

# TOWN OF EAST GREENBUSH PLANNING BOARD

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 FAX (518)477-2386

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## MEMORANDUM

### EAST GREENBUSH PLANNING BOARD MEETING MINUTES November 9, 2022

#### **Members:**

Matt Mastin, Chairman  
Kurt Bergmann  
Don Pantan  
Chris Horne  
Robert Jucha  
John Conway Jr.

#### **Also Present:**

Anna Feltham, Director of Planning  
Joseph Slater, Planning Board Attorney  
Mike Brown, Planning Engineer  
Alison Lovely, Secretary, Planning/Zoning

#### **CALL TO ORDER / DETERMINATION OF QUORUM**

Chairman Mastin called the meeting to order and determined that a quorum of six (6) members were present. Ralph Viola was absent.

#### **OLD BUSINESS:**

##### **E.W. BIRCH BUILDERS-26 MOUNTAIN VIEW AVE.-MINOR 4-LOT SUB. (21-30)**

Ed Bzrozowski of E.W. Birch Builders was present & stated that his engineer Aaron Frank was also present from Frank Engineering. Aaron Frank stated that the proposed project is for 4 lots with 3 new single family homes, one home exists currently. Aaron Frank stated that the stormwater will be handled on each building lot. Water & sewer will be connected to public utilities. Aaron Frank stated that for all 4 lots the property line now extends all the way to the rear of each property.

Chairman Mastin asked if they had to change the stormwater basins. Aaron Frank stated that it did not impact the stormwater at all. Chairman Mastin asked if any of the Board members had any questions.

- Kurt Bergmann asked what the distance is from the rear of the houses to the start of the stormwater depressions. Aaron Frank stated about 30' to 40', each will be a 6" deep grass depression.

- Kurt Bergmann asked what happens if the future homeowners wanted a deck or a pool how it would fit. Aaron Frank stated that they would not be putting a pool, but could put a deck 30' to 40'.

Chairman Mastin asked what prevents that. Aaron Frank stated that these would have to be forever stormwater areas and the homeowners will have to maintain them.

- Kurt Bergmann asked how deep the depression would be. Aaron Frank stated that it would be no more than 6 inches, he said the infiltration rates are very fast, he wouldn't expect them to stay full for no more than say an hour after water fills them up.

- Robert Jucha asked what the soil was. Aaron Frank stated that it's gravelly sand.

- Chris Horne asked if that was his letter that he sent that adjusted language around the deed restrictions that will say no pools, no trees or other landscaping. Aaron Frank stated that was Fred Mastroianni's letter with those comments that will be added to the plan set.

- John Conway stated the last meeting these were described as individual detention ponds. Aaron Frank stated that they are individual infiltration areas, it will be a little pause in the slope of the property in the lawn area.

- John Conway asked how far from the house will they be. Aaron Frank stated it would start at about 30' or 40' & extend another 20' to 30' or so. John Conway asked if that was already sloping or if it was flat. Aaron Frank stated that the existing area is sloped, but they will have to bench it out. Chairman Mastin asked if there are severe slopes. Aaron Frank stated yes it's steep.
- Chairman Mastin asked Anna if she might know the answer to this, what if a resident buys one of the houses and then in 10 years applies for a building permit for a pool, does the building department look at deeds, probably not right, and they don't have access to them. Anna Feltham stated that the hope would be that they would pull the plat, if it was something recent, but she doesn't feel it's automated in the process, but the hope is they would look at the plat for deed restrictions.
- Chairman Mastin asked if the engineer has designed other subdivisions with these retention basins in individual back yard. Aaron Frank stated yes, that DEC recommends scattering storm water infiltration areas, this is most similar to a bio retention area.
- Chairman Mastin stated that they may recommend them scattered, there are 3 of them in a 50 lot subdivision. Aaron Frank stated that DEC recommends them in individual lots as rain gardens, green roofs, etc.
- Chairman Mastin stated that the Board should consider the example brought up at the last meeting, a resident coming in and installing a pool and defeating the purpose of the basin.
- Kurt Bergmann asked what the technical impact would be moving the basins farther back. Aaron Frank stated that the spot Fred Mastroianni recommended is all forest, the neighbors wanted to prevent that area from changing, but additionally the Town has stormwater lines running through that area.
- Chairman Mastin asked if the need for these retention basins is because three homes are being built, or because the Town is dumping stormwater on the property. Aaron Frank stated it's to mitigate the flow only from the houses.
- Don Panton asked what the fourth lot is. Aaron Frank stated there is an existing home on it. Anna Feltham wanted to clarify if the retention basins were moved at all from the previous versions. Fred Mastroianni scaled it as Lot #1-20' of the rear of the house, Lot #2-15' of the rear of the house and Lot #4-30' of the rear of the house. Aaron Frank was basing it off the scale. Kurt Bergmann measured it and Fred's calculations were accurate.
- Chairman Mastin asked the Board if there were any more questions. There were none. Chairman Mastin spoke to the Commissioner of Public Works and there is a concern connecting all to one sewer line. Aaron Frank stated that there will be three individual grinder pumps with three individual force mains and they all will run along a private easement along the front of the properties, until they reach Park Avenue, they will tie in separately and each be individually owned.
- Robert Jucha asked if it was three force mains or one force main & who will maintain them. Aaron Frank stated that there would be three individual force mains & they will be the responsibility of the homeowners.
- Chris Horne asked Aaron Frank to speak to the recommendation that Fred made in regards to the using the gravity sewer laterals out from the property line instead of their design with the grinder pumps. Aaron Frank stated that he proposed putting in a gravity sewer down Mountain View Avenue which would allow other neighbors to connect in, if they're not already connected in. They would then have grinder pumps pump up to a gravity sewer that the Town would own along Mountain View Avenue. The Town would be required to maintain an additional sewer stub and it would also be pretty costly to do that.

Chairman Mastin stated after talking to DPW, their preference is to have a new main on that stub. Anna Feltham stated that they need to have a more in depth discussion on the sewer design outside of a Planning Board meeting.

Chairman Mastin stated that he doesn't believe these parcels are in the sewer district. Aaron Frank stated that he's confused about it & he & Fred Mastroianni have talked about it a bit but it's still not clear.

- Chris Horne asked about the turnaround that's proposed. Aaron Frank stated that they can't fit it in at the end, they need 70' and only have 50'.

- John Conway asked about what the snow plows do now. Aaron Frank isn't sure what they do now.

- Chairman Mastin asked about what they were doing about domestic water, it's his understanding that there is a ¾ inch line that runs down that road. Aaron Frank stated that they're waiting for confirmation from DPW on this. Ed Bzrozowski stated that he has spoken to DPW and there is existing water, but they're not sure how big the existing main is & how far it goes down.

- Kurt Bergmann asked what the plan is if it's only 1/2" or 3/4" line. Aaron Frank stated that they would not be able to tie into that. Ed Bzrozowski stated that he's under the understanding that the Town needs to provide them with water, but from the property in it's the builders responsibility. Chairman Mastin stated that for them to subdivide here, Ed expects the Town to upgrade the water if it was required. Ed Bzrozowski stated that would be up for discussion.

- Kurt Bergmann asked if the main is undersized who would put a bigger one in. Ed Bzrozowski stated that he would talk to DPW and find out what the recommendation is.

Chairman Mastin stated that it's his experience that it's the developer's responsibility.

- Kurt Bergmann asked for clarification that the expectation is that if a homeowner of a couple of the proposed houses wants to put in a deck or a pool, that it's the Town's responsibility to evaluate, look at it and refuse their building permit for the pool and deck. Aaron Frank stated that it's also the homeowner's responsibility to know that it's a deed restriction, that they can't do that. Aaron Frank stated that he doesn't see these lots supporting pools, decks maybe.

- Don Panton asked about pools and if the reason they couldn't go there due to the slopes. Aaron Frank stated the problem is that the whole site is sloped so much, if you bench it out, they would just never catch up.

Chairman Mastin stated this was an update only tonight.

### **NEW BUSINESS:**

#### **BECKERS FARM, LLC.-420 COLUMBIA TRPK-SITE PLAN MODIFICIATION (22-18)**

Steve Hart from Hart Engineering was present representing the applicant, Dave & Mark Becker. Steve Hart stated that back in 2012 they received approval for an approximately 6,000 sq. ft. building. Steve Hart stated that the project sat idle and they never built anything, they currently want to build a 60' x 38' building.

- Robert Jucha asked if it would be a permanent structure. Steve Hart stated that is correct.

- Chris Horne asked if the new structure would come out to where the parking lot starts. Steve Hart stated that is correct.

Chairman Mastin stated that they did have some conversions about this being possibly being exempt from site plan because this was an active farm. Anna Feltham stated that it's in the Rensselaer County agriculture district. Chairman Mastin stated that the Becker's were good enough to submit an application for review by the Planning Board.

- Don Panton asked if it would be connected to the main building somehow. Steve Hart stated if would be connected with an 8' x 9' breezeway.

- Jon Conway asked if there was a reason why the original plan for the larger building didn't go through. Steve Hart stated he's not sure.

**MOTION:** A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby:**

- 1. Classifies this action as a Type II SEQR action in accordance with 6 CRR-NY 617.5 Type II Actions (C)(9) “construction or expansion of a primary or accessory/appurtenant, non- residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities”; and**
- 2. Grants conditional final approval of the proposed Site Plan Modification as depicted on the revised site plan prepared by Steve Hart P.E. dated October 17, 2022, and subject to the following conditions:**
  - **Satisfying outstanding technical details as determined by the Town Planning and Zoning Department**
  - **All remaining fees are paid to the Town.**

**Seconded by Don Panton & roll called as follows:**

**M. Mastin-YES; R. Viola-Absent; K. Bergmann-YES; C. Horne-YES; D. Panton-YES;  
J. Conway-YES; R. Jucha-YES.**

**MOTION CARRIED BY A 6-0 VOTE**

**MARTIN ELECTRIC-164 COLUMBIA TRPK-MAJOR SITE PLAN & SUP (19-01A)**

Chairman Mastin stated that the back story here is the Board previously approved a commercial garage under a Special Use Permit and it was built larger than what was approved in 2019, there was a stop work order from the Building Department. And now it's back as a major site plan that would go in front of the Town Board ultimately, but now it's to rectify what was actually built and the Board will review it. Chairman Mastin stated this is the first time the Board is seeing the revised plan & tonight is simply a presentation to get the Board up to speed, there will be future meetings in front of both the Planning & Town Boards. Steve Hart from Hart Engineering was present representing the applicant. He stated the he just submitted both the major site plan & special use permit applications. Steve Hart stated the existing garage is 5,100 square feet and it was approved in 2019 as 3,900 square feet. Steve Hart stated that Martin Electric is still growing and they're still looking for more room, they've got trucks and materials out there, so the idea is to try to add on more storage area that meet code and require a special use permit, so the intent is to build a 50' x 67' addition on the existing garage. Steve Hart stated that there is an existing conex trailer for storage. Chairman Mastin stated that he checked the site out before the meeting and there were two conex trailers up against the building and the back of a tractor trailer with no truck also in the back of the building. Steve Hart stated that there is one conex box there and their intent was to have a second conex trailer for storage. Steve Hart stated that the loading dock in the rear of the building at one time had a canopy over it that was taken down, but the foundations were there and his brother had another canopy constructed above the loading dock without getting a permit, so it's being pointed out as being new (a 58' x 62' canopy) on the proposed site plan. Steve Hart stated that an addition is also being proposed on the rear of the building consisting of 48' x 62' & a second one 40' x 62' to square off the rear of the building.

- Robert Jucha asked if the roof would be a permanent structure.

Chairman Mastin asked Steve Hart to figure out how many trucks that the garage would fit. Steve Hart stated that he would, but he figures 6-8.

Anna Feltham pointed out that some of the violations were for the construction of the structure over the rear dock as well as the crusher run that was extended, which was supposed to be green area on the original approval and is also extending into the existing utility easement which would require a letter from National Grid to say it's ok to extend the crusher run beyond the garage into their easement. In March of 2021 an order to remedy was issued for the outside storage, which is why the garages are being proposed as outside storage is prohibited in the B-1 zone.

- Kurt Bergmann asked what that means, does the Town have to make sure that Martin Electric doesn't do the same thing that they've done in the past. Chairman Mastin stated that he's not really sure.

- Kurt Bergmann stated that there was some discussion previously about having applicants pay for a PE to come out and inspect projects and sign off on them when they're done. Anna Feltham stated that final approval would be from the Town Board and that it can be a condition of approval if the Planning Board decides to recommend it.

- John Conway stated that there are a bunch of trucks parked on the right side of the building lined up and asked if those were going inside the new garage. Steve Hart stated that is the intent since no outside storage is allowed. John's concern is that you put those trucks in the garage and then there are still trucks parked on the side.

- Don Panton asked if all the trucks had the Martin Electric logo on the side of them. Steve Hart stated that most of them do.

- Chris Horne asked what the extra crusher run area is used for. Steve Hart stated storing some equipment, dumpster and parking area, there was some heavy equipment on there that has since been removed & relocated.

Chairman Mastin asked what the original buffer called for to the residential houses, wasn't it a line of evergreens. Steve Hart stated that he knows there were some existing trees there. Chairman Mastin asked if the original enhanced landscaping was ever installed from the original plan. Steve Hart stated that he'd have to go back and look.

Chairman Mastin asked if there was anything else from the Board. There were no more questions/comments.

Chairman Mastin stated that process wise for major site plan, the Planning Board would make a recommendation to the Town Board, ultimately the Town Board would be the lead agency and final approval is from them. Joe Slater stated that the Building & Codes department needs to review the application and make a determination on whether the uses are allowed or allowed by Special Use Permit and the review of the Special Use Permit would be by the Planning Board and would be a parallel path with the site plan and the Planning Board would be required to hold a public hearing for the Special Use Permit and make a recommendation to the Town Board on the site plan & it's been the practice that the Town Board would hold a public hearing on major site plans.

- Dave Terpening stated that he knows this isn't a public comment period, however since he's directly affected by this he's going to speak. Dave Terpening stated that some of the things that the applicant stated are not true, descriptions of the canopy structure, the garage, the buffer in his corner of the property, lights and loud noises.

Chairman Mastin stated that's why this project is before the Board, to rectify the issues, there will be a public hearing.

**NEW ZBA REPORTS:**

ZBA Appeal #2022-10-Curley-1 Gail Court- Area Variance-Roof over rear patio-report by Robert Jucha

After some discussion from the Board, the following motion was made.

A motion was made by Chairman Mastin as follows: **The Planning Board makes a positive recommendation from a planning perspective for the area variance based on the report submitted today by Robert Jucha. \* See attached report for further details.**

Seconded by Chris Horne & roll called as follows:

**M. Mastin-YES; R. Viola-Absent; K. Bergmann-YES; C. Horne-YES; D. Panton-YES;  
J. Conway-YES; R. Jucha-YES.**

**MOTION CARRIED BY A 6-0 VOTE**

**NEW ZBA REFERRALS:**

ZBA Appeal #2022-11-Farrell-306 Sunset Avenue-2 Area Variances-Shed-report due 12/14/22-assigned to Don Panton

**REVIEW AND APPROVAL OF MEETING MINUTES:**

Motion by Chairman Mastin to approve the October 26, 2022 meeting minutes, with minor corrections by John Conway. Seconded by John Conway. Motion carried by a 6-0 vote.

Chairman Mastin stated that the next Zoning Update Committee meeting is on Monday, November 21, 2022 at 6:30 pm.

**CLOSING:**

There being no further business before the Board, the meeting was closed by Chairman Mastin. Seconded by Kurt Bergmann. Motion carried by a 6-0 vote.

Respectfully Submitted

*Alison Lovely*  
Alison Lovely, Planning Secretary

November 6, 2022

RE: Area Variance Application

James and Tara Curley  
1 Gail Ct  
East Greenbush, NY 12061

The applicant is seeking to build a roof overhang at its residence at 1 Gail Court (Tax Map # 177.11-2-24) in the Town's Residential District (R-2). The applicant submitted a building permit for a 16'-9" x 20'-0" roof overhang over an existing concrete slab on grade in the rear of residential dwelling. Upon review of the Town Building Inspector, it was determined that the proposed structure would have a rear setback of 12.35 feet. This proposed roof overhang does not meet the Town Zoning Law Section 2.6.6 - Residential District which the required setback is 25 feet. The applicant is seeking relief through the Zoning Board of Appeals for one area variance for the front yard setback.







On November 6, 2022, at approximately 12:00 pm, I met with Mrs. Tara Curley (applicant). During the site visit, a visual assessment of the rear area of the property was taken. A drive by of the Taylor Estates



Development, Kriss Crossing, and Ledholm Ct areas was also observed. There was only one residential dwelling at 6 Kriss Crossing that had a similar roof overhang, but the setback exceeded the 25-foot minimum.

The subject property is a corner lot with a colonial residential dwelling with 2 car garage. The rear of the property is enclosed by a vinyl fence presenting a visual obstruction from the road. While on site, the neighbor (Mr. & Mrs. Jeffrey Morris) to the east of the property was interviewed. There was no objection to construction of the roof overhang at 1 Gail Ct. In fact, they were looking to construct a similar overhang in the future.

Based on my review of the area variance application, the construction of the 15'9"x20 roof overhang over the existing concrete slab at 1 Gail Ct will not have an adverse impact on the neighborhood or greenspace of the property. The proposed construction meets the character of the area.

The Planning Board thereby gives a positive recommendation of the area variance from the planning perspective.

*Robert K Jucha*

Robert K Jucha  
Board Member  
East Greenbush Planning Board