

TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL
WEDNESDAY, AUGUST 5, 2020

MEMBERS PRESENT:

Joan Wyant, Chairperson
Thomas Darby
James Jeffreys
John Mautone
Kevin Pike

MEMBERS ABSENT:

Kim Godfrey
Radford West

ALSO PRESENT:

Chair Wyant opened the meeting at 7:00 p.m.

Public Hearings:

1. **Spring Lake Road Subdivision** – Zak Hall from Kristina Dousharm Architecture was present as the authorized representative for a sketch plan review of a three lot subdivision of a 19.836 acre of property located on Spring Lake Road, tax grid number 6474-00-175125 owned by Kajaine Estates LLC. Chair Wyant read the legal notice that was posted in the paper and sent to neighboring landowners. Mr. Hall said that this is an existing 28 acre lot which runs along East Lake Lane. His client is proposing to subdivide this lot into three parcels with a home and an accessory apartment on Lots 1 and 2 and a barn on Lot 3 which will be used for ag purposes as defined in the zoning code. Aesthetically, from Spring Lake and East Lake Lane, the property stays essentially the way it is now. We are hoping to not remove any trees. The client wants the property to look the way it does now and plans to keep all the structures in the woods off of East Lake Lane. We are hoping to do a private solar array on Lot 3 which would service just Lot 3.

Public comment: Jim Halpern, an East Lake Lane resident, asked how much of the woods are the planning to take down. Mr. Hall said the building is proposed to be located on the high side of the hill but they are planning on keeping the low side wooded. We have kept structures small in size and are trying to locate them where we won't be cutting trees. They are proposed to be cabin like structures. When asked, Mr. Hall said the client owns the East Lake Lane easement. There will be three new turn offs off of East Lake Lane for these lots. A mention was made of the maintenance costs for the upkeep of East Lake Lane and for snow removal, etc. and Mr. Hall said he is sure his client will chip in the \$200 a year per structure if that is what everyone else pays. When asked, Mr. Hall said his client will live on Lot 3 which has the lake view. Jack Kelly, who lives on the other side of Spring Lake Road, said he has concerns about how this will impact his view, especially the lot where the barn is proposed. Mr. Hall said there are no plans to build a house on lot 3. He said we are not 100% tied to this plan. We are doing our best to show what we are trying to accomplish and the intent behind it. Mr. Kelly asked about the accessory apartments. His understanding from reading the zoning law is that accessory apartment are allowed to provide more affordable housing. He is concerned that the apartments could be rented to transients. Mr. Hall said the zoning code defines these structures as accessory apartments which requires the owner to be living in the main house but they can

rent the apartments out. Accessory apartments also require a special use permit from the Zoning Board of Appeals. Mr. Jeffreys read the definition of an accessory apartment out of the zoning book and said he thinks Mr. Kelly is referring to what is said in the comprehensive plan about accessory apartments. The comprehensive plan is not the law but does guide the town in making decisions. Mr. Kelly said his main concern is about rentals to transients. There is nothing that would prevent all five units from being rented to transients through airbnb. A comment was made that the Town Board is looking into whether or not to regulate airbnb's. Mr. Kelly said his other concern is the barn and what it will be used for. The last minutes stated that Mr. Hall said the barn would be utilized for storage and when his client has a few people over. He said this can't be used as a wedding venue. Mr. Hall said there is no plumbing and septic in the barn and it is not in the plans. The reality is his client could sell the property even though he has no intention to sell. He plans on moving in and being a part of the community and property. Abraham Feldman lives in the house that sits on Spring Lake Road that looks down on the open field and said he has concerns about the solar panels as they will destroy his view and questioned if the array could be relocated. He also asked if there were any architectural elevations as to what the houses will look like. Mr. Hall said he has to make sure the subdivision takes place and will then draw the structures. The houses won't have an architectural review because there is no review in Milan. They are proposing simple, modest structures. Two of the homes are approximately 1,000 SF and one is 1,500 SF. Mr. Abrahams said his other concern is if this gets passed, he would like to see a restriction put on the rentals that they be on a yearly basis, not weekly or monthly. Ellen Geiger, East Lake Lane, asked how they will build three houses and keep the woods intact. Mr. Hall said it is a technical feat. There are ways to do that using piles. She asked how come they are not coming in off of Spring Lake Road? Mr. Hall said we considered that but that would require switch backs which would definitely require the removal of more trees. Jesse Feldman, 639 Spring Lake Road, said we want to preserve the view on that open field. We would be looking to the board to take into account how much development they are allowing and how much preservation they are balancing that with. Preserving the open land up to the lake is important. Can you integrate the solar panels into the barn design? Mr. Hall said he believes his client will agree that he does not want to see an array when driving down the road and he doesn't see any reason why it can't be on the barn roof. It is south facing and it is a bucolic barn with a cupola. Mr. Feldman said we know you have the right to do something with this property, but we feel the development needs to be balanced with a long standing preservation. Mr. Hall said he will discuss putting some property in a land conservancy with his client. Michael White said his primary concern is with fences and asked if there are any planned fences along the property line. Mr. Hall said he believes the only fence his client is thinking about is a split rail going along the westerly property line and he showed Mr. White the line. He said it will be a nice, bucolic two pole, 30 inch fence. Mr. White said where he is thinking to put the fence encroaches on his land. Mr. Jeffreys explained a property line dispute is solved by a survey and if the surveyors don't agree, it does go to court. Irene and Kevin Minerley, 563 Spring Lake Road, said your current marker is on a tree and it would be encroaching on an area we have been using for 20 years as

has Michael White. Does this play into it? Mrs. Minerly said there is a precedent that if you use property for a certain amount of time, it becomes your property. Mr. Minerly said this changes my use of the lake if they put a fence on my property. Mr. Hall said it needs to be decided where the property line actually is. His client plans on putting a fence on that line. Mr. Kelly said there is a discrepancy on the parcel access card and Mr. Hall said he can't answer that. Mr. Jeffreys asked about the size of the barn and Mr. Hall said 20 x 40 – 2,000 square feet and he believes it will be two stories as typically, a barn is two stories and we want it to look historically accurate. Mr. Minerly asked if there is a written agreement for the easement of this road. He said there is an easement to the steps and to the road. Mr. Hall has not seen a written easement but it is documented on the survey and it is on the deed.

Maps were not submitted as requested at the last meeting so the SEQRA review could not be circulated so the board will carry the public hearing over to the September 2nd meeting. Mr. Hall asked if the board could consider conditional final approval but approvals can't be granted until the SEQRA process is completed. Mr. Jeffreys said in response to a couple of comments made about the owner not being present, it is perfectly permissible for an applicant to have an authorized representative at these meetings. He said there is a list of items required to be on the map in order for the map to be filed. Mr. Hall was given that list at the last meeting. The public hearing being continued on September 2nd is contingent upon an updated map with those items on it be submitted two weeks prior to the meeting.

Chair Wyant motioned to hold the public hearing open pending the SEQRA review and an updated map being submitted two weeks prior to the September 2nd meeting as stated above. Mr. Pike seconded.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

- 2. Halpern/Horowitz-Chapman Lot Line Adjustment** – Spencer Hall, L.S. was present as the authorized representative for this lot line adjustment between two parcels, one owned by Alex Halpern and Caryn Horowitz, 1638 Route 199, tax grid number 6571-00-999425 consisting of 0.21 acres and one owned by Joseph Chapman, 1634 Route 199, tax grid number 6571-00-995411 consisting of 0.765 acres. Chair Wyant read the legal notice that was posted in the paper and sent to neighboring landowners and opened the public hearing. Mr. Spencer said the main thrust of this application is that Alex Halpern owns the old school house east of South Road and his neighbor, Joseph Chapman, owns the adjoining lot and does not use that small piece of property that Mr. Halpern uses as a lawn. Sam Harkins, Town of Milan ZEO, did not feel a variance was required as both lots are non-conforming currently and this will make one lot less non-conforming. There was no public comment.

Chair Wyant motioned that the Planning Board declare the Halpern/Chapman lot line adjustment a Type II action per Part 617 (16) of the State Environmental Quality Review requiring no further review. Mr. Pike seconded.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Mr. Jeffreys motioned to close the public hearing. Mr. Mautone seconded.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Chair Wyant motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Town of Milan Planning Board has considered the application from Alex Halpern/Caryn Horowitz and Joseph Chapman for a lot line adjustment; and

WHEREAS, an application packet was submitted to the Planning Office on June 24, 2020 and a site plan prepared by Spencer S. Hall, Land Surveyor, dated June 22, 2020 has been submitted for the requested lot line adjustment between two properties owned by Alex Halpern and Caryn Horowitz, 1638 Route 199, tax grid number 6571-04-999425 and Joseph Chapman, 1634 Route 199, tax grid number 6571-04-995411 located in the Hamlet zoning district; and

WHEREAS, the proposed action will convey approximately 0.015 acres from Chapman to Halpern/Horowitz; and

WHEREAS, after the lot line adjustment, parcel A will be 0.305 acres and Parcel B will be 0.755 acres; and

WHEREAS, a public hearing was held on August 5, 2020 at which time there were no objections raised; and

WHEREAS, the Planning Board declared this lot line adjustment a Type II action requiring no further review on August 5, 2020; and

WHEREAS, this application complies with all of the provisions of the Town of Milan Code chapters 177 (Subdivision) and 200 (Zoning).

NOW, THEREFORE, BE IT RESOLVED, the Milan Planning Board grants conditional final approval to the requested lot line adjustment and authorizes the Chairman to sign the mylar once the following conditions have been met:

- A. All signatures are obtained on the mylar prior to submitting to the Chairman for signature.

B. Payment of all fees: Publication Fee: \$85.75.
Seconded by Mr. Jeffreys.

Joan Wyant, Chairman	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Once the mylar is signed by the Chairman, the applicant or applicant's representative must file it in the office of the Dutchess County Clerk within **60 days** from the date of signing.

Approval of Minutes:

- A motion was made by Chair Wyant and seconded by Mr. Pike to accept the Planning Board minutes of July 8, 2020 as presented.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Applications:

1. **Pasture Rock Subdivision** – Seth Stickle PE/LS was present along with Christopher Dierig and Douglas Maxwell for a discussion on modifying the previously approved Pasture Rock Subdivision. Mr. Stickle distributed maps and the application. There are three maps – two are filed maps. FM 1169C is the approved, filed subdivision map and 1169D is a consolidation of three of the approved lots into one single lot, Lot A. His client has purchased lots A, 5, 6, 10, 11, and 12, all single, individual filed lots. This was a formal subdivision with covenants. His clients are also asking for three changes to the covenants – an adjustment to a couple of the building envelopes, one change of a driveway, and some verbiage changes. There was a common drive off of Woody Row Road to the three lots that are now Lot A. This is now an individual driveway so we can reduce the overall impact of the development area as well as the impervious surface and wetland disturbance. We will need to re-file and re-obtain approval from the DEC for the wetland disturbance that was approved through 2015. The wetland disturbance is at the beginning of the driveway. The driveway will continue up to the north portion of the lot. We are asking that all three building envelopes be allowed to remain to provide options for development of accessory structures. We are asking for a small extension of the building envelope to the north. All original approved septic systems will remain where they are. Off of Rocky's Way, there is an existing common drive. They would like Lot 11 to have its own individual drive. As its proposed now, it would pass through Lot 12 to get to Lot 11 so it would provide more privacy to Lot 12. We are also proposing a building envelope change for Lots 10 and 11. Lots 3 and 4 are already built and not part of this application. Mr. Stickle provided a profile for the proposed driveway on lot

11. There are small segments at 15 percent grade. We will do a gravel drive and we have tightened up the grading. Mr. Darby thought the driveway was quite steep. Mr. Stickle said we are coming off a negative grade, rising to an almost 15% grade, matching the existing grade at the top of hill, then match grade to the existing septic system. The re-grading will be 2 to 1 to limit any kind of an impact. Previously, the driveway cut through almost all of Lot 12. Mr. Jeffreys said a 15% grade is a lot. Mr. Stickle said there is a 75 foot section and a 100 foot section at that percentage. Mr. Jeffreys said that is not going to be good in the winter months and asked if there is no other place you can go with this. Mr. Stickle said they looked at several different places but you would be looking at adding another 200 feet of driveway. The board will have the town engineer and the fire department take a look at it. Mr. Stickle said the third change is minor changes to the covenants. His clients and the other owners of property in this subdivision have agreed to the changes. The name of the subdivision has also been changed to Sylvan Rock LLC.

The board members would like a pdf of the submittal. An escrow account in the amount of \$1,000 needs to be established for the town attorney review. The board would like to do a site visit as well which will be scheduled by the clerk with Mr. Stickle. This application will be on the September 2nd agenda.

2. **Cross Country Subdivision** – Tim Lynch, PE/RA said he came before the board in April of 2019 to discuss re-locating the house to be outside of the building envelope on Lot 1 of the approved Cross Country subdivision located off of Salisbury Turnpike and Route 199. Mr. Lynch provided a full size copy of the previously approved map. The clerk provided the board members with the minutes of the initial subdivision approval prior to the meeting. Any change to the approved map and to the covenants and map need to be filed at the county clerk's office. Winding Creek Lane off of Salisbury Turnpike is already cut in. Mr. Lynch said the proposal is to remove the building envelopes from the plan and effectively revert to the yards as required by zoning. Building envelope is not a term defined by town code. Mr. Jeffreys said we have typically discussed building envelopes where there are areas that need protection. Mr. Lynch asked what is a building envelope considered then. Mr. Jeffreys said the board would take into consideration Health Department requirements, distance from the house, well and septic, steep slopes, wetland areas, etc. Mr. Lynch does not think the lines on this subdivision map coincide with any of that and thinks the board would be hard pressed to enforce that. Mr. Jeffreys asked what the goal is in removing the building envelopes. Mr. Lynch said the current owners are looking for more flexibility in what they can do and where they can locate accessory buildings. Mr. Darby said currently, one of the property owners has built a deck right next to the stream and another property owner has a shed that has been converted to a studio on his property. Those are two violations of the zoning code which need to be fixed. Mr. Pike asked if the 100 foot wetland map has been updated or was it taken off the previous map. Mr. Lynch said he is not proposing any further disturbance. Mr. Pike asked if the wetland is still where it was at the time of the original approval. Is the extension of the envelope now within the 100 foot barrier of the wetland? The small meditation hut is basically on the 100 foot line.

The original map was filed with Dutchess County. Mr. Lynch said the current owners want more flexibility to build and he identified the areas that they feel are more restrictive. He said the property has changed hands and the original intent of the owner is not relevant now. The news owners have already changed the covenants. A third of the original parcel is the wetland. The board agreed they need more time to look at the maps and read the minutes of the original subdivision approval. Mr. Lynch asked for a copy of those minutes which the clerk will provide. This application will be on the September 2nd agenda.

3. **Bodian/McAtee Lot Line Adjustment** – Kirk Horton, L.S., was present as the authorized representative for this lot line adjustment of two properties, one owned by Amanda Bodian located at 474 Field Road, tax grid number 6570-00-247862 and one owned by Darin McAtee located at 394 Field Road, tax grid number 6570-00-223733. Both lots are located in the A5A zoning district. Mr. Horton said they were before this board a year or two ago with a similar proposal. The maps were filed but the deeds were never changed. They are back with a slightly different conveyance. They are proposing to transfer approximately 42 acres from the Bodian property to the McAtee property.

Mr. Jeffreys motioned to declare the Bodian/McAtee lot line adjustment an unlisted action under per Part 617 (16) of the State Environmental Quality Review requiring no further review. Mr. Mautone seconded.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Chair Wyant motioned to schedule the public hearing for the Bodian/McAtee lot line adjustment for the September 2, 2020 Planning Board meeting.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

4. **Irwin/Hennessey Lot Line Adjustment** – Doug and Jennifer Irwin and Karen Hennessey were present regarding their proposed lot line adjustment between two properties, one owned by Jennifer Irwin located at 276 Rowe Road, tax grid number 6571-00-108706 and one owned by Michael and Karen Hennessey located at 264 Rowe Road, tax grid number 6571-00-122617. Both lots are in the A3A zoning district. They have not finalized having the survey changed. The Irwin lot is 34.5 acres and they are proposing to sell 25 acres to the Hennesseys which will leave them with 9.5 acres. The board told them to come back to the board once their survey is completed. This will be a Type II action. The public hearing will be scheduled once the board is in receipt of the survey.

Discussion Items:

1. Brian Trudell owns two lots on Brooklyn Heights Road, tax grid numbers 6371-00-880388 which is 3.37 acres in the A3A zoning district and where his residence is located and 6371-00-889409 which is a vacant parcel of 3.13 acres. Mr. Trudell would like to sell the vacant parcel. Before selling, he would like to move the lot line between these two parcels, adding 2.10 acres to the vacant parcel and keeping 1.27 acres with his residence. The geography of the property lends itself to moving the lot line to this location but it will create an undersized lot. The Board agreed that it does fit in this circumstance but would have to go to the Zoning Board of Appeals for a variance to Section 200-10 B of the zoning regulations. Mr. Trudell said he was also considering conveying the right of way that Cory Jones uses to access his property to Mr. Jones. Mr. Trudell will get the survey map updated to reflect these changes and appear back before the board at the September 2nd meeting at which time the board will send a recommendation to the ZBA.

Chair Wyant motioned to adjourn the meeting at 9:20 p.m. Mr. Jeffrey seconded.

Joan Wyant, Chair	Aye	John Mautone	Aye
Thomas Darby	Aye	Kevin Pike	Aye
Kim Godfrey	Absent	Radford West	Absent
James Jeffrey	Aye		

Motion carried 5-0.

The next Planning Board meeting is scheduled for September 2, 2020 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board