain

vehicles, that the habitats would fare better without vehicle access and that the easement could be monitored successfully in any case.

Mr. Bodendorf said that he would revise the EAF to reflect the changes in the plan and that he had scheduled the needed archaeology study. He said that he would continue Mr. Markay's discussions with various land trusts.

Christine Kane said that Dr. Klemens had reviewed the revised habitat study and that the only remaining issue was prohibiting up-lighting. She said his other concerns such as prohibiting pesticides could be handled by the homeowners association.

Mr. Bodendorf said that in regard to the community septic system, the applicants were now working with Dutchess County Water and Wastewater. He said that control of a community septic system by DCWW would soon be mandatory.

Mr. Bodendorf said that he was aware that the Town Highway Department had identified potential drainage issues on Feller Newmark Road as a concern but he did not know the details. He will contact the Highway Superintendent.

Kris Munn asked whether the Fire Department had reviewed the plan. Since it had not, the Board instructed the clerk to forward the plan for review and comments.

Pat Kelly asked why the driveway was split for part of its length. Mr. Bodendorf said that the split was more aesthetic and that he would use the space between the ingress and egress for drainage.

Mr. Bodendorf and the Board discussed the fact that the private drive could legally serve four lots and that in this plan, the private drive would serve four residential lots plus the lot used for the community septic. Ms. Greig asked that this question be reviewed by the Town attorney once the applicants made application to the Town Board under Town Law 280A.

Ms. Greig suggested that a small green common area be created. Mr. Bodendorf said that space among the lots was tight and that the space used for the community septic would be a large grassy area with no real landscaping.

Asked if the septic system would be raised, Mr. Bodendorf said no, that the system would be completely underground. He said that the system itself would be one of the first in Dutchess County, with Advantex geotextile modules that would filter the grey water under pressure twice before it entered the leach field. He said that the modules would create a great deal of microbial action and that the module manufacturers claimed that the resulting effluent would be cleaner than what was normally produced by a waste treatment plant. He said that the modules would have to be serviced periodically, possibly annually.

Charlie Laing made a motion that the Board grant sketch endorsement to the newly revised plan. Sam Phelan seconded the motion, and all members present voted in favor.

The Board generally agreed that the NYS DEC did not have to review the habitat study since Dr. Klemens' review was adequate.

Michele Greig said that once the archaeology review was finished, the Board could complete SEQR and the applicant could make application to the Town Board. Christine Kane said that

the Planning Board would send a memo to the Town Board about this project and the request for an Open Development area.

The applicant said that he would update the application and EAF to reflect the new plan.

### **REGULAR SESSION – NEW BUSINESS**

#### **Marshall Foster – 121 Deer Run Rd. – Special Permit**

Paul Fredericks was present with an application for a Special Permit to establish an accessory apartment in an existing detached garage on a 9.36-acre parcel in the RD3 Zoning District.

Mr. Fredericks said that the house and septic had been designed and built for three bedrooms. However, he said, at the time of construction, a full bathroom had been installed in the detached garage and one bedroom in the house had been built with no closets, so it was not technically a bedroom. Now, he said, the owner wished to make the second story in the garage a one-bedroom apartment, which would be the third bedroom. He said the owner would install small kitchen facilities.

Michele Greig said that it appeared that the Zoning Code allowed the conversion of structures built before 1993 into accessory apartments and that it allowed accessory apartments in “new” buildings. She said that since this garage was built around 2005, it did not fall into either category.

Sam Phelan said that he was on the committee that drafted these regulations and that the intent was to encourage the adaptive reuse of older structures and to provide affordable housing. He said that in 1993, “new” meant anything built after 1993.

The Board generally agreed to refer the issue to the Zoning Enforcement Officer for a determination. The project was tentatively scheduled for the December 19<sup>th</sup> meeting.

#### **Roger Hoffman – 19 Old Farm Rd. – Lot Line Alteration and sketch plan/subdivision plat approval**

Marie Welch, L.S. was present with an application for Lot Line Alteration and sketch plan approval to subdivide a 10.020-acre lot into two (2) lots of 1.611 acres and 1.408 acres, and then to merge the remaining 7.001 acres with the adjacent 42.46-acre parcel, all owned by the applicant, in the TND-CC (Traditional Neighborhood-Commercial Center) and TND-Res (Traditional Neighborhood-Residential) Zoning Districts.

Ms. Welch said that Mr. Hoffman wished to create a parcel for his son’s auto repair shop and a parcel for his own barn. She said that the barn lot would need a well and septic and that because of the required separation from the wells and septic of the surrounding lots, this lot might not be able to meet the required building setbacks. She agreed that proposed lot 1 would need Health Department approval.

She went on to say that there had been an intended land swap among Mr. Hoffman and his adjoining neighbors Al Bulay and Scott Butler, but, she said, it appeared that this swap would not take place soon. She said that this project would not encroach into the intended land swap area.

The Board and Ms. Welch agreed that the applicant would need to seek two variances for setback relief, one for each proposed lot.

The Board determined the project to be an unlisted action under SEQR. Charlie Laing made a motion to establish the Board as Lead Agency for the SEQR review. Pat Kelly seconded the motion, and all members present voted in favor.

Ms. Welch revised the EAF and said she would verify the number of parking spaces and the building and lot coverage.

The Board then discussed the access to the proposed lots. Ms. Welch said that she would review the easement over Lot #3 belonging to Mr. Butler and would submit a common use and maintenance agreement for the common driveway to be used by the proposed lots.

Ms. Welch said that her next step would be to seek the required variances.

## **OTHER BUSINESS**

### **Anderson Commons resubmission – SEQR**

Christine Kane said that the Village of Red Hook had adopted a resolution reaffirming itself as Lead Agency, reaffirming the previous SEQR review and reaffirming the previous Negative SEQR Declaration for the Anderson Commons project. She said that at a previous meeting, the Town Planning Board had agreed with the Keane & Beane opinion stating that since the Village subdivision approval had expired and three (3) Town approvals had expired, the Village should circulate for Lead Agency for the SEQR review of what was technically a new application.

Michele Greig noted that failure to recirculate for Lead Agency could be a fatal flaw in the approval process. She said that if the new approvals were ever legally challenged, they could be nullified. She said that the Town could not conduct an uncoordinated SEQR review because in the Town, the project was a Type 1 action under SEQR, which requires a coordinated review.

(At this point, Sam Harkins left the meeting)

The Board then reviewed a draft resolution determining the project to be a Type 1 action under SEQR and declaring its intent to serve as Lead Agency for the SEQR review. Pat Kelly made a motion to adopt that resolution. Kris Munn seconded the motion, and all members present voted in favor.

(At this point, Sam Harkins returned to the meeting)

### **Future meeting dates**

The Board discussed the fact that the Town Hall would be closed on both of its normal January meeting dates. It requested the clerk to review the Town's January calendar and look for available dates.

## **ADJOURNMENT**

Since there was no further business to come before the Board, Sam Harkins made a motion to adjourn. Pat Kelly seconded the motion, and all members present voted in favor.

Respectfully submitted,

Paula Schoonmaker

**Attachments**

Negative SEQR Declaration issued for the Horkan/East Bridge Realty, LLC Lot Line Adjustment Resolution granting Lot Line Alteration to Michael Horkan and East Bridge Realty, LLC

617.7

**State Environmental Quality Review (SEQR)  
Negative Declaration**

Notice of Determination of Non-Significance

**Date of Adoption:** December 5, 2011

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Red Hook Planning Board, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Horkan/East Bridge Realty LLC Lot Line Alteration

**SEQR Status:** Type I   
Unlisted

**Conditioned Negative Declaration:**  YES  
 NO

**Description of Action:** The applicants propose a lot line alteration to convey ± 3.367 acres of land from the ± 25.388 acre Horkan parcel to the adjoining ± 5.2 acre parcel owned by East Bridge Realty LLC to the south.

**Location:** Spring Lake Road, Town of Red Hook, Dutchess County New York

**Reasons Supporting This Determination:**

1. The Town of Red Hook Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).
2. After reviewing the Environmental Assessment Form (EAF) for the action dated November 11, 2011, the Planning Board has concluded that environmental effects of the proposal will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).
3. The project site is located within 500' of lands located within a New York State certified Agricultural District. An Agricultural Data Statement was prepared by the

applicant and forwarded by the Planning Board to all owners of farm operations within 500' of the subject parcel. The Planning Board considered comments on the Agricultural Data Statement in its review of the application. The proposed action consists of conveying approximately 3 acres of land from one existing building lot to another existing building lot. No new building lots would be created and therefore the action would not result in an increase in the potential number of non-farm neighbors adjacent to agricultural uses. Moreover, by increasing the size of the existing 5.2 acre lot by approximately 3 acres, the proposed action may result in better buffering of agricultural lands from residential uses on the existing building lot should it be developed for residential uses in the future. Since the proposed action will not increase the potential for land use conflicts that would be detrimental to existing or potential agricultural uses in the vicinity, the Planning Board has determined that no significant adverse environmental impacts to agricultural resources would occur.

**For Further Information:**

Contact Person: Paula Schoonmaker, Planning Board Deputy Clerk  
Address: 7340 South Broadway  
Red Hook, NY 12571  
Telephone: 845-758-4613

**A Copy of this Notice Filed With:**

Town of Red Hook Planning Board (Lead Agency)

## **Resolution Granting Final Subdivision Approval to Horkan/East Bridge Realty LLC**

**Name of Project:** Horkan/East Bridge Realty LLC Lot Line Alteration

**Name of Applicant:** Michael J. Horkan and East Bridge Realty LLC

**Date:** December 5, 2011

**Whereas,** the Town of Red Hook Planning Board has received an application for a Lot Line Alteration from Michael J. Horkan and East Bridge Realty LLC to convey  $\pm$  3.367 acres of land from the  $\pm$  25.388 acre Horkan parcel located at 274 Spring Lake Road (Tax Map Parcel No. 134889-6373-00-790535-0000) to the adjoining  $\pm$  5.2 acre parcel owned by East Bridge Realty LLC located at 516 Turkey Hill Road (Tax Map Parcel No. 134889-6373-00-738435-0000) in the RD 3 District in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the applicant has submitted a Subdivision Plat prepared by Marie T. Welch, LS dated November 11, 2011; and

**Whereas,** on November 21, 2011, the Planning Board declared itself the lead agency for the purpose of conducting an uncoordinated review of an Unlisted action pursuant to SEQRA; and

**Whereas,** on December 5, 2011, the Planning Board, in consideration of the Short Environmental Assessment Form (EAF) dated November 11, 2011 and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environmental, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas,** on December 5, 2011, the Planning Board conducted a public hearing on the Subdivision application, at which time all interested persons were given the opportunity to speak; and

**Whereas,** the Planning Board deliberated on the application and all the matters before it.

**Now therefore be it resolved,** that the Planning Board grants Subdivision approval to Michael J. Horkan and East Bridge Realty LLC in accordance with the plans and specifications heretofore submitted upon the following conditions:

- a. The applicant shall revise the plat to include a signature block for East Bridge Realty LLC.

- b. The applicant shall verify that the corners of the tract in the affected areas have been marked by monuments or steel rods, as approved by the Town Engineer.
- c. Submission of the easement granting access to the East Bridge Realty LLC parcel from Turkey Hill Road.
- d. Applicant shall revise the plat to include the agricultural note required by Chapter 72 of the Town Code.
- e. Applicant shall revise the plat to correct the acreage notation for the Horkan lands and shall correct the adjacent owner's deed number from 2001 to 2011.
- f. Submission of an acceptable draft of a consolidation deed intended for recording in the Dutchess County Clerk's Office immediately upon filing of the Subdivision Plat whereby the subdivided 3.367-acre portion of 'Land of Horkan' would be merged with the adjacent 'Land of East Bridge Realty, LLC' to obviate what otherwise would be the creation of a non-complying parcel through this act of subdivision plat approval.
- g. Submission of Subdivision Plat drawings for stamping and signing in the number and form specified under the Town's Subdivision Regulations, including all required stamps and signatures.
- h. The applicant shall reimburse the Town for any outstanding fees due and owing for the review of this application.

In taking this action, the Planning Board has determined that no new residential building lots or dwelling units will be created, and thus deems not applicable to this application the requirement for set-aside of recreation or other open space land or the alternative payment of a cash-in-lieu-of-land recreation fee.

On a motion by Pat Kelly, seconded by Sam Harkins, and a vote of 6 for, 0 against, and 1 absent, this resolution was adopted on December 5, 2011.

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

\_\_\_\_\_  
Paula Schoonmaker, Deputy Clerk to the Board

\_\_\_\_\_  
Date