

**TOWN OF FORESTBURGH PLANNING BOARD**  
**MINUTES**  
**August 25, 2020**

The meeting was called to order at 7:00pm by Chairman Richard Robbins virtually, via Zoom.

Members Present: Katherine Barnhart  
Anthony Cardoso  
Alan Devlin  
Vincent Galligan  
Susan Hawvermale  
Richard Robbins, Chairman  
Robert Sipos

Town Attorney: Jacqueline Ricciani

Recording Secretary: Billie Jean McGinnis

**SEQRA Public Hearing for Forestburgh Pond**

The public hearing, held open from last month, was re-opened. Correspondence received was read and entered into the record. Comments from members of the public were received. The public hearing was closed.

**Approval of Minutes**

Minutes from the July meeting were reviewed. Chairman Robbins asked that under the Public Comment on Agenda Items, the minutes be amended to clearly identify that Mr. Lord wanted the contact information for the person at the DEC that Chairman Robbins is working with.

Motion to Approve the minutes as amended made by K. Barnhart, seconded by S. Hawvermale.  
Vote: All in favor.

**Forestburgh Pond**

Alan Lord presented the application for Forestburgh Pond on behalf of New York Land & Lakes Development.

Mr. Lord explained that after listening to the public voice their concerns, they are adding another deed restriction for single family, residential homes for non-commercial, recreational uses. K. Barnhart asked if this prohibits hunting clubs. Mr. Lord explained that if they are collecting money, it's considered commercial. Language is tricky to not restrict people from being allowed to hunt on their own property since these are large lots. They are not looking for

a hunting club. This will be listed as a first covenant rather than being buried within the other restrictions.

K. Barnhart also asked if shooting ranges will be prohibited. Mr. Lord explained that it's difficult to define. The existing range will be dismantled and removed. Chairman Robbins confirmed with Mr. Lord that the shooting range will be cleared and remediated to such an extent as the test results require.

S. Hawvermale asked about a deed restriction about further subdivision. Mr. Lord confirmed that this will be in the deeds.

Mr. Lord addressed the driveway concerns noted in the 239 review by the Sullivan County DPW engineer. The engineer's main concern was who is installing the culverts and building the driveways and who's paying for it. It causes conflict if it's not clearly defined. They discussed options for the shared driveways. It's easier to have the driveway split immediately after it crosses the culvert rather than having two driveways side by side. Mr. Lord confirmed that they will install the culverts and build the driveways.

Mr. Lord indicated that they are adding Stag Forest Road and Woodland Drive to the HOA for maintenance. K. Barnhart asked who owns the road? Mr. Lord explained that they're going to leave them as right-of-ways but the HOA to be responsible for the maintenance. It will be easier for tax purposes rather than having a bunch of small parcels. Mr. Lord confirmed that Stag Forest Road will end at Lot 6 and the road across Lots C and D will be a right-of-way and maintenance will not be the responsibility of the homeowners.

V. Galligan asked if the dam repairs mentioned in the reports from Keystone and Glenn Smith will be done as part of the subdivision. Mr. Lord explained that Keystone is working on a more detailed plan that will be submitted to the DEC.

V. Galligan is not clear on the ownership and maintenance of shared driveways. How will the shared driveways be deeded to the homeowners? How is the shared driveway going to be taken care of? Mr. Lord explained that the county will take care of the culvert after it's installed. J. Ricciani added that the applicant submitted common driveway maintenance language. This included a deed restriction stating the maintenance of shared driveways is at the sole cost of the homeowners.

V. Galligan noted that the cabin on Lot 8 has been omitted from the subdivision language. This is a pre-existing structure on the lot. It's not built into the conformance of the subdivision with a proper well etc. Mr. Lord explained that it does have use of the well and language is included to maintain that well. The water for the existing cabin on Lot 8 is being fed from a wellhouse on Lot 6. The wellhouse on Lot 6 supplies water only to Lot 8. There were other cabins that were

tied into it but no one else has deeded water rights. Everyone else has since drilled their own wells. The hunting club is the only one using it. V. Galligan asked who pays the electric? Mr. Lord indicated that the electric is the same electric for the cabin. There is language allowing the owner of Lot 8 to maintain and repair the well, wellhouse and the line. In the future, the homeowner can drill their own well if they choose. V. Galligan asked how many meters there are. Mr. Lord will look into this further.

V. Galligan asked for clarification about the note by Sullivan County DPW regarding Woodland Road and the driveways for Lots 17, 18 & 19. Mr. Lord moved the driveway more to the west to improve sight distance.

V. Galligan noted the limited sight distance for the driveway for Lot 5 on Route 42. He asked if this driveway can be moved. Mr. Lord explained that you can get better sight distance, but this is where the existing driveway is. The State's response was that they would work with the homeowner. V. Galligan suggested they move the driveway to allow for more sight distance for safety.

V. Galligan asked if they have determined a dedicated access or right-of-way to the storage cabin and dam. Mr. Lord discussed this with Sullivan County DPW. They're going to access this through the parking area off the county road. The entrance off the county road by the dam is not going to be used. This will be blocked off and there will not be parking there.

A. Cardoso also had concerns about the sight distance for Lot 5. That intersection is dangerous. It's worth taking a look at what can be done to make that safer.

A. Cardoso asked if there were any large trees over 20' in diameter within the proposed building envelope and septic tanks. The subdivision code envisions preserving large trees. Mr. Lord says the entire property is wooded. They did not do a survey but the septs were moved to preserve the wooded buffer. A. Cardoso appreciated the effort to maintain the wooded buffer.

A. Cardoso asked if the cabin on Lot 8 is being transferred to the HOA or being sold? Does it have its own septic system? Mr. Lord said this will be sold as the residence for Lot 8. He doesn't know what is there. It's labeled as "existing". They are currently using it. The hunting camp has 2 bathrooms and 30 guys using it during hunting season. He's sure it needs some repairs.

A. Cardoso asked about the driveways. Are they building the entire driveway or just a portion? Mr. Lord responded that they are building any common, shared driveway up to where it splits. The ones along the county road will have culverts installed and 20' of driveway built.

A. Cardoso asked if the roads being maintained by the HOA, will include snow removal? Mr. Lord indicated that the HOA will hire a private contractor for snow removal.

K. Barnhart asked if the work being done on the dam is considered maintenance or a major repair? A major repair requires more permits and inspection. Mr. Lord doesn't have a final determination but thinks it will fall under repair. Their engineer is working with the DEC to see exactly what needs to be done.

S. Hawvermale asked if there will be any lighting system for Stag Forest Road and Woodland Drives. Mr. Lord responded that there will not be lighting.

A.Devlin mentioned the dry hydrant on Route 48. This is still used by the Fire Department. It's very useful there to have quick access to water, especially with more homes coming in, however it's not safe. They limit the use of it because it severely blocks traffic. They were asking if the dry hydrant could be relocated to the interior side or northern side of the lake. The Fire Department also mentioned that they don't see a problem with access on the roads as proposed as long as they are properly maintained. Mr. Lord mentioned that there is a piece of land that is owned by the HOA that would be ideal. He'll get in touch with chief, Todd Petrowsky about this.

R. Sipos also has concerns about the sight distance for the driveways and traffic for both the state and county road. He asked if traffic reports have been presented. Mr. Lord explained that traffic reports have not been presented. The county engineer stated traffic is well below what the roads can handle. He can get the reports if needed. R. Sipos said they would be helpful to have.

K. Barnhart asked if J. Ricciani can come up with language to prohibit a shooting range but allow a homeowner to shoot guns on their property. J. Ricciani stated that the Board will need to define shooting range. The applicant is concerned that he doesn't want to unduly restrict a homeowner's use of their own property as some of the lots are rather large. The restriction on non-commercial purposes is a good way to restrict not only shooting ranges but also ATV clubs. K. Barnhart added that several concerns have been brought up by the public about the shooting range and they've been having difficulty dealing with it in the past. J. Ricciani stated that there are already DEC regulations stating that you cannot shoot a firearm within 500'. That's already a law that could give some comfort to the neighbors. Chairman Robbins stated that another mechanism is that the HOA Bylaws may define where hunting and shooting can occur. This is more restrictive than the DEC. If this is something the applicant wishes to address, they can do so.

The Board addressed Part 2 of the Full Environmental Assessment Form. The Board discussed the items that the Town engineer, Glenn Smith, identified as being applicable to this project. The Board decided the following:

1. There will be an impact on land.

b. The proposed action may involve construction on slopes of 15% or greater - No, or small impact may occur

c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface – No, or small impact may occur

e. The proposed action may involve construction that continues for more than one year or in multiple phases – No, or small impact may occur

f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides) – No, or small impact may occur

3. There will be an impact on surface water

d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body – Moderate to large impact may occur

e. The proposed action may create turbidity in a waterbody, either from upland erosion, run-off or by disturbing bottom sediments – moderate to large impacts may occur

h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving waterbodies – moderate to large impacts may occur

i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action – moderate to large impacts may occur

4. There will be an impact on groundwater.

a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells – no or small impact may occur

b. The proposed action waters supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer – no or small impact may occur

c. The proposed action may allow or result in residential uses in areas without water and sewer services – no or small impact may occur

d. The proposed action may include or require wastewater discharged to groundwater – no or small impact may occur

5. There will be an impact on flooding.

a. The proposed action may result in development in a designated floodway – no or small impact may occur

b. The proposed action may result in development within a 100 year floodplain – no or small impact may occur

c. The proposed action may result in development within a 500 year floodplain – no or small impact may occur

f. If there is a dam located on the site of the proposed action, is the dam in need of repair or upgrade? – moderate to large impact may occur

10. There will be an impact on historic and archeological resources.

b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory – no or small impact may occur

16. There will be impact on human health.

m. Potential remediation of lead-contaminated soil in former club shooting range – moderate to large impact may occur. Chairman Robbins noted that this will remain an open item. The applicant has advised shooting range has been abandoned and dismantled. It will be remediated to the extent that further testing demonstrates as necessary.

18. There will be an impact on consistency with community character.

b. The proposed action may create a demand for additional community services (e.g. schools, police and fire) – no or small impact may occur

K. Barnhart added that engineer, Glenn Smith, is acting on behalf of the town and the Board is relying on his expertise in responding. G. Smith answered the questions as best he could based on his experience and in the interest of the Town. The Board may discuss and make changes to the answers he has provided. V. Galligan added that this is a guidance memo that allows the town and applicant to look at the issues that need to be addressed in the application. He is familiar with the questions being asked and concurs with the engineer's responses.

Chairman Robbins began Part 3 which is for the applicant to provide additional information to allow the Board to determine if a full environmental assessment is warranted.

### 3. Impact on Surface Water

- d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body

Mr. Lord explained that they put in 100' greenbelt around the lake to protect the water. There is no building or tree cutting. There is a stormwater plan prepared for each building site which should control run-off from the site.

- e. The proposed action may create turbidity in a waterbody, either from upland erosion, run-off or by disturbing bottom sediments – moderate to large impacts may occur

Mr. Lord explained that they have submitted stormwater plans which should mitigate erosion.

- h. may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving waterbodies – moderate to large impacts may occur

Mr. Lord responded that the stormwater plan is in place.

- i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action – moderate to large impacts may occur

Mr. Lord refers to the greenbelt around the lake. They've pulled their building sites back 100' from the wetlands on the property as shown on the maps.

Chairman Robbins asked G. Smith if his review and assessment of the stormwater plan and the mitigation measures referred to by the applicant represent sufficient mitigation to the issues raised? G. Smith responded that the stormwater document included erosion and sediment control plan which does address those exact items. They'll also need permits from the DEC before they can start any kind of construction on the site. The issues are all addressed in the plan as long as it's implemented correctly. Chairman Robbins confirmed that the implementation is under the supervision of the responsible state agency. G. Smith stated that the DEC oversees the project, but they also have a protocol of inspections and recordkeeping to be sure it operates correctly.

### 5. There will be an impact on flooding.

f. If there is a dam located on the site of the proposed action, is the dam in need of repair or upgrade? – moderate to large impact may occur

Mr. Lord explained that they have had the dam inspected by their engineer. They have submitted their summary of repairs and are working with the DEC on exact details.

Chairman Robbins also noted that the DEC, pursuant to its statutory mandate, will require the compliance with the sections they've cited with regard to the repair. They have a responsibility to oversee this.

J. Ricciani asked for a timeframe to begin these repairs. Mr. Lord has to take title to the property before they can begin. Depending on how long the approval and permitting process is and the weather, he anticipates to begin next summer. The intention is to begin as soon as they are able.

16. There will be impact on human health.

m. The proposed action potential remediation of lead-contaminated soil in former club shooting range – moderate to large impact may occur

A. Cardoso confirmed that the Board is still waiting for results of the soil test. Mr. Lord explained that further testing is scheduled for September 7<sup>th</sup> & 8<sup>th</sup>.

Mr. Lord further explained that they are going to remediate the site and remove the rifle range. DEC has indicated that, in a worst case scenario, lead could show up in the water and may be treated with water treatment systems in the home. It's natural for water to have lead in it without even without a shooting range.

Chairman Robbins clarified that whatever the testing demonstrates, and mitigation called for will be complied with by the applicant. It represents a full mitigation of lead and the potential risk to human health no matter what's found. Mr. Lord agreed.

J. Ricciani advised that at this point, on Part 3, the applicant will respond in writing its plan on mitigating the items addressed. Chairman Robbins confirmed that the Board does not need to wait for the applicant to submit a written declaration. We have a record of what was discussed, and it can be documented after the fact.

Motion by V. Galligan that this project will not have a significant adverse impact on the environment. This is the equivalent of a negative declaration. Seconded by S. Hawvermale.



Chairman Robbins addressed the Board giving opportunity to defer the vote until the applicant responds in writing to the items addressed. He feels it's a full and fair analysis of the significant concerns presented, and we can go forward with the vote.

A. Cardoso is in agreement but explained for the public in attendance that this is not a determination of the project being approved or any restrictions. This is just a specific focus on certain environmental criteria and whether this will be an impact on those criteria. This does not mean that this project is approved or that any concerns raised such as traffic, trees etc are not being addressed. Chairman Robbins added that those issues will be part of the site plan review. There will be a further public hearing on the overall project. This is strictly a procedure under the State Environmental Review act to determine whether a full environmental impact review is going to be mandated of this applicant. Based on everything that has been presented to us, there is not the potential for a large and significant environmental impact.

Roll Call Vote:

K. Barnhart	Aye	V. Galligan	Aye	R. Sipos	Aye
A. Cardoso	Aye	S. Hawvermale	Aye		
A. Devlin	Aye	R. Robbins	Aye		

Chairman Robbins asked that the applicant provide Part 3 in writing.

J. Ricciani added that since the environmental review is done, a public hearing may now be scheduled for a public hearing with regard to the subdivision.

Motion made by S. Hawvermale to schedule a public hearing with respect to the subdivision site plan application for September 22nd. Seconded by K. Barnhart.  
Vote: All in favor.

J. Ricciani added that the applicant mentioned that there will be some additions to the HOA with respect to the maintenance of the roads. There will also be more deed restrictions. She asked when the applicant plans on submitting those revised materials? Mr. Lord will have those materials submitted by the deadline. The only thing he won't have is the test results from the rifle range. Those results are expected the week on September 20<sup>th</sup>. Chairman Robbins suggested to reschedule the September 22<sup>nd</sup> meeting to September 29<sup>th</sup> to allow additional time to get the test results submitted.

Motion made by K. Barnhart to reschedule the September 22<sup>nd</sup> Planning Board meeting to September 29<sup>th</sup> instead. Seconded by S. Hawvermale.  
Vote: All in favor.

Motion made to amend the previous motion to schedule the public hearing for the site plan review on September 29<sup>th</sup>. S. Hawvermale accepts the amendment. Seconded by K. Barnhart who also accepts the amendment.

Vote: All in favor.

The applicant acknowledged that he will publish and post the notice in the appropriate places.

#### **Planning Board Member Comments on Items not on the Agenda**

There are no comments from Board members.

#### **Public Comment on Agenda Items & Items Discussed During this Meeting**

Mary Ellen Toomey stated that they have put together a Comprehensive Plan outlining how they and the Board sees the Town. She wants to review the Comprehensive Plan. Chairman Robbins is happy to provide a copy of the Comprehensive Plan and it's also posted online. He further explained that this is not an appropriate time to review it as it's an enormous document that was approved by the Town Board. The context of the Town's Comprehensive Plan is exactly what should be reviewed and addressed as we move forward with the site plan approval of this application. The public is invited to look at this proposal in that light.

A. Cardoso asked that if any member of the public has reviewed the Comprehensive Plan and sees something they think this project is contrary to, please bring it to our attention. When we developed our new Subdivision Code with those concepts in mind. We feel that this process is something that is coherent. Please review the Comprehensive Plan and bring any concerns to the public hearing. If the public thinks there is anything that is not consistent with the Comprehensive Plan, he wants to hear about it.

#### **Adjournment**

Motion to adjourn at 8:57pm made by K. Barnhart, seconded by S. Hawvermale.

Vote: All in favor.