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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

COUNTRY ESTATES AMENDED SUBDIVISION
(2012-25)

Laurie Lane
Section 40; Block 3; Lots 3.0 & 10
R-1 Zone

----- X

CONCEPTUAL TWO-LOT SUBDIVISION

Date: January 3, 2013
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X
MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

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COUNTRY ESTATES

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MR. BROWNE: Good evening. Welcome to the Town of Newburgh Planning Board meeting of January 3, 2013.

At this time I'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business before us, including SEQRA determinations as well as code and planning details. I ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of

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COUNTRY ESTATES

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Newburgh.

MR. HINES: Pat Hines with McGoey,
Hauser & Edsall Consulting Engineers.

MR. COCKS: Bryant Cocks, Planning
Consultant.

MR. BROWNE: At this time I'll turn the
meeting over to Joe Profaci.

MR. PROFACI: Please join us in a
salute to the flag.

(Pledge of Allegiance.)

MR. PROFACI: As always, please turn
off your cell phones.

MR. BROWNE: The first item we have on
the agenda this evening is Country Estates
Amended Subdivision, project number 2012-25.
This is a conceptual two-lot subdivision being
presented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross
Winglovitz with Engineering Properties here on
behalf of John K. John, the applicant and the
owner of the two parcels that are the subject of
the application.

What Mr. John is trying to do is get
the two lots approved for one house location.

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These are two lots that were part of a subdivision in 1959. On that subdivision plat when it was filed there was a clear note indicating that these lots were not for building purposes at that time. So back then they actually created lots like that, unlike today. The only way to make them for building purposes is to go refile a map, that I'm aware of, showing that they can -- are acceptable for a house and septic and well.

Mr. John's original desire was to have two separate lots but we advised him that that wasn't possible based on all the requirements for setbacks, wells and septic. So we convinced him, and he agreed, to combine the lots into one lot and make application for that as one building lot.

I would be glad to discuss the comments. How ever you would like to proceed.

CHAIRMAN EWASUTYN: Why don't we follow the outline of your short form where you talk about the side setback, lot width, lot size, variances required and also lot size, side setback and lot width. How do we stand with the

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variances that --

MR. WINGLOVITZ: When I got the comments I took another look at the zoning. I had looked at it originally and I couldn't find the section on exceptions. It took a while today but I did find them. There is a section in the code, Section 185-18, which is for nonconforming lots of record which indicates that lots that are -- let's see here -- existing lots, nothing shall prohibit the use of a lot less than the prescribed area or width when such lot is owned individually and separately from any adjoining tract at the time of enactment of this chapter provided that all the provisions of this chapter are met.

I just had a brief conversation with Michael in the hall regarding that, and I guess the concern is that if there weren't two lots here that that would apply but that doesn't apply because there are two lots. I don't think that's the intent of the zoning. I think the intent of the zoning is to say look, if you have two lots that are undersized next to each other you need to combine them to create one lot. We're not

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going to give you a waiver on this lot and a waiver on this lot. That's exactly what we're doing here. We're going to be required to combine them. I think that's the intent and that's why it talks about individual lots owned separately. The intent is not to give you relief for two lots that are undersized that you own in common ownership. You have to combine them. That's been my experience. When I looked at this in other towns, we've always had to combine nonconforming lots where possible, as long as they were in the same ownership, to get as close to the zoning requirements as we possibly could.

So in looking at that again, I think that this applies and I don't think that we need the area variances, lot width variances or the side yard variance because there is further direction in that section regarding yards that gives us relief when the lot is too narrow but further reduce the lot width requirement by 15 feet. So instead of requiring 30 foot side yards we would only be required to have 15 foot side yards where we have 23. I think that's probably the biggest -- big picture issue in the comments

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that I had outlined on there. If that's not the Board's interpretation, then we will need to go to the ZBA and make that argument there. I think it would only make commonsense to me that I could build on that under this ordinance, why couldn't I build on the two being combined?

MR. DONNELLY: Let me chime in. I'll defer to Jerry because in the first instance it should be his call. I certainly agree with Ross that the intent, in context, is to require -- some ordinances say such lots are deemed merged, so you don't even have to go through the subdivision process but for the issue of the note. However, the language chosen and, you know, I didn't write it, says nothing shall prohibit the use of a lot less than the prescribed area or width when such lot is owned individually and separate from any adjoining tract at the time of enactment of this chapter. I don't even know what that date is but, if in fact we look at the date of enactment of this chapter and those lots were in separate ownership, then clearly what Ross has said applies. They can be merged together, they get

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the benefit of the 15 foot side yard exception and no variances are required. But I don't think we have that information before us. If the Zoning Board or Jerry's office in the past has said well, we know what the language is but we also know what the section is intended to mean, as long as the lots are being merged we have not required variances to be obtained, I can live with that as well. I'm telling you what I see in the language here, and absent either some proof of the date the chapter was enacted, or what the ownership was, or a track record with Jerry's office, or the Zoning Board applying the overall reasoning that you're advancing, my recommendation is that interpretation or the need for a variance is a call for the Zoning Board.

CHAIRMAN EWASUTYN: Jerry, the experience that you may have had or your office has with similar --

MR. CANFIELD: Yes. We have granted in the past, a few times, this 185-18 exception for existing lots of record. I think the key word is existing. Existing lot dimensions at the time the lot was created. We discussed briefly at the

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work session about this. My determination or what I feel that I would recommend to this Board is that this go before the Zoning Board for at least an interpretation. I don't feel that the intent of existing lot of record is intended here, simply because of the fact that we are consolidating. They are now one lot whereas originally they were two. I wouldn't feel comfortable saying that now that we consolidated, that that meets the intent of 185-18. I would feel more comfortable with the Zoning Board at least, or if at least, granting us or giving us an interpretation, or giving the applicant an interpretation.

CHAIRMAN EWASUTYN: Bryant, do you have an opinion on this?

MR. COCKS: I mean I would just echo what Jerry said on that. When I first read through it I thought that they would have to go for all four of these variances. Even with the exception, both lots are clearly smaller than anything we deal with.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: I was just wondering if

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COUNTRY ESTATES

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they were even lots because the original filed map identifies them as not for building purposes at this time.

MR. CANFIELD: I think that's a bigger, greater issue that will greatly impact, you know, dimensions and what's usable and buildable areas. Although you've displayed that you can meet that, the original filed map depicted these lots as not usable.

MR. WINGLOVITZ: 1959. It eventually would need to go to the Health Department again to get the approval for this lot if we get past the threshold issue of the zoning interpretation or the area variances. We would need your preliminary approval to go to the Health Department.

CHAIRMAN EWASUTYN: Why is that?

MR. WINGLOVITZ: Because it was on a Health Department approved plat at the time.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members. Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: What would dissolve the

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COUNTRY ESTATES

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original note that it's not buildable?

MR. HINES: Filing of a map.

MR. BROWNE: What you're attempting to do with consolidating to make that note go away?

MR. WINGLOVITZ: Yup. File a new map with the Health Department's approval stamp on it and this Board's approval stamp. That's the only thing that makes it go away.

MR. BROWNE: I think with the idea of removing a note like that from that kind of a thing, I would agree that I think it should go to the ZBA for their recommendation or their interpretation or whatever. I don't like the idea to consolidate something and say these notes go away. That doesn't sit right with me.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think it should go for an interpretation to the ZBA.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I think so, too.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I just have one question. Why in 1959 did they have that interpretation that these were not buildable lots?

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MR. HINES: They probably couldn't meet the percolation at the time. I'm only guessing. There was a drainage course going through here, so it may have impacted whether or not they could get perc. They're proposing right now to make one septic system using an Elgin system that wasn't available at that time. It's a smaller footprint. That's the only reason I can imagine. It's right smack in the middle of this subdivision. There's three parcels identified on this map. It says this lot not approved for building by the New York State Department of Health.

MR. FOGARTY: Just go over -- I mean you have that interpretation of these not being buildable lots. How does that go away?

MR. WINGLOVITZ: You go to the Health Department, get them to say yes, there's a viable septic location on this lot, they approve it and then you come back here for final approval. I've done it a number of times on some stuff that was approved in the '70s and early '80s when they still had that on there. That's the only way we've been able to do it.

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MR. HINES: We would do this right now. It would be combined with one of the adjoining lots and make it become part of that parcel.

MR. DONNELLY: You also need to satisfy the condition of the map note that satisfactory, or whatever the phrase was, drainage be shown.

MR. WINGLOVITZ: What actually happens now is it disappears. It comes on to the lot and goes into a rocky area. There's actually no defined channel the rest of the way down. It just goes into the soil here and disappears. We're going to make it -- we're trying to actually make a provision for it.

MR. FOGARTY: Even by doing all that, when you go before the ZBA you still need these variances?

MR. WINGLOVITZ: I need the interpretation that that section applies, or if they disagree then I'll need the variances.

MR. FOGARTY: Good. Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion to have Mike Donnelly prepare a

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letter to the ZBA which would cover both an interpretation and/or a list from the review comments that Bryant Cocks provided, a list of the variances that will be needed. So Bryant and Mike Donnelly will work on that.

MR. HINES: Ross, do you have my other technical comments?

MR. WINGLOVITZ: Yes. The rest of the comments are no problem. When I come back from the ZBA I'll --

MR. HINES: Work on those.

MR. CANFIELD: Have you seen the notes that we were referring to?

MR. WINGLOVITZ: Yup. I have a copy.
Thank you very much.

(Time noted: 7:16 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: January 18, 2013



www.EngineeringPropertiesPC.com
71 Clinton Street
Montgomery, NY 12549
phone: (845) 457-7727
fax: (845) 457-1899

December 3, 2012

Town of Newburgh Planning Board
308 Gardnertown Road
Newburgh, New York 12550

ATTN: John Ewasutyn, Chairman

**RE: W.O. # 1027.01
COUNTRY ESTATES SUBDIVISION AMENDED SUBDIVISION PLAN
LAURIE LANE, NEWBURGH, NEW YORK
APPLICATION NARRATIVE**

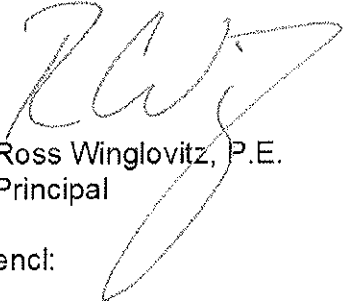
Dear Chairman Ewasutyn,

Engineering & Surveying Properties, PC has prepared an amended subdivision plan for lots # 3 & 10 on the filed map entitled Plan of Subdivision for Country Estates filed on July 14, 1959. The proposed plan is to combine 2 existing lots that are not approved for building as per the filed map. Engineering & Surveying Properties, PC has performed soils testing for the proposed site and has determined that the existing lots may be deemed buildable based on a proposed Amended Subdivision Plan.

The proposed Amended Subdivision Plan has been designed to utilize an Eljen-in-drain System to serve as the septic system for a proposed 3 bedroom dwelling. In addition, Zoning Board approval will be needed for lot size, side setback and lot width.

If you have any additional questions and/or comments please don't hesitate to contact this office.

Sincerely,
Engineering & Surveying Properties, PC



Ross Winglovitz, P.E.
Principal

encl:

cc: file



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. MCGOEY, P.E. (NY & PA)
WILLIAM J. HAUSER, P.E. (NY, NJ & PA)
MARK J. EDSALL, P.E. (NY, NJ & PA)
JAMES M. FARR, P.E. (NY & PA)

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e-mail: mheny@mhepc.com

**TOWN OF NEWBURGH
PLANNING BOARD
REVIEW COMMENTS**

PROJECT:	COUNTRY ESTATES AMMENDED SUBDIVISION
PROJECT NO.:	12-25
PROJECT LOCATION:	SECTION 40 BLOCK 3 LOT 3 & 10
PROJECT REPRESENTATIVE:	ENGINEERING AND SURVEYING PROPERTIES
REVIEW DATE:	5 JANUARY 2013
MEETING DATE:	6 JANUARY 2013

1. Several encroachments from the adjoining property exist on the proposed site including two sheds and driveway the mechanism for removal of these encroachments should be discussed.
2. A proposed drainage easement is depicted on the Western portion of the site existing topography depicted on the plans may make construction of the proposed swale difficult. Acceptance of the drainage easement by the town would be required. Details of the swale as well as timing of construction of the swale should be addressed by the applicant.
3. The project proposes connection to the town's water system standard notes for connection to the town's water system should be place on the plans.
4. It is noted that a maximum of three bedroom house is depicted, However note under the Elgin System design schedule identifies 440 gallons per day which should be revised as appropriate.

Respectfully submitted,

***McGoey, Hauser and Edsall
Consulting Engineers, P.C.***

Patrick J. Hines, Associate

REGIONAL OFFICES

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Highland Mills, New York 10930
(845) 827-5763
FAX 827-5764
email: bcocks@frontiernet.net

PROJECT ANALYSIS

MUNICIPALITY: Town of Newburgh TOWN PROJECT NO. 2012-25

PROJECT NAME: Country Estates Amended Subdivision
LOCATION: Laurie Lane (40-3-3.0 and 10)
TYPE OF PROJECT: Lot consolidation and one new home (.8 acres)
DATE: December 28, 2012
REVIEWING PLANNER: Bryant Cocks

PROJECT SUMMARY:

Approval Status: Submitted December 14, 2012
SEQRA Status: Unlisted
Zone/Utilities: R1/municipal water and individual septic
Site Inspection: December 14, 2012
Planning Board Agenda: January 3, 2013
Map Dated: December 3, 2012
Consultant/Applicant: Engineering & Surveying Properties
Copies have been sent to: John P. Ewasutyn at the Planning Board office,
James Osborne, Gerald Canfield, Michael Donnelly, Karen Arent, Ken Wersted and
Patrick Hines on December 28, 2012

COMMENTS AND RECOMMENDATIONS:

1. The applicant is before the Planning Board to consolidate lots 3 and 10 of an existing subdivision (Country Estates) on Laurie Lane off Route 300. The lots were constructed in 1959 and therefore do not meet current zoning regulations. The consolidation of the lots will provide the applicant with the opportunity to construct one new home, with several variances necessary for approval.
2. The applicant will need to be referred to the ZBA for the following variances:
 - A. Minimum Lot Area (40,000 sq. ft. required, 35,022 proposed)
 - B. Minimum Lot Width (150 ft. required, 102.34 proposed)
 - C. One Side Yard (30 ft. required, 23.34 proposed)
 - D. Both Side Yards (80 ft. required, 51.34 proposed)
3. The applicant has not shown the minimum buildable area requirement as required under Section 185-48.5 of the Zoning Law. In the R-1 Zone a lot with municipal water and an individual septic system must demonstrate a 10,000 square foot buildable area. This requirement should be shown in the bulk table and if it cannot be met another variance would be required.

4. The bulk table should also include the lot surface coverage and lot building coverage percentages.
5. The driveway for the Naclerio lot extends into the proposed lot. Is the applicant planning on relocating the whole driveway or provide an access easement? If an easement is to be drafted it will be reviewed by Michael Donnelly. There is also a shed to be removed that belongs to the Naclerio lot.
6. This project is within 500 feet of Route 300 so a referral to the Orange County Planning Department is required.

The above comments represent our professional opinion and judgment, but may not necessarily, in all cases, reflect the opinion of the Planning Board. Please revise your plans to reflect these comments with the understanding that further changes may be required. In all cases the requirements of the Zoning Law and Subdivision Regulations shall be adhered to by the applicant and shall be shown on the plans. Where variances to the Zoning Law are required or where waivers from the Subdivision Regulations are needed, specific requests shall be made to the Planning Board for a waiver or for referral to the ZBA. These comments are prepared based on current zoning and subdivision regulation requirements. Any change in those regulations prior to final approval of these plans could require revisions beyond the scope of our existing comments.