

October 13, 2022

PINE PLAINS PLANNING BOARD MINUTES
Wednesday October 12th, 2022
7:30 PM
In Person and Zoom

IN ATTENDANCE: Michael Stabile, Chairman, in person
Al Blackburn, Alternate, via Zoom
Scott Cavey, Alternate, via Zoom
Ethan DiMaria, in person
Dick Hermans, in person
Kate Osofsky, in person
Steve Patterson, in person
Vikki Soracco, in person

ABSENT: Ken Meccariello

ALSO PRESENT: Warren Replansky, Town Attorney, via Zoom
Drew Weaver, ZEO, via Zoom
Sarah Jones, Town Liaison, in person
David Birch, in person
Six Members of the Public, in person
One Member of the Public, via Zoom

Chairman Stabile opened the meeting at 7:30 pm with a quorum present. Alternate members Blackburn and Cavey attended via Zoom and were not part of the quorum.

David Birch Lot Line Adjustment Public Hearing Continuation:
Stabile reminded everyone that this has been an ongoing hearing and that there is now an amended ag data form where the applicant looked at all the farms within 500 feet of the property, including Columbia County, and notices were sent out.

Stabile asked Birch if he had any comments. Birch said he hopes we can move this forward tonight.

Stabile then opened the floor to the public looking to speak.

Stabile asked the member of the public on Zoom, Rob Lambert, to speak. Lambert said he and his wife own property in Columbia County and he appreciates the letter they received regarding this application and the opportunity to speak. Lambert also said he submitted a letter voicing his concerns (see attached)

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regarding the possible subdivision. He finds the lot line adjustment reasonable.

Stabile said because of the SEQR process we do need to consider the other application of the major subdivision so it is good that Lambert submitted the letter with his comments regarding it.

Matthew Cichetti, an adjacent landowner/farmer, then spoke and said he also submitted a letter (see attached). Cichetti said if this lot line is not approved then the subdivision will also not be feasible. Cichetti then went over subdivision requirements that need to be done, such as a pump test and its effect on adjacent neighbors. Cichetti said without doing this pump test the town could be liable if a neighboring property's well dries up. Cichetti also feels a traffic study should be done. Cichetti also feels it is out of character for the community. Stabile mentioned that the comprehensive plan has been updated, since Cichetti was referring to an older edition, prior to zoning.

Jesse Conklin then spoke and said he purchased his land two years ago with the idea that it was a protected piece, now that a possible subdivision is on the table he is upset. Conklin feels the subdivision will have a negative impact.

Dave Cookingham then spoke and said he lives down the road from the property. Cookingham asked if the property would be subdivided into five to six parcels. Stabile responded that tonight we are looking at the one lot line adjustment, but that the board is gathering information and comments for the environmental review of both the lot line adjustment application and for the possible subdivision application. Cookingham asked the board if they knew that there are wetlands there and the board replied yes. Stabile said the wetlands are on the twenty-acre parcel. Cookingham said five parcels would be too crowded and only 200 yards from Cichetti's property. Cookingham said there could be hooting and hollering kids and dogs and Cichetti didn't purchase a 330-acre property to hear all that. Cookingham said he is also concerned with the wells. Cookingham asked if an Environmental Impact Statement has been done on all this and the traffic, etc. Stabile said that would be coming up with the other application. Stabile said there is an EAF for the lot line adjustment.

Another neighbor, McKaige, said she is concerned about traffic and said she would like to see a traffic and water study.

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Stabile reminded everyone that it is a bit convoluted, but that tonight we are only doing the lot line adjustment.

Conklin asked why Birch doesn't sell the property as is, without the lot line adjustment. Stabile replied it wasn't the board's business.

Cookingham asked if it is approved would the rest of the property join the bigger parcel? Stabile said yes, it would be attached to the 18 acres becoming 20 acres. Conklin said that would open road frontage for the subdivision. Stabile replied yes, he would have more road frontage. Stabile said the possible subdivision lots would have road access and be around 4 acres each. Conklin asked what the zoning is for that area. The board replied ½ acre. Stabile said the Pulver's Corners Hamlet zoning is only right along the road. Soracco said that zoning has been since 2009. Cookingham asked how long the hamlet extends and the board replied to the county line. Stabile reminded everyone that the planning board does not make the laws.

Cookingham asked about the EIS again. Stabile said after the public hearing is closed the board will go over the EAF submitted by Birch.

Cichetti asked if the pump test and traffic studies could be done prior to approving the lot line adjustment and the board replied no.

Jennifer Cichetti, adjoining landowner, said she is not happy about potentially having neighbors right in her backyard.

Stabile asked for a motion to close the public hearing, motion by DiMaria, second by Soracco, all in favor, motion carried.

The board started to go over the long form EAF Pt I submitted by Birch and realized there was an error. Replansky suggested Birch do the short form EAF Pt I at the meeting. Replansky wasn't sure a lot line adjustment even warranted an EAF.

Replansky then said Birch's driveway easement was in error as well, as it was just a brief description and lacking a maintenance agreement and reciprocal easements.

Replansky suggested reading the letter from the town engineer into the record (see attached).

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Birch proceeded to do the SF EAF Pt I at the meeting so the board then went over the letter being sent to the town board regarding the solar law (see attached). Stabile asked for a motion to send the letter to the town board, motion by Patterson, second by Soracco, all in favor, motion carried.

Replansky then said a lot line adjustment is a Type II Action under SEQR and does not require an EAF.

Stabile then read the questions from the EAF to the public anyway to show them the process should the proposed subdivision application go through and to illustrate that the lot line adjustment does not effect any of the environmental concerns listed in an EAF.

Stabile asked Replansky if Birch did go through with the subdivision what sort of action is that. Replansky replied it would be a Type I Action requiring a full EAS and subject to an intensive environmental review.

Stabile then read the resolution (see attached).

Stabile asked for a motion to accept the resolution, motion by Hermans, second by Patterson, all in favor, motion carried.

Approval of September Meeting Minutes: Approval of the September meeting minutes was postponed until the next meeting.

Other Business: Stabile reminded everyone to get their sexual harassment training done. Stabile would also like to know the status of the board members' training hours.

Motion to adjourn at 8:52 pm by Soracco, second by Patterson, all in favor, meeting adjourned.

Respectfully submitted by:

Tricia Devine

Michael Stabile

Dear Planning Board of Pine Plains—

My name is Robert Lambert and I live within 500 feet of the proposed David Birch Subdivision and lot line adjustment.

We are opposed this subdivision and have myriad concerns:

- **increased traffic flow** at one of 199's most dangerous intersections (Rte 199 / Pulver's Corners)
- **environmental**
 - impact on western / south western ridgeline views
 - new septic fields at higher grades than existing agricultural farm land
- **water access**
 - will adjacent wells be impacted by the addition of new active water wells
 - there are over 10 adjacent and active wells that draw from aquifer, some at higher gradients and some at lower

Please keep me posted as it relates to this file.

Many thanks
Rob Lambert



October 5, 2022

Matthew Cichetti
424 Prospect Hill Rd.
Pine Plains, NY 12567



Town of Pine Plains
Attn: Town Board
3284 Route 199
Pine Plains, NY 12567

Re: Town Zoning – Birch Subdivision

Dear Board Members,

In light of a recent application proposing a subdivision adjacent to our 333 acre farm, I felt compelled to bring some underlying zoning issues to your attention. The two subject properties are owned by David Birch on Bean River Road. Mr. Birch is a landlord that does not reside in Pine Plains and one of the two residences on these properties is inhabitable. He's proposing for a 6-lot subdivision in the Pulver's Corners Hamlet district. Pulvers Corners has cluster zoning which creates several issues/concerns that should be evaluated:

1. In accordance with the towns Master Plan, Chapter 2, the Natural Resources section identifies three areas that should NOT be developed: Stissing Mountain, Thompson Pond and Bean River Rd. Herein lies the first issue. You've identified Bean River Rd. as an area that should not be developed yet there's cluster zoning. The current zoning conflicts with the master plan and does not provide proper protection of the beautiful natural resources that lie within this valley.
2. The Master Plan identifies the most positive and negative attributes of the community. Some positive attributes include rural atmosphere, open space, agriculture, scenic vistas, etc. The cluster zoning on a beautiful rural road is inconsistent with these attributes.
3. The Master Plan also identifies the most negative attributes of Pine Plains.
 - a. Lack of land use regulations and zoning
 - b. Poorly kept buildings
 - c. Slum landlords

These three are directly applicable to the zoning and current applicant.

4. The Bean River Rd. infrastructure simply cannot support the cluster zoning. The main ingress/egress intersection to the Pulvers Corner district is Bean River Rd. and Route 199. Sight distances on Bean River Rd. from both the North and South approaches to Route 199 are only a fraction (less than 25%) of the NYSDOT standards for intersection sight distance. Cluster zoning is completely inappropriate here as the potential increase

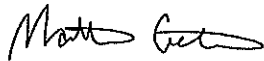
in traffic flow at this intersection jeopardizes the safety of the community. The zoning is creating a potential town liability here. A traffic study should be conducted.

5. Pulver Corners residents receive water via private wells within their property. The potential increase in development will affect the local aquifer. Given the fact that municipal water is not available, the cluster zoning impacts on the aquifer cannot be determined without a pump test. These impacts need to be evaluated prior to any additional development to protect the current residents water supply.

As you can clearly see, there's significant underlying issues that need to be evaluated with respect to the Pulver Corners cluster zoning. I understand the town currently has a "living" zoning provision. In consideration of all the above points and any others that concerned Pine Plains residents may have, I would recommend a moratorium on any subdivisions in the Pulvers Corners District until further comprehensive review by all boards can commence.

Hopefully you can discuss these concerns with the planning board prior to the public hearing on October 12. We would also request a formal response for the record. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Cichetti". The signature is fluid and cursive, with a long horizontal stroke at the end.

Matthew Cichetti

<planningboard@pineplains-ny.gov>

From: George Schmitt
To:
Cc:
Date: Oct 12 '22 13:11
Subject: RE: Cichetti letter re Birch application

Michael,

The sight distance issue is one for the County DPW and NYSDOT to address as it is their roads, not Town owned roads. The PB is only looking to approve the lot line adjustment at this time, not the full six lot subdivision. That being said, a six lot subdivision will constitute a realty subdivision and that does require the drilling of a test well. So, in the future if Mr. Birch wishes to pursue the 6 lot subdivision he will need to present to the PB fully designed and Health Dept approved septic plans, results for the test well, possibly a full stormwater pollution prevention plan, and driveway permits from DCDPW.

In regards to the master plan comments, I will yield to Warrens opinion, but the master plans are by nature generalized and at times vague. The master plan is the basis for the zoning regulations. Therefore, if the application submitted complies with your zoning regulations, as written, then the presumption is that it also complies with your master plan.

Best Regards,

George Schmitt, IE, NYSECCP
Direct:
ARCHITECTURE. ENGINEERING. PLANNING.
CPLteam.com
-----Original Message-----

Sent: Wednesday, October 12, 2022 12:52 PM

To:
Cc: Tricia < >
Replansky < >
Subject: Cichetti letter re Birch application

CAUTION: This email originated from outside of the organization. Only open attachments and click links if you recognize the sender and are expecting this type of content. -CPL Helpdesk

All,

The town board received this letter in regards to the Birch application from Mr. Cichetti who has been attending the public hearings in regards to this matter.

Michael

Dear Supervisor Walsh and Town Board Members,

Having reviewed and discussed the proposed solar law for the Town of Pine Plains, here are the official comments of the Planning Board:

The Planning Board believes that the solar law will be a benefit to the community. It will allow homeowners and businesses to use solar energy on their properties with reasonable regulation in order to minimize impacts on surrounding neighbors.

The Tier 3 section of the law will allow our community to participate in the national renewable energy effort. The law provides for a rigorous and detailed process for a company to apply to build a solar generating facility. It also provides for flexibility and reasonable guidelines that will not hamper those that wish to engage in this business. It also provides for robust protections of the community in order to maintain our rural character and natural beauty and viewsapes while not overburdening applicants which is in accordance with the goals of our comprehensive plan. Additionally it encourages the continued use of the parcels used for solar farms in agriculture which clearly aligns with our communities character.

We have examined the comments that Dutchess County Planning has submitted in regards to the law. The planning board feels that the lot coverage regulations will not discourage the building of solar farms within our community. The lot coverage requirements were constructed with input from companies in the industry and by examining the lot sizes in our town. The planning board understands that lot coverage regulations will encourage the preservation of larger parcels which will make it easier to place and screen the facilities and thereby preserve the rural character of the community and is therefore in line with our comprehensive plan.

The planning board could see a discretionary flexibility clause being added to lot coverage requirement. For example it would be reasonable for the planning board at its discretion to be allowed to add 4% to the lot coverage requirement if it would not have any visual impact and would not eliminate agricultural operations on that land. That being said we do not need to necessarily do so at this point. We can see how the process goes and if lot coverage is an issue as the applications arrive. We would definitely advise not doing that if this additional language would cause any further delay in voting on this important legislation. The community is waiting on this legislation and it has been a long and drawn out process (exacerbated by the pandemic) getting to this point.

Thank you for entertaining our comments.

Sincerely,
The Planning Board

TOWN OF PINE PLAINS PLANNING BOARD

**RESOLUTION APPROVING THE PROPOSED MINOR SUBDIVISION/BOUNDARY
LINE ADJUSTMENT FOR THE PROPERTY OF DAVID BIRCH**

WHEREAS, David Birch is the owner of two parcels of land consisting of approximately 24.152 acres located County Route 59 in Dutchess County, identified as parcels 272440 and 220400; and

WHEREAS, Birch has submitted a proposed Minor Subdivision/Boundary Line Adjustment Plat prepared R. Sardo Land Surveying Services, PLLC dated January 8, 2022 and revised on October 4, 2022; and

WHEREAS, the proposed application seeks to merge 1A and parcel 1B, as shown on the map into a single parcel consisting of 3.782 acres and merge parcels 2A and 2B into a single parcel consisting of approximately 20.370 acres; and

WHEREAS, the said application, if approved, will result in a single shared driveway servicing the newly formed 3.782 parcel and tax parcels 2A and 2B, as shown on the said Subdivision Map; and

WHEREAS, the said Subdivision Map and application were reviewed by the Planning Board in accordance with the provisions of §230-8 of the Town Code at the September 14, 2022 and the October 12, 2022 Planning Board meetings; and

WHEREAS, the Planning Board has determined to conduct the public hearing for this applicant, but has required the applicant to prepare an Agricultural Data Statement in accordance with the requirements of §283-a of the Town Law and the Town Code and has provided notice of said application to all owners of farm land within the agricultural district in which the property is located within 500 feet of the boundary line of said property, as requirement by §283-a(4) of the Town Law; and

WHEREAS, the Planning Board has referred this application to Dutchess County Department of Planning and Development for its comments pursuant to §239 of the General Municipal Law; and

WHEREAS, the Dutchess County Department of Planning and Development has advised the Planning Board that the application is a matter of local concern; and

WHEREAS, the Planning Board has received and considered comments on the said application from adjoining owners and farms; and

WHEREAS, the Planning Board has been informed that Birch intends in the future to further subdivide the property into a total of five (5) subdivision lots at a later date; and

WHEREAS, the Planning Board recognizes that any approval given herein and any SEQRA determination reached only pertains to the minor subdivision/lot line adjustment described above and does not confer any approvals or SEQRA determinations regarding the possible future five lot subdivision or any other possible future applications concerning these parcels; and

WHEREAS, the Planning Board has determined, that this lot line adjustment application is a Type II Action under SEQR and does not require the preparation of a Draft Environmental Impact Statement; and

WHEREAS, the proposed Subdivision Map and application submissions have been forwarded to the Attorney to the Town and to the Engineer for the Town, George Schmitt of CPL, for their review and comments.

NOW, THEREFORE, be it

RESOLVED, that final subdivision/lot line adjustment approval is hereby granted for the Birch application subject to the following terms and conditions:

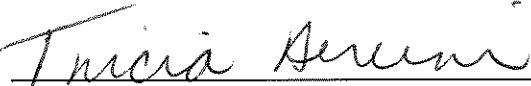
1. That all fees for engineering and legal consulting services rendered to the Planning Board in conjunction with the review of this application; and all filing and recreation fees be paid in full prior to the signing of the Subdivision Plat by the Chairman.
2. That Birch shall cause to be prepared and submit a Right-of-Way and Easement Agreement and Maintenance Agreement for the shared driveway accessing the two newly created lots in form and substance acceptable to the Attorney to the Town and, upon such approval, shall file the right-of-way and easement agreement in the office of the Dutchess County Clerk with proof of said filing to the Planning Board Chairman and Attorney to the Town.
3. That Birch cause to be prepared a Merger Deed merging parcels 1A and 1B into single 3.782 acres and a proposed Merger Deed merging parcels 2A and 2B into a single lot of 20.370 acres and submit the same to the Attorney to the Town for his approval and, upon such approval, the said Merger Deeds filed in the office of the Dutchess County Clerk prior to, or simultaneously with, the filing of the Subdivision Plat.

The Planning Board members voted as follows:

Michael Stabile, Chairperson	Aye
Vikki Soracco, Vice-Chairperson	Aye
Ethan DiMaria	Aye
Richard Hermans	Aye

Ken Meccariello	Absent
Kate Osofsky	Aye
Steve Patterson	Aye
Al Blackburn , Alternate	Did Not Vote
Scott Cavey, Alternate	Did Not Vote

The Resolution was carried by a six person vote of the Planning Board members on October 12th, 2022.



**TRICIA DEVINE, PLANNING BOARD
CLERK, TOWN OF PINE PLAINS**