



Town of Olive Planning Board

P.O. Box 513, Shokan, NY 12481

DATE: November 9, 2021

PLACE: via Zoom

1.0 CALL TO ORDER

Co-Chairman Sorbellini called the Meeting to order with the Pledge of Allegiance at 7:00 pm.

2.0 ROLL CALL

PRESENT

David Sorbellini, Co-Chairman
Stephen Dibbell, Co-Chairman
Heidi Emrich
Ed Kahil
Nicholas Burgher
Tim Peck
Paul Wright

3.0 MINUTES

Co-Chairman Sorbellini asked if there were any corrections or comments regarding the October 5, 2021 minutes. Co-Chairman Dibbell interrupted for a moment to announce that some people interested in this meeting may have inadvertently logged into the Town Board meeting because the link was incorrectly shown on the website calendar, he was actually one of those people. Co-Chairman Sorbellini went back to the minutes of October 5th. Heidi Emrich pointed out that on the first page under 3.0 Minutes, the second sentence, "Co-Chairman Sorbellini feels that on the bottom of Page 1 there should be clarification which building...", Heidi feels it should be "on which building". Co-Chairman Sorbellini had pointed out in his submitted corrections that on Page 5 under 7.0 Discussion, the 6th paragraph needs clarification. It currently reads, "Co-Chairman Dibbell asked Mr. Ingram if the project plans have to go to the county and the D.O.T.? He said that they have been told by the Ulster County Planning Board that this is not in their parameters as well as it isn't in the Town Planning Board's." Heidi Emrich agreed with him and suggested that the second sentence would read better if changed to, "He said that they have been told by the Ulster County Planning Board that it is not within their parameters, nor is it within the Town Planning Board's." Co-Chairman Dibbell asked that it further be changed to read, "Mr. Ingram said that they have been told...", instead of "He said". Co-Chairman Sorbellini asked if there were any other comments from October 5th? With no further response, Co-Chairman Sorbellini made a motion to accept the minutes of October 5, 2021 as written with the referenced corrections, Heidi Emrich seconded it and all members agreed.

With a few minutes left before the announced public hearing to begin Heidi Emrich asked about the Spector_Korg site plan and any UC Planning Board comments. She asked if a building permit has been issued or is he waiting on anything further from the Planning Board? Nick Burger remarked that he believes that they have already started building. Heidi Emrich remarked that she felt the UC Planning Board's comment about a sidewalk was unusual, particularly since the project was so minimal, but it is interesting that they would like the board to consider sidewalks along the Route 28 corridor in the future. Co-Chairman Dibbell feels that this will be uncharted territory for the Town of Olive, he also feels that because it is a state highway, sidewalks would be part of any state project.

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4.0 PUBLIC HEARING

7:10 pm - 21-Sub-6 Way Back Acres/Senecal, 87 Mountain Road, Shokan, NY 12481: 2-Lot Subdivision

Co-Chairman Sorbellini opened the public hearing at 7:10 pm and asked if there was anyone wishing to speak on this application? Kylene Leiter said she would like to speak. Co-Chairman Sorbellini asked if Jim Senecal is present or anyone else to represent the applicant. Jim Senecal announced that he is present. Co-Chairman Sorbellini invited Mrs. Leiter to address the board. Kylene Leiter wanted to address some of the statements that Mr. Senecal had made at the last meeting. She explained that she was the person who was previously going to buy the property in question and her name is on a lot of the documents from the Board of Health that have been presented with this application. She wanted to clarify that she did not stop working on this project because her father passed away. She explained that she stopped working on the project in 2016 and her dad died in 2019. Mrs. Leiter said that the reason that she stopped working on this project was because of the DEC and having to fill out a 40-page application in order to cross the stream to build on the back lot. She said that they were very specific where they wanted the bridge and the culvert to be placed and very specific about the materials that were to be used when it came to constructing the bridge, and very specific about how high it would need to be from the water. Mrs. Leiter also explained that the DEC was concerned about the maintenance of the bridge and the driveway and what couldn't be used, such as salts in the winter. She said that she talked with her insurance company about this and her insurance company said it was going to be a big liability. Kylene Leiter said that the costs that were going to be involved with the culvert and constructing the bridge and the cost of the insurance, and the liability is why she backed out of the project and it had nothing to do with her father passing away, he died three years later. She also wanted to clarify that her father did not write up a maintenance agreement. Co-Chairman Sorbellini thanked Mrs. Leiter for her comments and insight, it is appreciated.

Co-Chairman Sorbellini asked if there was anyone else in the audience who has a comment or question? He referred to the map being shown on the screen and explained that the proposed lot will be a flag lot with a shared driveway. He noted that the shared driveway will go in off of Mountain Road and as Mrs. Leiter mentioned it will lead up to the stream and the remedy is the bridge that is needed to cross over the waterway in an environmentally safe manner. Co-Chairman Sorbellini asked again if anyone has a comment. With no response from the public Co-Chairman Sorbellini made a motion to suspend the open comment period of the public hearing, Nick Burgher seconded the motion @ 7:15 pm.

Co-Chairman Sorbellini referred to his notes and asked Nick Burgher if he wanted to comment on what the board asked to see on the map. Nick Burgher said he wanted to see a defined easement for the driveways and utilities, Co-Chairman Sorbellini recalled it was a reciprocal easement. James Senecal pointed out that he has changed the flag lot since the original submission, in order to eliminate the easement, he has reduced the Mountain Road access from 50' to 25' which eliminates the well for Lot #1 to be on the flag to Lot #2. Co-Chairman Dibbell said that part of the intent is the use of the driveway and right-of-way, he pointed out that it is not shown on the map itself. Co-Chairman Dibbell also pointed out that the underground utilities are noted on the map as "UE" running along the side of the driveway. Heidi Emrich said that to Nick Burgher's point it is good to show the lines around the easement area to show what is included. She said that further to that, under Note 2 it should say ingress and egress of the utilities because you can't always assume that utilities are applied. Co-Chairman Dibbell pointed out that the utilities are all contained on each of the individual lots.

Mr. Senecal said he had a list of ten points that the board wanted from last month's meeting. One of the items was to show setbacks for the structures and the proposed home, which were done. He pointed out that he also had Mr. Keefe put a dotted line showing the town setbacks.

Heidi Emrich pointed out that the Planning Board's Checklist asks for the structures to be shown on the map that are on the adjoining properties, within 200' of the property line. She acknowledged that Mr. Senecal did present a small sketch showing the approximate locations but to be fair to other applicant's the board has asked that the location of these structures be shown on the subdivision map. Jim Senecal said he can't just walk on his neighbor's property and measure how far the buildings are off of the property lines. Heidi Emrich said she is just bringing it up for conversation because the board has asked for it on other applications. Ed Kahil said he would be in favor of waving that requirement for this application. Co-Chairman Dibbell said

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that this would be fine, and the board could waive that if we decide to. There was a brief discussion on this issue. Co-Chairman Dibbell made a motion that the Planning Board waive the requirement for the neighboring structures to be shown on the map, Ed Kahil seconded the motion, all members voted in favor.

Jim Senecal said that he was asked to add contours to the map, he said that there is 5 ½ feet of drop from one side of the property to the other which leaves one contour line. He noted that the underground utilities have already been referred to. Mr. Senecal said that he has talked with his attorney, and he was advised that he couldn't write up a maintenance agreement until there is a prospective buyer and there is a conversation that they are happy with the area on both lots, then he can have his surveyor do up a metes and bounds description and then the maintenance agreement can be drawn up for both lots. Co-Chairman Dibbell pointed out that the Planning Board hasn't gotten into managing maintenance agreements in the past. Co-Chairman Sorbellini agrees, he said that the only time this would be done is if there is an Open Development.

Nick Burgher said that the map should have shown the actual easement for the driveways, not just as a note. Co-Chairman Sorbellini agreed that the map should show the easement illustratively as well. Heidi Emrich feels that the language in the note in the bottom right, #2, the surveyor can change the language to read that a "Maintenance Agreement is to be filed concurrently with the Ulster County Clerk." That would signal that a road maintenance agreement exists and that this will be filed. Mr. Senecal said that his attorney is ready to draw up a maintenance agreement. Heidi Emrich said that it isn't necessary for the board to see the actual agreement, it is more important to see that it will be applied and will be filed concurrently showing that it is being addressed. Jim Senecal said that the proposed buyer wouldn't want to move forward without having an agreement drawn up. Co-Chairman Dibbell concurred with Ms. Emrich that all it needs is the change in language to show it will be happening. He pointed out to Mr. Senecal that all that would be needed is the change of language in Note #2 and to show the easement on the map itself, not just as a note. Nick Burgher said that the metes and bounds should also be represented on the map.

Co-Chairman Sorbellini suggested that since the time for the next public hearing is here, the board should suspend the comment period of the public hearing and circle back around to it later on. Co-Chairman Dibbell feels it would depend on how much longer it would take to finish things up. Jim Senecal said that the only other items on the list were the envelopes and the well which have been addressed. He said that he provided the EAF created by using the mapper, and the Board of Health approval which is being done through Rex Sanford. Ed Kahil asked Mr. Senecal if he has received the Board of Health approval, he said that this has been submitted to the clerk. Janelle Perry noted that the Planning Board has not received the approval, what has been received is the form that was sent to the Board of Health requesting the change of name. Co-Chairman Dibbell said that it was his understanding that the approval expires after a certain number of years and the original paperwork was from 2016 and changing the name on something that has expired won't help. Ed Kahil said that there is a mechanism to do this, the Planning Board hasn't seen the final result. Jim Senecal said that Rex Sanford is in the process of working with the county for this approval. Co-Chairman Dibbell suggests that the board table this until the next meeting, awaiting arrival of the approval from the Board of Health. Co-Chairman Sorbellini asked the clerk to include this application on the agenda for December 7th at which time the Planning Board will go through the checklist, SEQRA, resolution and the missing items. Janelle Perry asked the board if they would be agreeable to seeing the minor changes to the map on a pdf without needing another complete set of hardcopy maps. The members were fine with just seeing the pdf, Co-Chairman Dibbell pointed out that the updated maps will need to be provided for the final signatures. Heidi Emrich asked if John Ingram was still on the meeting? She wanted to ask him if the email from Brian Drumm of the NYSDEC was adequate to proceed with the construction of the bridge as proposed. Jim Senecal said that he has talked with John Ingram and Dominic Covello and they were both fine with it. He said that the difference between his proposed bridge and the one that Kylene (Thomas) Leiter was proposing is the way they were going to construct the bridge. He said that they were going to dig into the stream bank and that he will be constructing a bridge that will not be disturbing the stream bed or bank. Mr. Senecal said that their proposed bridge was 20' long and his is 30'. That is why Brian Drumm had no problem with the construction as proposed and doesn't require a permit. Co-Chairman Dibbell recalled that Jim Senecal was able to do this because he had access to that back side of his property from an adjoining neighbor's property.

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Jim Senecal said that he is trying to get a sense of the timing for a conclusion to this so he can let the attorneys know. Co-Chairman Sorbellini recapped that if the board gets the requested changes as discussed by the next meeting, then the Planning Board can go through the checklist and Part II SEQRA and finalize this with the conditions at the meeting of December 7th, and have final maps to be presented for signature. He asked Co-Chairman Dibbell if he concurs. Co-Chairman Dibbell said that he can loosely agree, however, the caveat would be if something else were to come out when the board continues with the public hearing.

7:30 pm - SP5-21 Donald Kenly, 5097 Route 213, Olivebridge, NY 12461: Art Studio and Gallery

Co-Chairman Sorbellini apologized to the Kenly party for the delay. Co-Chairman Sorbellini opened the public hearing and open comment period at 7:36 pm for SP5-21. He noted that the property was previously the Tongore Store and in the past had other commercial activity in the building. Co-Chairman Sorbellini invited Don Kenly to join the meeting.

Co-Chairman Dibbell and Co-Chairman Sorbellini both wanted to apologize to Mr. Kenly for the mix up at the last meeting which was via zoom and where you showed up in-person at the Town Hall. The Planning Board did use that meeting to review the application and moved forward to tonight's public hearing.

Co-Chairman Dibbell asked Mr. Kenly to briefly summarize what his intent is. Don Kenly said that this is to use his building which has sat unused for some time because of covid and other financial restraints. He explained that this passion of his is a hobby and he would like to make it public. He explained that the intent is to make it open for local artists, as well as students from the high school. Mr. Kenly plans on running it as a studio for sculpture and things of that nature.

Heidi Emrich asked how many apartments are associated with the building on the second floor? Mr. Kenly said that there are two apartments. Heidi Emrich thanked Mr. Kenly for his narrative that accompanied the application, it was very helpful in pointing out the hours of operation, parking and lighting.

Co-Chairman Sorbellini referenced Mr. Kenly's narrative with regard to student's showing their work, he asked Mr. Kenly if he is intending on hosting classes there for the students and the public? Don Kenly said that there is a need for this type of venue because most galleries are for painting and this is something that is needed for teaching and for work.

Present at the meeting was a neighbor, Paul Friedman, and he has a few questions. He asked if the gallery will be open to exhibiting work of the artisans living in the area or just that of the students, and will it be limited to a particular medium? Don Kenly said that it will not be limited to a specific medium and local artists will be welcome. Paul Friedman asked who will be deciding if work is appropriate to be shown in the gallery. Mr. Kenly said he has another artist who has many years of experience in the art field, and we'll collaborate on that decision. Paul Friedman asked the name of the other artist and if they will be teaching? Mr. Kenly said her name is Gulnar Babayeva and she is a sculptor, and she will be teaching along with others who are qualified to instruct. Mr. Friedman also asked about how income will be generated, Co-Chairman Sorbellini told Don Kenly that he does not need to answer that question. He told Mr. Friedman that the questions need to be in the scope of planning, development and zoning.

Co-Chairman Dibbell asked if the intent is to have all of the sculpting and artistry being performed indoors or will things be done outdoors? Mr. Kenly said that everything will be done indoors.

Another neighbor was present, Merle Borenstein. She remarked that she saw the intent is to run the gallery seasonally, and wonders if the space will be used off-season for anything else? Don Kenly said that they have not decided on that yet, they would have to see if it is viable because of the heating requirements. Ms. Borenstein asked if they were to decide to run it for the additional months, would it be as a gallery or as something different? Mr. Kenly said it would remain operating as an art studio and gallery. Merle Borenstein asked if the septic is large enough to handle extra people? Mr. Kenly said that there is one bathroom and it isn't a public bathroom. She said that there will be students in the building what if they need a bathroom? Mr. Kenly said that they need to go before they get there. She also asked if he intends to get a permit to

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serve food or alcohol? Don Kenly said that there may be food served during a reception, they would be hors d'oeuvres of some kind. Merle Borenstein told Mr. Kenly that she is very happy about the project.

Co-Chairman Sorbellini asked if there was anyone else with a question or comment. There are no other comments from the public. On a Sorbellini/Emrich motion the board suspended the public comment portion of the public hearing at 7:47 pm.

Co-Chairman Sorbellini said that he had no further questions and that John Ingram had given the board insight into the project at last month's meeting. Co-Chairman Dibbell pointed out that it is a reuse of existing commercial space and the County Planning Board shouldn't be interested in being involved.

Paul Friedman had another question. First, he pointed out that he is in the arts and is in favor of this project also. Mr. Friedman is wondering what the planned time schedule will be for opening? Don Kenly said that he is planning on having the first show on April 15, 2022.

Also present at the public hearing is Penny Schetzel, she wanted to expand on the previous question about the bathroom and being a public space. She wonders if the one bathroom is acceptable health wise and is there a code? Ed Kahil reminded everyone that the last business that was in that part of the building was a restaurant and this is a much lesser use.

With nothing more to discuss, on a Sorbellini/Emrich motion the board closed the public comment portion and the public hearing at 7:50 pm. Co-Chairman Sorbellini noted that they have heard nothing other than support for this project, and in terms of the existing infrastructure, i.e., parking lot, utilities, and bathroom, this has been a heavier used site in the past. He feels this is a nice fit for the area, Tim Peck agrees. Co-Chairman Dibbell feels that it is a pre-existing commercial building and has had sufficient parking when being used as a restaurant/deli in the past and he has no concerns. He feels that the provided sketch is sufficient.

Heidi Emrich asked about a sign, it is noted that a sign is already on the property. Nick Burgher asked about lighting for the parking lot since most art receptions are held in the evening. Don Kenly said that there is existing lighting on the building which has been there for many years and they don't plan on adding or changing anything. Paul Wright pointed out that lighting was mentioned in the narrative. There was additional discussion regarding lighting. The board is asking Mr. Kenly to show on the sketch where the existing lighting is located on the building and property. Mr. Kenly said that he can do that, however, he is currently in Florida. The Planning Board agreed that this will not hold up the decision for tonight, Ed Kahil said that the applicant can work that out with the Building Department when he is back in the spring to open the studio.

Heidi Emrich made a motion to grant approval of SP5-21 on the condition that a schematic showing the lighting be submitted to the building department for approval prior to opening, Ed Kahil seconded the motion. A roll call vote was taken and resulted as follows: Dave Sorbellini voted in favor, Steve Dibbell voted in favor, Ed Kahil voted in favor, Heidi Emrich voted in favor, Nick Burgher voted in favor, Tim Peck voted in favor, and Paul Wright voted in favor. Co-Chairman Sorbellini and the board completed the Resolution.

5.0 LOT LINE REVISION/SUBDIVISION

21-Sub-7 Chet Karwatowski & Anne-Marie Johansson, 111 High Point Mountain Road, West Shokan, NY 12494: Lot Line Revision Request

Co-Chairman Sorbellini asked Co-Chairman Dibbell to lead on this application as he is more familiar with it. At this time Heidi Emrich recused herself and left the meeting.

Co-Chairman Dibbell began by recapping that last month the board briefly discussed the application, and the purpose of tonight's meeting is to review the site map and application material as presented and determine if

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the board will be ready to schedule a public hearing for the next meeting. Co-Chairman Dibbell asked Chet Karwatowski if he had anything to add.

Co-Chairman Dibbell remarked that he acknowledges that the requested note has been added to the map regarding the creation of another lot with property on both sides of High Point Mountain Road. Chet Karwatowski reviewed the process that they have followed regarding this lot line revision. He explained that they will be reducing Lot #1 from 19 acres to 15 acres. In doing this they will be moving less than one acre to Lot #2, including the area that was previously mentioned across High Point Mountain Road, making it 5.3-acres. He explained that in a 3-acre zone this lot would not be subdividable anyway. Mr. Karwatowski said that this will keep the view across the street free of any possible house site. He also explained that with the lay of the land, the additional small parcel consisting of .069-acre on the side of the property is in the view shed from that particular house. Chet Karwatowski explained that the total amount of land being added to Lot #2 is .925-acres in total.

Mr. Karwatowski went on to explain the lot line changes being made to Lot #3. He explained that they are taking 3 acres away from Lot #1 and adding them to Lot #3, making it a total of 8.9 acres. Nick Burgher asked if they are still intending to have access to Lot #1 from Route 28A? Mr. Karwatowski said that it will not have access to Route 28A, it currently has over 400' of access off of High Point Mountain Road. Co-Chairman Dibbell noted that Lot #3 will be the only parcel having access off of both Route 28A and High Point Mountain Road, Mr. Karwatowski said that this was correct. Mr. Karwatowski said that before this proposed lot line revision the only parcel with access to both roads was Lot #1.

Chet Karwatowski said that after last month's meeting and the concern with creating a lot with property on both sides of the road, they met with Brinnier and Larios and they made the notation on the map and sent a letter dated October 12, 2021. Co-Chairman Dibbell pointed out to the public that the note being discussed is Note #6 on the map regarding Lot #2. Chet Karwatowski said that High Point Mountain Road is a road by use and does not have a right of way for use by the town and all measurements are done using the center line.

Ed Kahil asked if the subdivision map that was just approved by the Planning Board has been filed with the county yet? Mr. Karwatowski said that it has been.

Co-Chairman Dibbell suggested to the members that if there is no dissent, we can move forward with a public hearing. Mr. Karwatowski asked if the next meeting will be via zoom. Co-Chairman Dibbell said it will be. There was a discussion regarding the fees and when the new schedule will be in effect. Janelle Perry will let the applicants know what the application cost will be.

21-Sub-8 NASAS Properties LLC/Sean Rivera, 572 Acorn Hill Road, Olivebridge, NY 12461: 2-Lot Subdivision

Present is Sean Rivera representing NASAS Properties, Co-Chairman Sorbellini asked him to give a brief overview of his application. Mr. Rivera explained that they are cutting out a 22-acre lot off of the larger parcel, with road frontage off of Grassy Ridge Road. He explained that the prospective buyers were looking to do two lots of 11 acres each, and the buyer has submitted their application for septic approval to the Board of Health. Mr. Rivera said that he isn't sure if the buyers will accept one 22-acre parcel or two 11-acre parcels, the map that has been presented shows one 22-acre parcel. Sean Rivera said that he is aware that if there isn't Board of Health approval then the map will need to have a note that it is not a buildable lot until Board of Health approval is granted. Co-Chairman Dibbell asked what is driving the choice between one 22-acre lot or two 11-acre lots? Co-Chairman Dibbell explained that he is asking because the Planning Board doesn't want to grant approval for a 22-acre lot and then be asked for another subdivision creating two 11-acre lots. Sean Rivera explained that the buyer has two sons and was looking to have two 11-acre parcels, one for each child, but now that it has been submitted as one, he feels that it is acceptable to the buyer to have one lot. Mr. Rivera was asked if the Board of Health submission was for one septic system on a

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22-acre lot or is it for two septic systems, one on each lot? Mr. Rivera did not know the answer to that question, but he feels that since the map was submitted as a 22-acre parcel he believes that must be what the Board of Health septic system submission is for. He apologizes for not having clarity on this matter, he will have to get an answer from the buyer's attorney. Ed Kahil feels that the application should be tabled until we get clarity on these questions. Co-Chairman Sorbellini agrees, he pointed out to Mr. Rivera that the Planning Board will be looking through the Checklist to see if everything is on the map, regardless if it is one or two parcels. Co-Chairman Sorbellini said that once there are answers regarding this issue the board can look at the placement of the primary and secondary septic areas and the neighbors. Heidi Emrich agrees because she feels the map is missing a lot of things that the board would be wanting to see. She feels that the map needs to show topography and if a Board of Health septic application has been submitted then the map should show the proposed locations of the septic, reserve, and house site. She said that there could be a notation on the map stating it isn't a building lot but if the buyers are moving forward seeking a septic approval than this map should reflect where those locations are so that this map is aligned with the buyer's intent so that when it is filed the data is as up to date as possible.

Co-Chairman Dibbell asked if there have been lot line revisions on this lot recently? Mr. Rivera said that there has been one about nine months ago and before that it was years ago. Co-Chairman Dibbell asked Sean Rivera to submit a history of lot line adjustments or subdivisions on this parcel so that the Planning Board can take a look back.

Heidi Emrich said that the surveyor should note the wetlands and show a 100' setback. Nick Burgher asked if full-sized maps have been submitted? They were not, the board asks that full-sized maps be submitted for the next time.

Co-Chairman Sorbellini explained to Mr. Rivera that on the broader narrative, one of the things that the Planning Board is charged with is to avoid segmented planning. He noted that there has been a mention that the buyer may want to split this parcel to give each one of his children a lot. The Planning Board wants to know what the objective is here in terms of discovery. Sean Rivera said he can only give what information he knows. Co-Chairman Sorbellini asked Mr. Rivera to pass these concerns on to the buyers so we can avoid segmented planning, he explained that so many larger parcels are now being subdivided into smaller parcels. Sean Rivera said that he doesn't feel that the buyer has any other plans other than the one or two parcels. Co-Chairman Dibbell asked Mr. Rivera if it is his intent to subdivide the remaining property, or do further lot line adjustments? Sean Rivera said that it is his intent to keep it as a hunting camp. Co-Chairman Sorbellini explained that when the board does the SEQRA we will want to look at it in its entirety. Heidi Emrich pointed out that there is an error on the first page of the SEQRA regarding the total acreage being disturbed shown as 22. Janelle Perry said that the board does have an amended copy initialed by Mr. Rivera showing 0 acres. Heidi Emrich said that if the intent is to have a septic system and house built on the parcel than the surveyor should calculate what the actual area of disturbance is likely to be, to the closest 1/10 of an acre.

Co-Chairman Dibbell asked where the access to the remaining acreage will be? Mr. Rivera said that the access is off of Acorn Hill Road. There was a brief discussion regarding the amount of road frontage needed for access to each parcel.

Sean Rivera recapped what additional information the board is looking for, larger maps, 100' setback from wetlands, and ascertain if it is 22-acres or two 11-acre lots. Co-Chairman Dibbell said that there is a Checklist outlining what needs to be shown on the map which your surveyor should refer to. Heidi Emrich said that a topographic overlay is important to be shown so that the board can determine that access can actually be gained from the public roads for both parcels. She also reminded Mr. Rivera that if the buyer has applied to the Board of Health for septic approval than that information should be shown on the map. Sean Rivera said that it is his understanding that the buyer is moving forward to take the lot as not a buildable lot at this time.

Co-Chairman Sorbellini asked the Planning Board if they have any other questions for Mr. Rivera. He asked the clerk to make a note that if the applicant is ready with their material the board can hold further review at the December 7th meeting.

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20-Sub-10 Sahler Mill Farm, LLC, Lower Sahler Mill Road, Olivebridge, NY 12461: 13-lot Major Subdivision of a 64.348-acre parcel. – Regarding updated drawings

Co-Chairman Sorbellini said that he would yield to Co-Chairman Dibbell on this application since he is closer to this newest submission. Co-Chairman Dibbell said that we will need to text Jim Bacon to let him know that Sahler Mill Farm is on deck for discussion at tonight's meeting.

Present at the meeting for Sahler Mill Farms is Frank Dunn, George Sifre, and Caleb Carr. Co-Chairman Sorbellini acknowledged that Kathryn Serra, of CT Male, is present. He also welcomed the members of the community who are in attendance.

Co-Chairman Sorbellini asked if one of the applicants will be recapping the recent changes that have taken place in order to bring the members of the board up to speed, including himself, who aren't familiar with the course of events. He did recap that during the summer, back at the board's first meeting once again taking place in-person, he shared with everyone that discussions were taking place between the applicants and some members of the neighborhood association. It looks like some productive discussions have taken place. Heidi Emrich remarked that everyone should have a copy of the Settlement Agreement to review.

Frank Dunn summarized that some of the neighbors had reached out to them some time ago and expressed an interest in buying some of our lots and we have come to an agreement. Mr. Dunn explained that they had given the neighbors three different scenarios and from the previous 13-lot map that was submitted the neighbors chose to purchase the five wooded lots. Mr. Dunn feels that this was a smart choice and he wants to thank them for reaching out to us. He described that what Sahler Mill now has is a "no build" Lot #8, and what was Lots #1 and #2 will be combined to make Lot #2. Frank Dunn said he is happy with the settlement that has been worked out and it leaves 28 acres of unbuildable land.

Heidi Emrich said she had a question after reading through the settlement, regarding Lot #7. She wants to know if she is understanding it correctly that this will be the last house that you plan on building and if any of the previously purchased adjoining properties want to purchase the property and not build on it, they can. Frank Dunn said that this is the way it is written in the settlement. He went on to say that the only home that they had a buyer for from the beginning is the home being built on Lot #6 and they do want to purchase Lot #7 as protection and unbuildable. He said that ultimately there will only be six houses. Heidi Emrich asked if the purchase of Lot #7 as unbuildable goes with the lot forever or just for the time that the initial purchasers own the properties? Frank Dunn said that he is not the attorney, but it is his understanding that it goes with the lot in perpetuity. Co-Chairman Dibbell understands it to be that if Lot #7 is purchased by an adjoining lot owner, then it will remain unbuildable forever.

Co-Chairman Sorbellini asked Mr. Dunn which lots currently have the houses built on them? Mr. Dunn responded that they are Lots 6 & 5. Frank Dunn is very happy that the neighbors have put their resources together to save the woodland canopy, it shows a community working together. Co-Chairman Dibbell asked Mr. Dunn if there is any intention to turn the property over to a conservancy? Mr. Dunn thought that the neighborhood association was looking into something like that. Janlori Goldman was at the meeting and explained that the buyer's group intends to place the 28.835-acres into some kind of conservancy or land trust so that it will be kept forever wild. She explained that they are looking for whatever vehicle they can find that they can donate the land to and haven't yet secured that. Ms. Goldman said that they are hoping to have something in place at the time of closing so that that agency will be at the closing or take ownership right after. Co-Chairman Dibbell asked Ms. Goldman if that agency would want to see the terms of the settlement agreement because there are some very specific items in there with regard to the use of the land. He feels that these types of organizations have their own set of terms they like to use. Ms. Goldman said that the people they have already talked to, they have shown them this settlement agreement and for them the term forever wild means no development or commercial use.

Co-Chairman Dibbell said that the Planning Board, on behalf of the Town of Olive, have been asked to sign off on this settlement agreement and he announced that Jim Bacon is present to represent the Town of Olive on this. Mr. Bacon said that this is a very unusual situation where a settlement like this has been reached in a law suit. He noted that both he and Mike Moriello have been practicing for about 30 years and neither of

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us have seen anything like this before. Mr. Bacon explained that the Planning Board was named in the lawsuit and by signing off on the Settlement Agreement it settles the lawsuit. He said that he will not have to respond to any of the papers, all the Planning Board needs to do is set a public hearing and put everything out to the public to see if there is opposition. He noted that there is certainly a lot less environmental impact which has reduced the SEQRA impact. Mr. Bacon remarked that we have already gone through the SEQRA and this is going to be less and we should probably do a new short form EAF and compare it to the prior project and reference those documents. This new subdivision is an outgrowth from the initial review and a reduction in lots.

Co-Chairman Dibbell asked Jim Bacon if the Planning Board has to take these changes back to the Ulster County Planning Board? Jim Bacon said that a referral is a mandatory requirement that cannot be bypassed. George Sifre said that the remarks from the initial referral to the Ulster County Planning Board was that they wanted to see more available housing, Co-Chairman Dibbell remarked that this was addressed by allowing accessory apartments in the wording of the Sahler Mill Farm documents. Frank Dunn said he remembers that some of the county's concern was with the retention ponds and we no longer require retention ponds because we are under 5-acres of disturbance, he believes it is now 3.6-acres of disturbance. There was a discussion regarding the timing of the public hearing and awaiting a response from the Ulster County Planning Board.

Heidi Emrich asked if there is anything that has been received with regard to a Health Department subdivision approval. Caleb Carr said that they have submitted the documents to the Health Department, he can provide the board with the correspondence so far, but it is very minor. Heidi Emrich questioned if there is a state or county law that says a submission has to be done when the subdivision is more than five lots that are under five acres? She asked if this has been sent to the proper agencies or does that need to be done? Kathryn Serra responded that this is a realty subdivision which requires the SEQRA to be a Type 1 and you have already done a full-blown SEQRA on the larger project. She said that unless council feels you should redo SEQRA review you have already done that and this is now a lesser project. Jim Bacon feels that during the public hearing a short form SEQRA can be done and cite back to the other SEQRA documents. Jim Bacon feels that moving ahead with a public hearing in December is fine and he suggested that we get the referral and new material to the Ulster County Planning Board quickly for their review and hopefully they will comment quickly. The board confirmed that the Ulster County Planning Board will be meeting on December 1, 2021. Jim Bacon said he will speak with Mike Moriello and the applicants to determine what documents should be submitted to the county and will let Janelle Perry know so that she can prepare the referral prior to November 21, 2021.

Heidi Emrich had a question regarding the wording in #8 of the Settlement Agreement, she asked if the board is on a timeline? Jim Bacon said that timelines can always be extended and noted that this agreement has taken many months to be prepared. He said that these dates were a best estimate of when they thought this would be finished. Mr. Bacon said that things can take longer, and we have done our best efforts to follow the law. Co-Chairman Dibbell said that the date really can go out to May 2022. There was a brief discussion regarding the process that will need to be followed in order to sign off on the Settlement Agreement.

The board discussed setting a public hearing for Sahler Mill Farms at 7:30 pm at the December 7th meeting. Co-Chairman Sorbellini feels that this hearing shouldn't take as long as in the past as these changes show a good balance between the two parties. Co-Chairman Sorbellini feels that the questions can be kept brief, he can't think of anything that hasn't already been asked. Co-Chairman Dibbell asked if the board feels that time be given at the start of the public hearing for each party involved to explain the current situation. Jim Bacon feels that a short synopsis should be given for the benefit of those people not involved in the whole negotiation. Co-Chairman Dibbell asked if the board should have someone facilitate the public hearing, he mentioned that Kathryn Serra did that in the past. Co-Chairman Sorbellini feels that this would be a good idea because he isn't sure he will be able to attend the December meeting, he asked Kathryn Serra if she would be able to provide that support to the board. She acknowledged that she could facilitate the meeting, the members all voted in agreement to have Ms. Serra provide her services for the public hearing.

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Co-Chairman Dibbell announced to the audience that any email correspondence received ahead of the meeting will be read and acknowledged by the board.

Janlori Goldman suggested it would be a good idea to have a representative from the buyer's group also give a brief description of what is happening. She feels that the community would be interested to know that there is a buyer's group who is working to mitigate the impact from this development. Co-Chairman Sorbellini feels that this is a great idea. He recapped that one of the board members will open the public hearing and introduce Kathryn Serra as the facilitator of the hearing as she did previously, then a representative from Sahler Mill Farm can briefly provide a description of the new plan, and then a representative from the buyer's group can speak. Janlori Goldman said that she would be able to represent the group. Kathryn Serra asked how the board will choose the order for the public to speak during the hearing? Co-Chairman Dibbell feels that people can sign-up using the chat, David Edinger said that he can help assist with that aspect of the hearing.

Heidi Emrich asked Kathryn Serra, from an engineering standpoint, if she would want to comment on CT Male's response to the project now? Ms. Serra said that they would have plenty of time to address any concerns at the December meeting. She said that there is one comment that would be a discussion starter that pertains to the amount of disturbance. Co-Chairman Dibbell asked her to remark on this now. Kathryn Serra referenced comment #10 in the CT Male response from November 5, 2021. "10. The reduction in lot number for this subdivision now places the project at a site disturbance of less than 5 acres. Therefore, per NYSDEC requirements, the project is required to prepare a Stormwater Pollution Prevention Plan with only Erosion and Sediment Controls. A SWPPP with water quality and quantity controls is not required by NYSDEC for single-family residential subdivisions disturbing between 1 and 5 acres. The final subdivision plans shall show a limit of disturbance and the total land disturbance for each lot as part of the project's subdivision approval process to confirm that the total site disturbance is less than 5 acres." She said that if the board so chooses you can hold the future buyers to this. CT Male suggested that the Planning Board should discuss with their Attorney if additional measures within the subdivision approval or deed restrictions will be required as a result of this discussion on the limit of disturbance. Jim Bacon said that any violations to the filed map can be addressed by the code enforcement officer. Co-Chairman Dibbell feels that the only thing that would play into this would be the introduction of an accessory apartment and a garage.

There was additional conversation regarding the amounts of disturbance and if they would be enforceable in the future. (*Kathryn Serra's transmission was coming in and out and it was difficult to understand everything she was saying.*) Jim Bacon said that everything noted on the site maps is enforceable, it would have to be up to the town to do this. There was a question if the house sites shown on the maps are actual or suggested. Frank Dunn said that he has worked with Caleb Carr and the driveways and house sites that are shown on the maps will be the actual sites. Mr. Dunn said that he and Mr. Sifre are building the homes for these sites, they will not be sites that buyers will place their own homes on.

Jim Bacon asked the members to read through the Settlement Agreement and if there are any questions, they can email him. Frank Dunn remarked that once there is a decision and the board signs off on the agreement then it will need to be presented to Judge Gilpatric.

Co-Chairman Dibbell said he had a few questions on the Declaration of Covenants, Easements, and Restrictions. He is wondering about the restrictions on antennas and satellite dishes, he thought there were state and federal over-riding laws that say you can't restrict people from putting an antenna on their house. Jim Bacon said that this was a good question, he knows there are laws about cell towers, he said he would look into that. Frank Dunn said that Mike Moriello wrote the document up, Co-Chairman Dibbell said that Mr. Moriello probably knows more about the laws than he does. Co-Chairman Dibbell also pointed out the wording regarding the prohibition against the storage of any flammable materials on the property. He feels that everyone has a can of gasoline for their lawn mower, he feels that the restrictions are over-reaching. He understands that this is between the applicants, Mr. Moriello, and the purchasers.

Co-Chairman Dibbell asked the members if they had any other comments. Nick Burgher asked about the drainage easements and who is responsible to maintain them? Caleb Carr said that there are two drainage easements for the culvert pipes that they have been asked by the highway superintendent to put under the

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road. Co-Chairman Dibbell pointed out that it is in the covenants that the homeowner is responsible to maintain the easements and if they don't and the town has to come in to do this, then the town can charge the homeowner for this. Kathryn Serra pointed out to the applicants that the easements are not shown on the map currently shown on the screen and suggested that they should be shown.

Nick Burgher also suggested that Sheet 2 needs to be cleaned up before being filed with the county. He pointed out that in some areas there is very small text which cannot be read, for example on Lot 4 and Lot 5. Nick Burgher feels that the actual distances for the conservation easements need to be shown. Caleb Carr said that these are not the final maps that would be presented for final approval.

Co-Chairman Dibbell thanked everyone who was in attendance.

6.0 CORRESPONDENCE

Co-Chairman Dibbell asked the clerk to explain the paperwork regarding Bread Alone. Janelle Perry said that the Planning Board has not yet received the second response from the Ulster County Planning Board regarding Bread Alone. The Planning Board has received the response for the Spector_Korg submission along with the Final Action that needs to be signed and returned to the Ulster County Planning Board. There was a brief discussion on how the paperwork would be handled. Co-Chairman Dibbell suggested that the Town's alternate rep to the Ulster County Planning Board, Heidi Emrich, can take care of deciding what the final process should be. Heidi Emrich said that she is fine with signing off on the documents and returning them, she can check with Drew Boggess about it. Her only thought is that she feels that something coming from the Planning Board should be signed by a chair. Co-Chairman Dibbell suggested that Heidi Emrich complete the documents and then they can come back at the next meeting for review and one of the chairs can sign off on them.

7.0 NEW BUSINESS

Janelle Perry reviewed that there are two other applications that have been received and the applicants are waiting to hear back about what agenda they would be on. Co-Chairman Sorbellini acknowledged that the December 7th agenda is packed, the January agenda would be the next meeting. Ed Kahil asked what applications she was referring to, they are SP6-21 a site plan from Tim Trojian who wants to go into the building once operated as Just Alan and the Swedish Café, and 21-Sub-9 a lot line revision from Judy Mahar represented by Cecil Hooker. Ms. Perry noted that there are other applications sitting at the Building Office for John Ingram to review. One is a site plan application from Karen Ranucci for the Krumville Church and another minor subdivision application. Ed Kahil said that he did look at the Ranucci submission that was sent as a pdf and in looking at our district uses, he didn't see how it would fit into a residential area with what she wants to do. He feels that this may need to be reviewed by the Zoning Board of Appeals (ZBA) before coming to the Planning Board. Janelle Perry said that she will send an email to John Ingram tonight about this concern so that he has it for tomorrow when he is in the office.

8.0 AGENDA

The board set the agenda for the next meeting, scheduled for December 7, 2021. The board will hold a public hearing at 7:10 for application 21-Sub-7 of Chet Karwatowski and Anne-Marie Johansson and at 7:30 for 20-Sub-10 Sahler Mill Farm, LLC. They will also hold continued review of 21-Sub-6 Way Back Acres/Senecal and 21-Sub-8 of NASAS Properties.

9.0 ADJOURNMENT

Heidi Emrich made a motion to adjourn the meeting at 9:45 pm, Co-Chairman Dibbell seconded it, and all members agreed.

Sincerely,

Janelle Perry
Planning Board Clerk