



GUILDERLAND PLANNING BOARD
PLANNING BOARD
P A C K E T
APRIL 13, 2022
07:00 PM

A G E N D A
GUILDERLAND PLANNING BOARD
PLANNING BOARD
APRIL 13, 2022
07:00 PM

1. Call to Order

2. Approval of Minutes

3. Consideration of Concept Plan Approval for a 2 Lot Minor Subdivision -
Kenneth Barth - 185 NYS Route 146

Concept plan review of a 2 lot minor subdivision on 37.00 acres of land located in the Residential Overlay (RO40) District. Lot 1 would consist of 4 acres and contains an existing single-family dwelling and accessory buildings. Lot 2 would consist of 33 acres and is undeveloped land.

Attachment: [Town Planner Memo](#)

Attachment: [Barth Subdivision Plan](#)

Attachment: [Barth Minor Sub Letter to Planning Board.pdf](#)

Attachment: [Barth SEQR EAF.pdf](#)

Attachment: [Barth Minor Sub Application.pdf](#)

Attachment: [Guilderland to Barth Easement final.pdf](#)

Attachment: [Guilderland Trail Easement final.pdf](#)

Attachment: [Permanent Easement Exhibit.pdf](#)

Attachment: [Temporary Easement Exhibit.pdf](#)

4. Project Update and Consideration of Issuing a SEQR Negative Declaration for a
2 Lot Minor Subdivision - 10 New Karner Road - Ten New Karner Road
Holdings, LLC

Concept plan review of a 2 lot minor subdivision of 4.59 +/- acres of land located in the Business Non-Retail Professional (BNRP) District. Lot 10A would consist of 1.45 acres and Lot 10B would consist of 3.14 acres.

Attachment: [Town Planner Memo](#)

Attachment: [10 New Karner Minor Subdivision Map](#)

Attachment: [10 New Karner Rd Project Narrative](#)

Attachment: [10 New Karner Rd SEQR EAF](#)

Attachment: [10 New Karner Road Sub Application](#)

Attachment: [GCAC Report - 10 New Karner Road.pdf](#)

Attachment: [ACPB Recommendation 10 New Karner Road.pdf](#)

Attachment: [2021-12-07- NYSDEC Closure Letter-10 New Karner.pdf](#)

Attachment: [Pine Bush Preserve Commission Technical Committee - 10 New Karner Road 2022.pdf](#)

Attachment: [Letter 2021--03--21 from Natural Heritage re threatened and endangered species.pdf](#)

5. Project Update and Consideration of Final Plat Approval for a 3 Lot Minor
Subdivision - 6185 Johnston Road - Eric Yucai Li

The applicant is proposing a 3 Lot Minor Subdivision of 2.2 acres located in the R15 District. Lot 1 will consist of 0.57 acres and contains an existing residential dwelling with accessory structures that will be removed as part of the subdivision. Lot 2 will consist of 0.9 acres and is undeveloped land. Lot 3 will consist of 0.74 acres and is undeveloped land. All three lots will be accessed from Johnston Road and will utilize a shared driveway.

- Attachment: [Town Planner Memo](#)
- Attachment: [6185 Johnston Rd Rendered Subdivision Plan.pdf](#)
- Attachment: [6185 Johnston Road Subdivision Plan.pdf](#)
- Attachment: [6185 Johnston Road Grading and Utility Plan.pdf](#)
- Attachment: [6185 Johnston Road Erosion and Sediment Control Plan.pdf](#)
- Attachment: [6185 Johnston Road Construction Detail Plan.pdf](#)
- Attachment: [6185 Johnston Rd Aerial Plan.pdf](#)
- Attachment: [6185 Johnston Road SEQR Resolution.FINAL.pdf](#)
- Attachment: [6185 Johnston Road - Short EAF](#)
- Attachment: [6185 Johnston Road - Subdivision Application](#)
- Attachment: [ACPB Recommendation- 6185 Johnston Road - 3 Lot Subdivision.pdf](#)
- Attachment: [GCAC Report.pdf](#)
- Attachment: [2022--02--15 Panetta Letter.pdf](#)
- Attachment: [Demarco Letters.pdf](#)
- Attachment: [2022--03--10 Town Planner Response to DeMarco Letter.pdf](#)
- Attachment: [Applicant and Albany County Emails re: Sight Distance](#)
- Attachment: [April 7 2022 Demarco Letter.pdf](#)
- Attachment: [20ft ingress--egress easement 6181--6183 Johnston Road Bk2770 Pg 908-910.pdf](#)
- Attachment: [Demarco Deed with driveway easement Bk1868 page 179-180.pdf](#)

6. Other Business

7. Adjournment

TOWN OF GUILDERLAND

Peter G. Barber
Supervisor

Kenneth Kovalchik, AICP
Town Planner

Planning Department
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339
Phone: (518) 356-1980 x 1061
Fax: (518) 356-5514
Email: kovalchikk@togny.org



MEMORANDUM

TO: Stephen J. Feeney, Chairman
& Town Planning Board

FROM: Kenneth Kovalchik, AICP, Town Planner

DATE: April 4, 2022

SUBJ: Kenneth Barth - 2 Lot Minor Subdivision – 185 NYS Route 146
Consideration of Concept Plan Approval

Background

The applicant is proposing a 2 lot subdivision of 37 acres of land located in the Residential Overlay (RO40) District. Lot 1 will consist of 4 acres and contains an existing single-family dwelling and accessory buildings. Lot 2 will consist of 33 acres and is undeveloped land.

Access to the parcel is from NYS route 146 via an existing asphalt driveway that traverses over a Town owned parcel, the location of the Town's Parks and Recreation office. The Barth parcel does not currently have any frontage on NYS Route 146, therefore, has no legal access to a public roadway. In order to process the minor subdivision application the applicant must show their property has legal access to a public roadway.

Driveway Access Easement and Trail Easement

The Town Planner, Town Attorney, Applicant and Applicant's attorney met numerous times to discuss the Town providing an easement for access purposes, over Town property, to the Barth property. In exchange for the Town providing an easement over Town property to the Barth property, the Barth's have agreed to provide a 20' wide trail easement to the Town, along the east and south side of their property. Copies of the easements are included with the agenda materials. At

Visit the Town of Guilderland Website at <http://www.townofguilderland.org>

their April 5, 2022 meeting, the Town Board accepted the conveyances of the easements.

The Barth property is in close proximity to Tawasentha Park. One of the goals of the Town is to provide a trail network linking Tawasentha Park with the Vosburgh Trails. The Barth property will fill a large gap in the trail network between Tawasentha Park and the Vosburgh Trails. The Barth property does not extend all the way to Vosburgh Road, but gets us close.

Guilderland Conservation Advisory Council

The application was referred to the Conservation Advisory Council for their April 11, 2022 meeting.

Albany County Planning Board

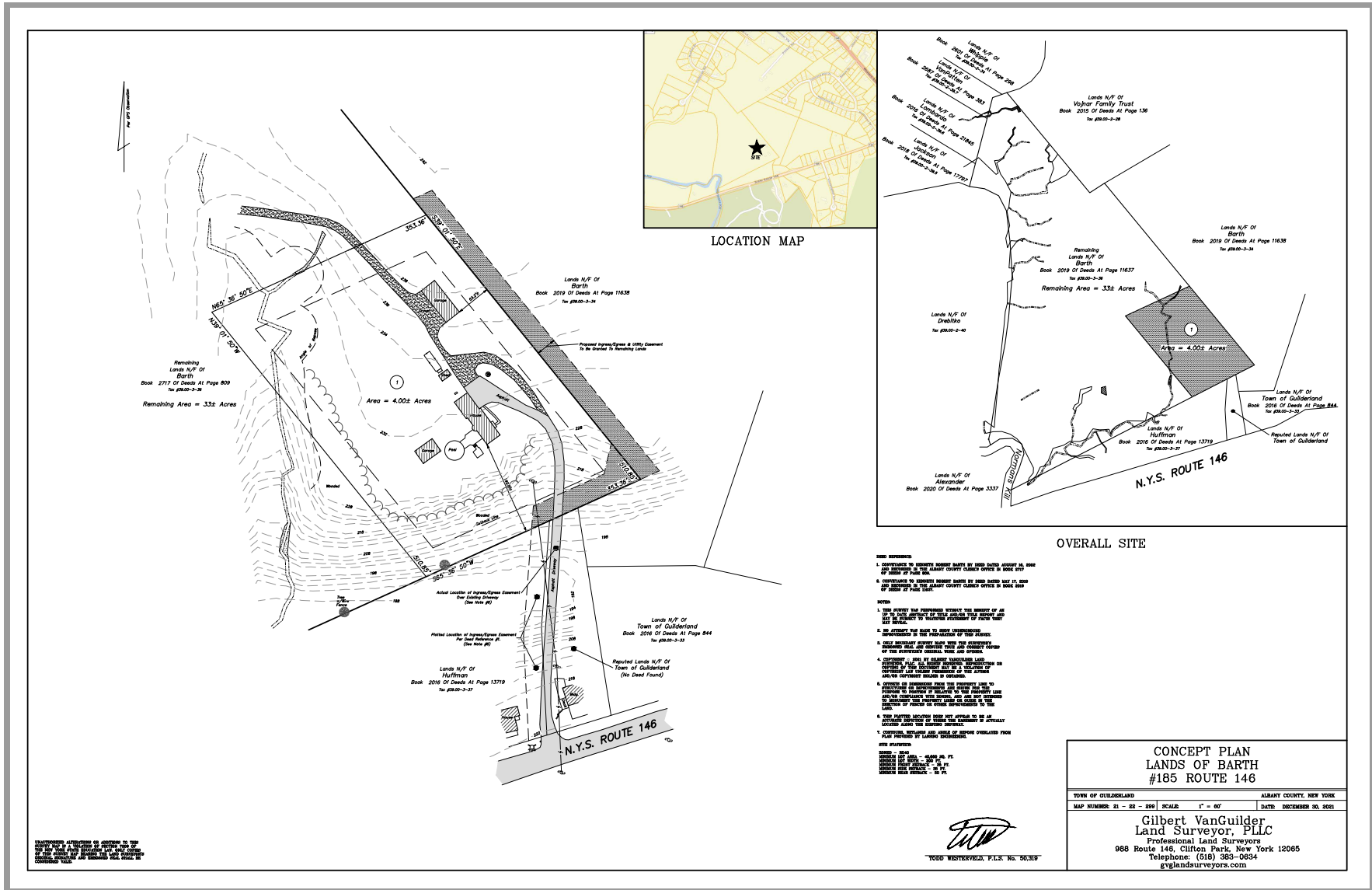
Considering the site is located within 500' of a State roadway (NYS Route 146) the application will be referred to the Albany County Planning Board for their April 21, 2022 meeting.

Concept Plan Review

The following information should be incorporated into the plans for the final plat submittal:

1. The applicant should place the address for 185 Route 146 in a square box on Lot 1.
2. The subdivision plat should be updated showing the trail easement information, with Book and Page number once recorded with Albany County.
3. Every copy of the final plat submitted for signature shall carry the following endorsement:

“Approved by Resolution of the Planning Board of the Town of Guilderland, New York, on the _____ day of _____, 20__, subject to all requirements and conditions of said Resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval.
Signed this _____ day of _____, 20__ by Chairman
_____”



Kenneth Barth
185 Route 146
Altamont, NY 12009
518-376-1779
kbarth@carvercompanies.com

February 7, 2022

Stephen Feeney
Chairman
Town of Guilderland Planning Board
Guilderland Town Hall
Guilderland, NY 12084

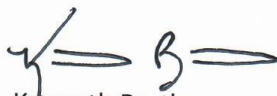
Re: Barth Minor Subdivision

Chairman Feeney,

I am requesting to be placed on the agenda for an upcoming planning board meeting for consideration of a minor two lot subdivision for property that I own.

The parcel of land is currently 37.00 acres and includes my home. I am requesting the two lot subdivision which would create a 4.00 acre lot for my home and leave the 33.00 acres with the existing parcel.

Regards,


Kenneth Barth

Short Environmental Assessment Form Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Barth Minor Subdivision			
Project Location (describe, and attach a location map): 185 Route 146, Altamont NY 12009			
Brief Description of Proposed Action: I am requesting a minor 2 lot subdivision for my property which currently includes my house. The existing parcel is 37.00 acres, and I am requesting a 4.00 acre subdivision for my house, leaving the existing parcel with 33.00 acres.			
Name of Applicant or Sponsor: Kenneth Barth		Telephone: 518-376-1779	
		E-Mail: kbarth@carvercompanies.com	
Address: 185 Route 146			
City/PO: Altamont	State: NY	Zip Code: 12009	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 37.00 acres			
b. Total acreage to be physically disturbed? _____ 0.00 acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 37.00 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

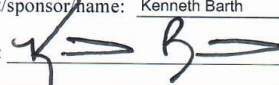
5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?		
			NO
			YES
			<input type="checkbox"/>
			<input checked="" type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?			NO
			YES
If Yes, identify: _____			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?			NO
			YES
			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
b. Are public transportation services available at or near the site of the proposed action?			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements?			NO
			YES
If the proposed action will exceed requirements, describe design features and technologies: _____ _____			<input type="checkbox"/>
			<input checked="" type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply?			NO
			YES
If No, describe method for providing potable water: _____ _____			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities?			NO
			YES
If No, describe method for providing wastewater treatment: _____ _____			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?			NO
			YES
			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?			<input type="checkbox"/>
			<input checked="" type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?			NO
			YES
			<input type="checkbox"/>
			<input checked="" type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input checked="" type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

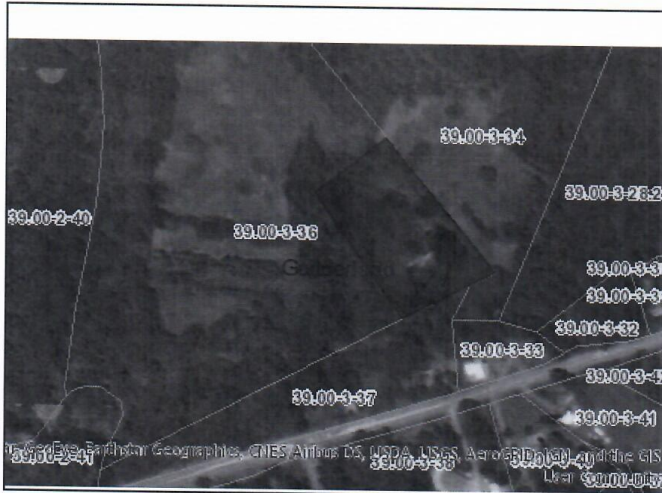
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Kenneth Barth</u> Date: <u>02/07/2022</u> Signature: <u></u> Title: <u>Owner</u>		

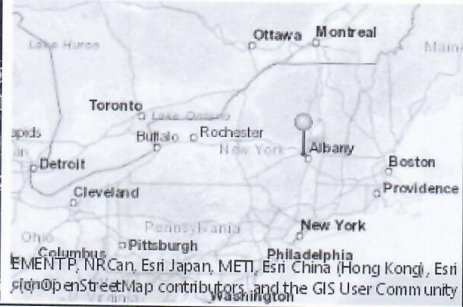
PRINT FORM

EAF Mapper Summary Report

Friday, February 4, 2022 7:27 AM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

TOWN OF GUILDERLAND
APPLICATION FOR SUBDIVISION

RETURN TO:

Planning Department, Attn: Town Planner
Guilderland Town Hall, Rte 20
Guilderland, NY 12084
(518)356-1980 ext 1061
(518)356-1990 (fax)

FEES:

Subdivision Application Fee: Subdivision Hearing Fee:
[checked] Minor Concept Plan \$150 [2] Minor Final Plat - \$50 per lot
Major Concept Plan \$500 Major Preliminary Plat - \$75 per lot
Lot Line Amendment \$100
Fee in lieu of parkland reservation* - See §280-36 of Town Code
*Payable with building permit application

APPLICANT INFORMATION

Name: Kenneth Barth
Address: 185 Route 146
Altamont NY
Zip: 12009
Phone #: 518-376-1779
Email: kbarth@carvercompanies.com

SUBDIVISION INFORMATION

Name of Subdivision: Barth Minor Subdivision
General Location: Across From Town Park
Zoning: R040 Total Acreage: 37.00
Tax Map number(s): 39.00-3-36
Number of Proposed Lots: 2

Relationship to property:

owner [checked]
contract vendee
other, explain

ENGINEER, ARCHITECT OR SURVEYOR: (if other than applicant)

Name: Gilbert VanGuilder Land Surveyor, PLLC
Address: 988 Route 146
Clifton Park NY Zip: 12065
Phone: 518-383-0634
Email: kweed@gvglandsurveyors.com

PROPERTY DESCRIPTION

Current land use of the property: Single Family Residence
Briefly describe proposed project: 4 Acre Subdivision of Existing Residence, Leaving 33 Acres with existing parcel.

Generally describe any restrictions on the property (easements, deed restrictions, etc.): Ingress easement from route 146, plus proposed ingress & utility easement for remaining parcel.

Does the property contain any of the following: [checked] Stream [] Pond [checked] Wetlands [] Other body of water
[] Floodplain [checked] Steep Slopes [] Pine Bush [checked] Historic/Archeological Resources

If yes, please elaborate:

Water will be provided by:

[checked] Well [] Connect to existing Town water [] Extension of Water district

Sanitary sewer will be provided by:

[checked] Septic system [] Connect to existing Town sewer [] Extension of Sewer District

Will there be any land dedicated to the Town for a park or open space commonly owned by a Homeowner's Association?
No If yes, what is the percentage and proposed ownership of the open space?

AGREEMENT

The applicant hereby certifies that he/she is the owner of record of the above property, or that he/she has been duly authorized by the owner of record to make this application. Further, by signing this application, the owner/designee gives permission for a representative(s) of the Town of Guilderland to walk the property for the purposes of conducting a site review.

Signature of Owner: [Handwritten Signature] Date: 02/07/2022

Record and Return to:

EASEMENT AND RIGHT OF WAY AGREEMENT

For and in consideration of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt of and sufficiency of which hereby is acknowledged TOWN OF GUILDERLAND, a municipal corporation whose address is 5209 Western Turnpike, Guilderland, New York its successors and assigns, (hereinafter called "Grantor") for itself and its, successors and assigns hereby grants to KENNETH BARTH, and his successors and assigns, with an address at 185 Route 146, Altamont, New York 12009, (hereinafter called "Grantee") the following rights:

- (a) subject to the terms and conditions of this Agreement, the non-exclusive right within the Easement Area, as more particularly described in Schedule A hereto, to construct, entrench, inspect, maintain, operate, repair, replace, alter, remove, protect, or abandon in place an approximately 28 foot wide easement for ingress and egress and utilities one, over, under, through, or across the Easement Area.
- (b) the right of ingress and egress in, on, over and through the Easement Area for any and all purposes necessary or convenient to the exercise by Grantee of the rights and easements herein granted.
- (c) the right of ingress and egress as referenced in paragraph (b) shall be limited to the sole benefit of the two now-existing lots consisting of Lands of Barth Book 2019 of Deeds at page 11638 and Lands of Barth Book 2016 of Deeds at page 844.

Description of Property

A certain tract or parcel of land located in the Town of Guilderland and adjacent lands being more particularly partially described in that certain Deed to Town of Guilderland recorded with the Albany County Clerk at Deed Book 2016, page 844, of the Albany County, State of New York (herein the "Property").

Access to Easement area

Grantee shall have the right of ingress and egress over the Property to the Easement Area by use of existing roads or within the Easement Area. No additional roads or other means of access shall be constructed without Grantor's prior written consent. Such consent shall not be unreasonably withheld by Grantor.

Except as expressly provided herein, Grantee shall not have the right to install any associated equipment or facilities upon the Property without the express prior written consent of Grantor. Further, Grantee shall have no right to utilize the surface of the Grantor's Property in any manner, other than the temporary occupation and use in connection with the construction, maintenance or repair of the utilities as needed, without the express written consent of Grantor.

The Grantor shall have the right to use and enjoy the surface of Grantor's Property but shall not interfere with the use of the Easement area by Grantee as set forth herein. Grantor shall not

Page 2.

construct or maintain, or permit to be constructed or maintained, any building, structure, reservoir, excavation or obstruction on, over or under the Easement area that would materially impair access to the Easement Area, and shall not change the grade, alter the depth of soil cover, impound water or plant trees on the Easement area without the express written consent of the Grantee, which consent shall not be unreasonably withheld.

Grantor also grants to Grantee the right at any time, without additional compensation to Grantor, to keep the Easement area free of all timber, trees, undergrowth and other obstructions.

General Provisions

Grantee shall indemnify, defend, protect and hold Grantor their employees, agents, contractors, officers, partners and directors, harmless against any and all claims, demands, liabilities, damages, suits, actions, causes of actions, judgments, decrees, fines or penalties, including but not limited to those for personal injury, death or property damage, caused by or arising from the negligent or willingly wrongful: (i) operations or activities of Grantee; (ii) operations or activities undertaken by Grantee's contractors, officers, employees or (iii) agents under this Agreement or the presence of Grantee or its contractors, officers, employees or agents on the Property.

Grantee shall, at Grantee's sole cost at all times during the term of this Agreement the insurance coverages set forth below with companies satisfactory to Grantor with policy limits in amounts not less than those applicable for such coverages as set forth. A certificate naming Grantor as an additional insured (except with respect to worker's compensation coverage), evidencing coverages shall be delivered to Grantor prior to commencement of activities or operations hereto. Such certificate shall provide that any change restricting or reducing any such coverage or the cancellation of any policy under which any such certificate is issued shall not be valid as respects the Grantor's interest therein until the Grantor has received thirty (30) days' notice in writing of such change or cancellation:

a.. **Comprehensive General Liability Insurance** - including broad contractual liability, damage to underground property, collapse of structures, environmental damage or pollution and damage resulting from explosion or blasting, with limits of liability of not less than \$1,000,000 combined single limit for bodily injury and property damage claims; and

This Agreement (including the documents referred to herein) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral regarding the subject matter hereof.

This Agreement is for the sole benefit of and binding upon the parties hereto and their permitted successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason hereof. The rights of Grantee may be assigned or transferred in whole or in part with Grantor's written consent, which consent shall not be unreasonably withheld.

This Agreement may not be amended or modified except by an instrument in writing signed

Page 3.

by the parties hereto. Waiver of any term or condition hereof shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition hereof.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed within the State.

On and after the date hereof, the parties shall take such other action and execute such other documents as may be reasonably requested by any other party hereto from time to time to effectuate or confirm the transaction contemplated hereunder and to record it with the County Clerk of Albany County.

This Agreement may be executed manually, electronically (.pdf) or by facsimile and in one or more counterparts, each of which when so executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions hereof.

This Agreement (including the documents referred to herein) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral regarding the subject matter hereof.

[The remainder of this page is intentionally left blank.]

Page 4.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns, for so long as the pipeline(s) constructed hereunder is (are) used for the purposes set forth herein.

Signed and delivered on this _____ day of _____, 2022:

KENNETH BARTH

By: _____

Its: _____

TOWN OF GUILDERLAND

By: _____

Its:

Page 5.

SCHEDULE A

SUGGESTED DESCRIPTION
DRIVEWAY EASEMENT
TO BE GRANTED TO
LANDS OF BARTH

All that certain driveway easement situate in the Town of Guilderland, County of Albany, State of New York, lying along the northerly line of N.Y.S. Route 146, being further bounded and described as follows:

Beginning at the point of intersection of the common division line between lands of Huffman as described in Book 2016 of Deeds at Page 13719 to the West and lands of Town of Guilderland to the East with the northerly line of N.Y.S. Route 146, thence from said point of beginning northerly along said common division line about 322+ feet to a point in the southeasterly line of lands of Barth as described in Book 2717 of Deeds at Page 809, thence northeasterly along said southeasterly line about 28± feet to a point, thence southerly through aforesaid lands of Town of Guilderland about 326+ feet to a point in the northerly line of N.Y.S. Route 146, thence westerly along said northerly line about 26± feet to the point of beginning.

Draft 03-10-2022

Record and Return to:

EASEMENT AND RIGHT OF WAY AGREEMENT

For and in consideration of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt of and sufficiency of which hereby is acknowledged **KENNETH BARTH**, an individual with an address at 185 Route 146, Altamont, New York 12009 (hereinafter called “Grantor”) for itself and its, successors and assigns hereby grants to TOWN OF GUILDERLAND, a municipal corporation whose address is 5209 Western Turnpike, Guilderland, New York its successors and assigns, (hereinafter called “Grantee”) the following rights:

- (a) subject to the terms and conditions of this Agreement, the non-exclusive right within the Easement Area (as hereinafter defined) to construct, entrench, inspect, maintain, operate, repair, replace, alter, remove, protect, or abandon in place one, 20 foot wide multi-use path for public use and access along a right-of-way over, under, through, or across the Property (as hereinafter defined), along with ingress and egress to same.
- (b) the right of ingress and egress in, on, over and through the Property and within the Easement Area or the Temporary Easement Area for any and all purposes necessary or convenient to the exercise by Grantee of the rights and easements herein granted.
- (c) the additional right to maintain a temporary easement for public ingress and egress for the Multi-use Trail within the Temporary Easement Area .

Description of Property

A certain tract or parcel of land located in the Town of Guilderland, and being more particularly described in that certain Deed from Rudolf A. Barth to Kenneth Barth recorded with the Albany County Clerk on August 20, 2002 at Deed Book 2717, page 809, of the Albany County, State of New York (herein the “Property”).

Easement area

The Easement Area as depicted in Exhibit “A” and Temporary Easement Area as depicted in Exhibit “A1” shall be approximately ten feet (20 ft.) in width over and across the Property, in the general vicinity depicted on Exhibit “A” attached hereto. The exact and permanent location of the Easement area shall be five feet (10 ft.) on each side of the centerline, as reasonably possible, of said Multi-use Trail (“Trail”) as constructed. Upon completion of the Trail installation, Grantee shall prepare or cause to be prepared an as-built survey of the Trail at Grantee’s expense and shall provide a copy of the survey to Grantor. Grantee shall make every attempt to locate the Trail along the centerline as set forth on Exhibits “A” and “A1”. However, due to difficult and/or uneven terrain along various segments of the Trail route, there may be permitted instances where the Trail will

Page 2.

not be laid in the centerline as shown on Exhibits "A" and "A1", but will instead have to be laid at various distances from the centerline within the 20foot (20 ft.) width. Any further deviations from the Trail route shown on Exhibits "A" and "A1" shall be determined by mutual agreement of Grantor and Grantee.

Temporary Work Space Easement Area

Grantee may utilize a temporary workspace lying ten (10) feet adjacent and parallel to the Easement area. Grantee shall be entitled to the temporary use of such additional width as may be reasonably required in the connection with the initial construction of the pipeline. In addition, during initial construction of the Trail Grantee shall have the right to use additional workspace of ten feet (10) along the Easement area at the crossing of rivers, streams, drainage ditches, canals or other waterways, roads, railroads, pipelines or other like obstructions encountered on or adjacent to the Easement area.

Access to Easement area

Grantee shall have the right of ingress and egress over the lands of the Temporary Easement Area (as described in Exhibit "A1") to access the Permanent Easement Area (as described in Exhibit "A") by use of existing roads or within the Temporary Easement area. No additional roads or other means of access shall be constructed on the Grantor's land without Grantor's prior written consent. Such consent shall not be unreasonably withheld by Grantor.

All boundary fences cut or disturbed shall be repaired by Grantee upon the completion of construction, maintenance or repair activities.

Except as expressly provided herein, Grantee shall not have the right to install any associated equipment or facilities upon the Property without the express prior written consent of Grantor. Further, Grantee shall have no right to utilize the surface of the Grantor's Property in any manner, other than the temporary occupation and use in connection with the construction, maintenance or repair of the Trail, without the express written consent of Grantor. Notwithstanding the foregoing, it is agreed that Grantee may install, without consent of Grantor, trial markers, signs and posts within the Easement area.

The Grantor shall have the right to use and enjoy the surface of Grantor's Property but shall not interfere with the use of the Easement area by Grantee as set forth herein. Grantor shall not construct or maintain, or permit to be constructed or maintained, any building, structure, reservoir, excavation or obstruction on, over or under the Easement area that would materially impair access to the Trail, and shall not change the grade, alter the depth of soil cover, impound water or plant trees on the Easement area without the express written consent of the Grantee, which consent shall not be unreasonably withheld.

Grantor also grants to Grantee the right at any time, without additional compensation to Grantor, to keep the Easement area free of all timber, trees, undergrowth and other obstructions.

Page 3.

Grantee agrees to take all precautions necessary, at its sole expense, to protect or reinforce the Trail as necessary to accommodate the activities of Grantor, its grantees, contractors or assigns, specifically including but not limited to protections needed for Trail support for the crossing of the Trail with roads (including heavy equipment).

General Provisions

Grantor shall have the right but not the obligation to cut and remove all timber the removal of which is necessary in connection with the clearing of the Easement area and the construction of the Trail within sixty (60) days following receipt of notice from Grantee.

Grantee shall at all times comply with all applicable federal, state and local laws, rules and regulations relating to the performance of its activities on the Grantor's Property, and shall indemnify and save harmless Grantor, their employees, agents, contractors, officers, partners and directors from any liability, claims or demands arising out of and attributable to Grantee's failure to observe any applicable laws, rules or regulations. In addition, Grantee shall comply with any and all covenants, conditions, permits, approvals and restrictions affecting Grantor's Property to which Grantor has given Grantee written notice.

Grantee shall indemnify, defend, protect and hold Grantor their employees, agents, contractors, officers, partners and directors, harmless against any and all claims, demands, liabilities, damages, suits, actions, causes of actions, judgments, decrees, fines or penalties, including but not limited to those for personal injury, death or property damage, caused by or arising from the negligent or willfully wrongful: (i) operations or activities of Grantee; (ii) operations or activities undertaken by Grantee's contractors, officers, employees or (iii) agents under this Agreement or the presence of Grantee or its contractors, officers, employees or agents on the Property.

Grantee shall, during initial construction of the Trail maintain, at Grantee's sole cost at all times during the term of this Agreement the insurance coverages set forth below with companies satisfactory to Grantor with policy limits in amounts not less than those applicable for such coverages as set forth. A certificate naming Grantor as an additional insured (except with respect to worker's compensation coverage), evidencing coverages shall be delivered to Grantor prior to commencement of activities or operations hereto. Such certificate shall provide that any change restricting or reducing any such coverage or the cancellation of any policy under which any such certificate is issued shall not be valid as respects the Grantor's interest therein until the Grantor has received thirty (30) days' notice in writing of such change or cancellation:

- a. **Worker's Compensation and Occupational Disease Disability Insurance** - as required by the laws of the State of New York;
- b. **Comprehensive Automobile Liability Insurance** - covering owned, non-owned and hired vehicles with limits of liability of not less than \$1,000,000 combined single limit for bodily injury and property damage claims;

Page 4.

- c. **Comprehensive General Liability Insurance** - including broad contractual liability, damage to underground property, collapse of structures, environmental damage or pollution and damage resulting from explosion or blasting, with limits of liability of not less than \$1,000,000 combined single limit for bodily injury and property damage claims; and
- d. **Excess (Umbrella) Liability Insurance** - over Comprehensive General Liability and Automobile Liability insurance coverage afforded by the primary policies described above with minimum limits of \$4,000,000 excess of the specific limits.

Each policy, except Worker's Compensation, shall be endorsed to provide waiver of subrogation rights in favor of Grantor, its affiliates, and all other parties owning an interest in the Property or the Easement area on which activities and operations covered by this Agreement will be performed.

The Temporary Easement Area shall be abandoned and extinguished upon the provision for alternate access to the Permanent Easement Area, approved by the Grantee, from NYS Route 146 in the Town of Guilderland without the need for further action by the Grantor.

This Agreement (including the documents referred to herein) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral regarding the subject matter hereof.

This Agreement is for the sole benefit of and binding upon the parties hereto and their permitted successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason hereof. The rights of Grantee may be assigned or transferred in whole or in part with Grantor's written consent, which consent shall not be unreasonably withheld, however Grantee shall have the right to assign to its parent company or to any subsidiaries or affiliates without securing prior written consent of the Grantor, provided such conveyance shall be promptly sent to Grantor after execution.

This Agreement may not be amended or modified except by an instrument in writing signed by the parties hereto. Waiver of any term or condition hereof shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition hereof.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed within the State.

On and after the date hereof, the parties shall take such other action and execute such other documents as may be reasonably requested by any other party hereto from time to time to effectuate or confirm the transaction contemplated hereunder and to record it with the County Clerk of Albany County.

Page 5.

This Agreement may be executed manually, electronically (.pdf) or by facsimile and in one or more counterparts, each of which when so executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions hereof.

This Agreement (including the documents referred to herein) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral regarding the subject matter hereof.

[The remainder of this page is intentionally left blank.]

TO HAVE AND TO HOLD unto Grantee, its successors and assigns, for so long as the pipeline(s) constructed hereunder is (are) used for the purposes set forth herein.

Signed and delivered on this _____ day of _____, 2022:

KENNETH BARTH

By: _____

Its: _____

TOWN OF GUILDERLAND

By: _____

Its:

Gilbert VanGuilder
Land Surveyor, PLLC

988 Route 146, Clifton Park, NY 12065
383-0634
FAX 371-8437

Members:

Gilbert G. VanGuilder, PLS
Robert A. Wilklow, PLS
Kevin H. Weed, PLS

Associate

Duane Rabideau, PLS

February 14, 2022

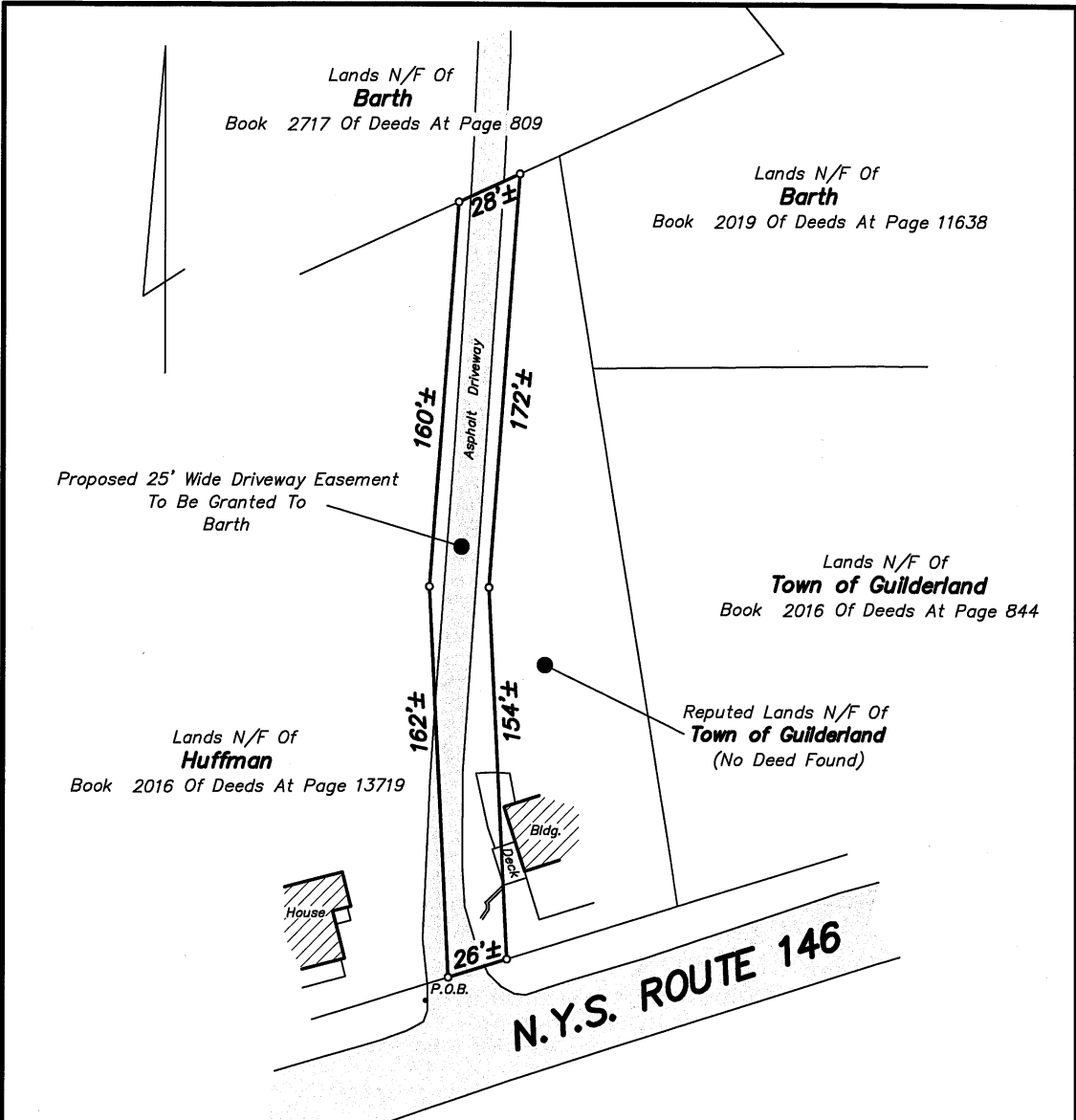
**SUGGESTED DESCRIPTION
DRIVEWAY EASEMENT
TO BE GRANTED TO
LANDS OF BARTH**

All that certain driveway easement situate in the Town of Guilderland, County of Albany, State of New York, lying along the northerly line of N.Y.S. Route 146, being further bounded and described as follows:

Beginning at the point of intersection of the common division line between lands of Huffman as described in Book 2016 of Deeds at Page 13719 to the West and lands of Town of Guilderland to the East with the northerly line of N.Y.S. Route 146, thence from said point of beginning northerly along said common division line about 322± feet to a point in the southeasterly line of lands of Barth as described in Book 2717 of Deeds at Page 809, thence northeasterly along said southeasterly line about 28± feet to a point, thence southerly through aforesaid lands of Town of Guilderland about 326± feet to a point in the northerly line of N.Y.S. Route 146, thence westerly along said northerly line about 26± feet to the point of beginning.

Todd Westerveld
PLS 50,319

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**DRIVEWAY EASEMENT
TO BE GRANTED TO
LANDS OF BARTH**

TOWN OF GUILDERLAND	ALBANY COUNTY, NEW YORK
SCALE: 1" = 60'	DATE: FEBRUARY 14, 2022
TELEPHONE NO.: (518) 383-0834	MAP NO.: 22 - 08 - 25

**Gilbert VanGuilder
Land Surveyor, PLLC**
Professional Land Surveyors
988 Route 146, Clifton Park, New York 12065
gvglandsurveyors.com

Gilbert VanGuilder
Land Surveyor, PLLC

988 Route 146, Clifton Park, NY 12065
383-0634
FAX 371-8437

Members:

Gilbert G. VanGuilder, PLS
Robert A. Wilklow, PLS
Kevin H. Weed, PLS

Associate

Duane Rabideau, PLS

February 14, 2022

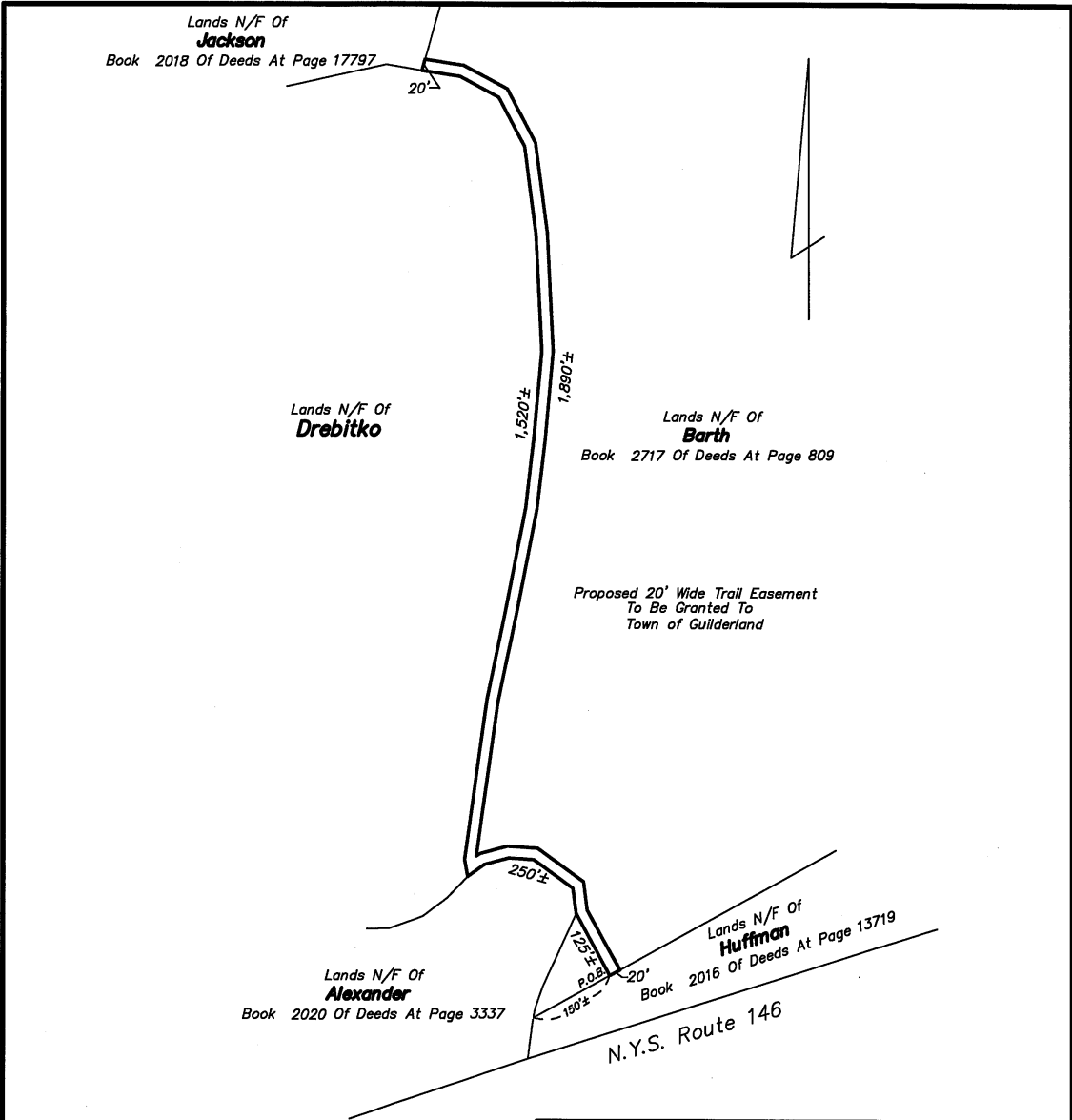
SUGGESTED DESCRIPTION
TRAIL EASEMENT
TO BE GRANTED TO
TOWN OF GUILDERLAND
LANDS OF BARTH

All that certain trail easement situate in the Town of Guilderland, County of Albany, State of New York, lying northerly of N.Y.S. Route 146, being further bounded and described as follows:

Commencing at the point of intersection of the common division line between lands of Barth as described in Book 2717 of Deeds at Page 809 to the North and lands of Huffman as described in Book 2016 of Deeds at Page 13719 to the South with the easterly line of lands of Alexander as described in Book 2020 of Deeds at Page 3337, thence northeasterly along said common division line about 150± feet to the point of beginning, thence from said point of beginning through aforesaid lands of Barth northerly about 125± feet to the point of intersection with the aforesaid easterly line of lands of Alexander, thence northerly, westerly and southwesterly along aforesaid lands of Alexander about 250± feet to the point of intersection with easterly line of lands of Drebitko, thence northerly, northwesterly and westerly along said easterly line about 1,520± feet to a point in the easterly line of lands of Jackson as described in Book 2018 of Deeds at Page 17797, thence northerly along said easterly line 20 feet to a point, thence easterly, southeasterly and southerly through aforesaid lands of Barth about 1,890± feet to a point in the northerly line of aforesaid lands of Huffman, thence westerly along said northerly line 20 feet to the point of beginning.

Todd Westerveld
PLS 50,319

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Proposed 20' Wide Trail Easement
To Be Granted To
Town of Guilderland

**TRAIL EASEMENT
TO BE GRANTED TO
TOWN OF GUILDERLAND**

TOWN OF GUILDERLAND	ALBANY COUNTY, NEW YORK
SCALE: 1" = 250'	DATE: FEBRUARY 14, 2022
TELEPHONE NO.: (518) 383-0634	MAP NO.: 22 - 08 - 24

Gilbert VanGuilder
Land Surveyor, PLLC
Professional Land Surveyors
988 Route 146, Clifton Park, New York 12065
gvglandsurveyors.com

Gilbert VanGuilder
Land Surveyor, PLLC

988 Route 146, Clifton Park, NY 12065
383-0634
FAX 371-8437

Members:

Gilbert G. VanGuilder, PLS
Robert A. Wilklow, PLS
Kevin H. Weed, PLS

Associate

Duane Rabideau, PLS

March 9, 2022

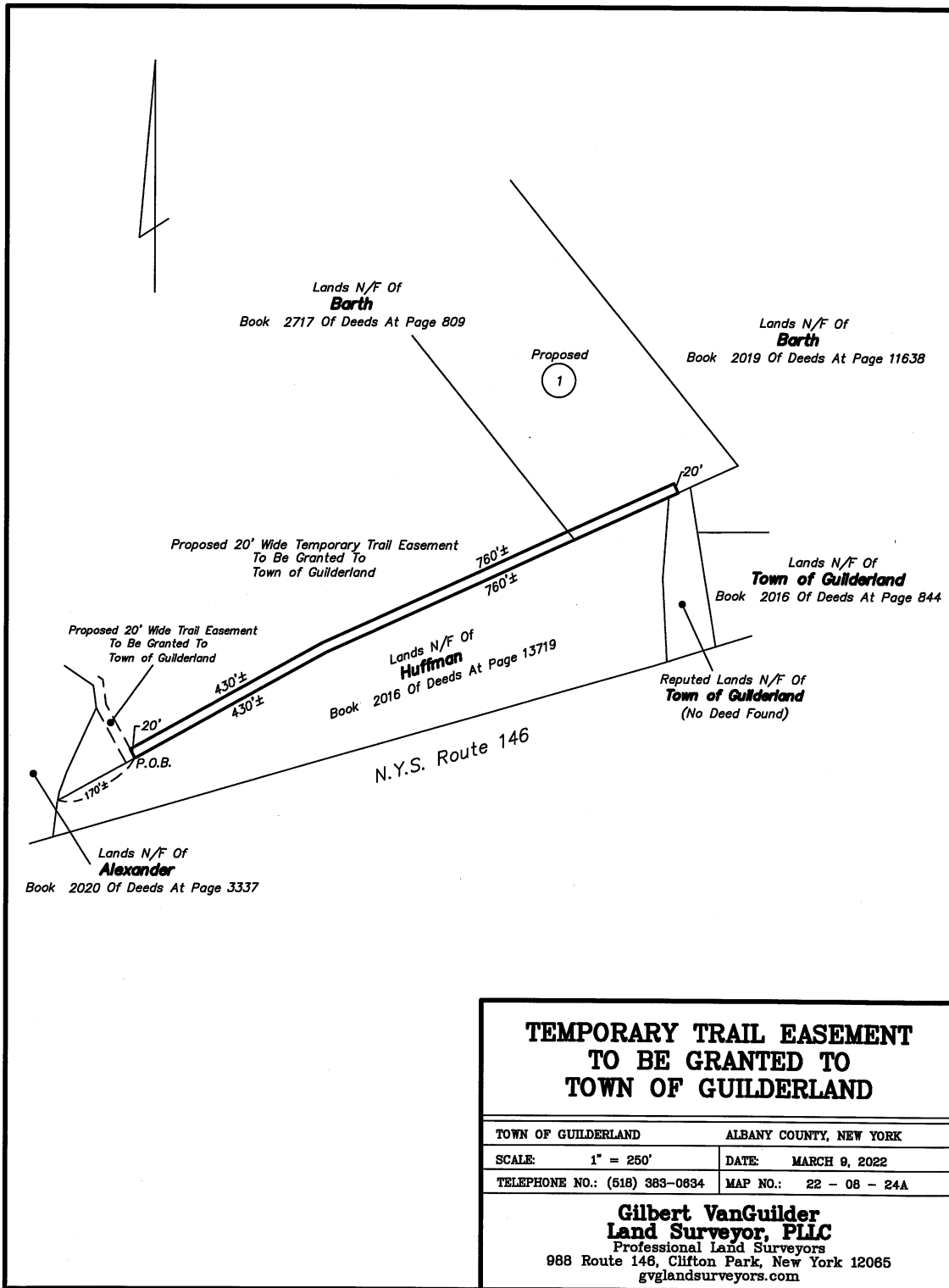
SUGGESTED DESCRIPTION
TEMPORARY TRAIL EASEMENT
TO BE GRANTED TO
TOWN OF GUILDERLAND
LANDS OF BARTH

All that certain trail easement situate in the Town of Guilderland, County of Albany, State of New York, lying northerly of N.Y.S. Route 146, being further bounded and described as follows:

Commencing at the point of intersection of the common division line between lands of Barth as described in Book 2717 of Deeds at Page 809 to the North and lands of Huffman as described in Book 2016 of Deeds at Page 13719 to the South with the easterly line of lands of Alexander as described in Book 2020 of Deeds at Page 3337, thence northeasterly along said common division line about 170± feet to the point of beginning, thence from said point of beginning through aforesaid lands of Barth northerly about 20± feet to a point, thence easterly continuing through aforesaid lands of Barth and 20 feet distant from and parallel to Barth's southerly line about 1,190 feet to a point, thence southerly continuing through said lands of Barth about 20 feet to a point in the northerly line of reputed lands of Town of Guilderland, thence along said northerly line and the northerly line of aforesaid lands of Huffman about 1,190 feet to the point of beginning.

Todd Westerveld
PLS 50,319

G:\DOCS\DESCRIPT\BARTH TEMPORARY TRAIL EASEMENT.doc



**TEMPORARY TRAIL EASEMENT
TO BE GRANTED TO
TOWN OF GUILDERLAND**

TOWN OF GUILDERLAND		ALBANY COUNTY, NEW YORK	
SCALE:	1" = 250'	DATE:	MARCH 9, 2022
TELEPHONE NO.:	(518) 383-0634	MAP NO.:	22 - 08 - 24A

Gilbert VanGuilder
Land Surveyor, PLLC
 Professional Land Surveyors
 988 Route 148, Clifton Park, New York 12065
 gvglandsurveyors.com

TOWN OF GUILDERLAND

Peter G. Barber
Supervisor

Kenneth Kovalchik, AICP
Town Planner

Planning Department
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339
Phone: (518) 356-1980 x 1061
Fax: (518) 356-5514
Email: kovalchikk@togny.org



MEMORANDUM

TO: Stephen J. Feeney, Chairman
& Town Planning Board

FROM: Kenneth Kovalchik, AICP, Town Planner

DATE: April 6, 2022

SUBJ: 2 Lot Minor Subdivision – 10 New Karner Road – Ten New Karner Road Holdings, LLC
Project Update and Consideration of Issuing a SEQR Negative Declaration

Background

The application was last reviewed by the Planning Board at your January 12, 2022 meeting where the Board granted concept plan approval. The applicant is proposing a 2 lot minor subdivision of 4.59 +/- acres of land located in the Business Non-Retail Professional (BNRP) District. Lot 10A would consist of 1.45 acres and is undeveloped land. Lot 10B would consist of 3.14 acres and is developed with an existing building used as a shopping center. Each lot would have access to New Karner Road. The site is located in a recommended Full Protection Area of the Pine Bush Preserve.

Guilderland Conservation Advisory Council

The Guilderland Conservation Advisory Council (GCAC) reviewed the application at their April 12, 2021 meeting and conducted a site visit on April 17, 2021. In a report dated April 27, 2021 the GCAC concluded they have no objection to the subdivision. The GCAC commented there appears to have been illegal dumping into the ravine on the western side of the property and there should be a provision to stop people from using this site as an illegal dumping area.

Visit the Town of Guilderland Website at <http://www.townofguilderland.org>

Farinacci Parcel

The Farinacci parcel is located to the west of proposed parcel 10A and is a landlocked parcel. There are notes on the subdivision plat indicating there is an existing 12' wide right-of-way for ingress/egress purposes, extending from Route 155 across the 1st National Bank parcel and the proposed Lot 10A to the Farinacci parcel. There is also a utility easement, which extends from the 1st National Bank parcel to the Farinacci parcel. In discussions with the applicant and representative from the Farinacci family, there is agreement that if any development is proposed on Lot 10A in the future the easements will need to be reviewed for any impacts from a proposed development. The Farinacci's want to ensure their rights of access to their lot are not infringed upon by the proposed subdivision or future development of Lot 10A.

NYS Department of Environmental Conservation (DEC)

In an email dated April 23, 2021 from the DEC to the Town the DEC stated there has been unauthorized disposal of solid waste (violation of 6NYCRR Part 360.9(b)(3)). The applicant did provide a clean-up plan to the DEC and in a letter dated December 7, 2021 from the DEC to the applicant the DEC stated the property owner has met all the requirements for waste removal and clean-up, and determined the Notice of Violation is deemed closed.

Albany County Planning Board (ACPB)

The ACPB reviewed the application at their April 15, 2021 meeting and recommended to modify the local approval to include:

1. The Farinacci parcel at the rear of the Scotia Bank parcel (10B) is landlocked due to previous construction over an existing access easement allowed by the Town of Guilderland with the construction of the Walgreens. This is an opportunity to provide access to the site.
2. Town of Guilderland should request deed of rights for all vehicular cross access with adjacent parcels.
3. The applicant should submit this project to the US Fish and Wildlife Service for review and comment.

Albany Pine Bush Preserve Commission (APBPC)

Considering the site is located in a recommended Full Protection Area for the Pine Bush Preserve, application materials were sent to the APBPC for review. In a letter dated February 7, 2022 Neil Gifford, Conservation Director provided the following comments, with a summary as follows:

1. Recommended deed restrictions be used on the steep slope area on proposed parcel 10B.
2. Use of native landscaping on any proposed landscape plan.
3. Use of downward facing, enclosed high-pressure sodium vapor lights or LED fixtures rather than mercury vapor lights.

NARRATIVE DESCRIPTION
PROPOSED Subdivision
10 NEW KARNER ROAD
TOWN OF GUILDERLAND, N.Y

Site Address – 10 New Karner Road
Guilderland, New York 12303
(Tax Map Parcel No's. 51.02-1-3.1
and 40.00-2-18.4)

Owners – Ten New Karner Rd Hldgs, LLC and Kehoe, Arlene D

Applicant Joe Sausto, NAI Platform

Site Design Professional: - Daniel R. Hershberg, P.E. & L.S.

Existing Site Zoning: - BNRP– Business Non-Retail Professional District

Proposed Site Zoning: BNRP– Business Non-Retail Professional District

Description of proposal:

Applicant requests to subdivide 2 tax parcels (51.02-1-3.1 and 40.00-2-18.4). The two existing parcels together total 4.59 acres and the applicant proposes to create lot 10A and 10B New Karner Road. Proposed parcel 10A New Karner Road is proposed for 1.45 acres and 10B is proposed for 3.14 acres.

Proposed lot 10 A New Karner Road site coverage statistics show 70.6% Green Space and proposed 10 B new Karner Road site coverage statistics show 59.4%. Of the gross site area of 4.59 acres, constrained land comprises 1.67+/- acre. The site Currently shows multiple retailers in the existing 17,595 building which will remain contingent upon subdivision approval.

DRH/dan/2021-0087- NARRATIVEDESCRIPTION Rev.docx

Short Environmental Assessment Form Part 1 - Project Information


Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: 10A and 10 B New Karner Subdivision			
Project Location (describe, and attach a location map): 10 New Karner Road Town of Guilderland New York			
Brief Description of Proposed Action: Applicant proposes to subdivide 1.45 acres from an existing 4.44 acre parcel. Applicant also is consolidating tax parcel number 40.00-2-18.4 into the proposed parcel 10B New Karner Road.			
Name of Applicant or Sponsor: Joe Sausto		Telephone: 518.465.1400 x216 E-Mail: jsausto@naiplatform.com	
Address: 14 Corporate Woods Blvd #100			
City/PO: Albany	State: New York	Zip Code: 12211	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		4.59	acres
b. Total acreage to be physically disturbed?		0.0	acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		4.59	acres
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? Karner Blue, Frosted Elfin	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: Stormwater runoff drains to the Kaikout Kill.	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Daniel R Hershberg</u> Date: <u>3/30/2021</u> Signature: <u></u> Title: <u>Professional Engineer</u>		

PRINT FORM

EAF Mapper Summary Report

Tuesday, March 30, 2021 9:42 AM

Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Garmin, USGS, Intermap, INCREMENTP, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri India, Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Karner Blue, Frosted Elfin
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

**Minor Subdivision Plat Data – Concept Plan
Checklist**

This application must be accompanied by 12 copies of a concept plan containing all information required by the Town of Guilderland's Subdivision Regulations, and a check, payable to the Town of Guilderland, in the amount required by the above listed application fees. Pursuant to §247-8.B of Town Subdivision Regulations, the following data shall be included on the concept plan:

THIS COMPLETED CHECKLIST MUST BE SUBMITTED WITH YOUR APPLICATION

- 1) The subdivision name or title, if any; the scale, which shall be no less than one inch equals 100 feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."
- 2) The subdivision boundaries and the owners of all contiguous properties.
- 3) The zoning classification and tax map number(s) of the property to be subdivided.
- 4) The total acreage of the subdivision, the number and dimensions of lots, including lot width, depth, and acreage or square footage of every proposed lot.
- 5) All streets, either mapped or built, adjacent to the parcel.
- 6) All existing restrictions on the use of land, including easements and covenants.
- 7) All existing structures, wooded areas, watercourses, slopes of 12° or greater and other significant physical features within the part to be subdivided and within 200 feet of the proposed subdivision's boundaries.
- 8) The building envelope, which is determined by showing all the yard and other applicable setbacks in which proposed structures may be built.
- 9) If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves and the one-hundred-year floodplain.
- 10) Contours with intervals of not more than 20 feet. A copy of the New York State Department of Transportation quadrangle map depicting the area of the proposed subdivision is adequate for the concept submission.
- 11) A location map showing the scale, which shall not be less than one inch equals 2,000 feet.
- 12) A location map showing all streets and lands within at least 5,000 feet of the proposed subdivision.

EXTRA
COPY

To: Guilderland Planning Board
From: Guilderland Conservation Advisory Council
Date: April 27, 2021
Re.: Joe Sausto, 14 Corporate Woods Blvd #100, Albany, NY 12211

APPLICATION

Applicant(s): Joe Sausto, 10A and 10B New Karner Rd. Subdivision,
Proposed Subdivision: A proposed two lot subdivision of 4.59 acres.
Location: Near the intersection of Route 20 (Western Avenue) and New Karner Road.
Zoning: BNRP

Site Inspection Summary:

Site Inspection Date: April 17, 2021

Meeting Attendees: (April 12, 2021) Applicant Joe Sausto, Presenter Daniel Hershberg; GCAC Members Laura Barry, Martin Gnacik, Elizabeth Markham, Darrell McKnight, Margaretann Paczkowski, Sindi Saita, Steve Sawicki and John Wemple. Chair; plus Town Board Member Laurel Bohl. Plus concerned members of the public including Andy Arthur and Robyn Gray of Save the Pine Bush, and Lynn Jackson of the same group who was going to provide GCAC Chair with maps and expressed her opinion that the 1.4 acre portion of the lot being developed should instead be left as part of the Pine Bush. Karen White contacted GCAC Chair next day and said she listened to the meeting and requested permission to attend site visit and she was referred to Applicant to obtain that permission. Both Ms Jackson and Ms White requested and were granted permission by the Applicant to be at the April 17th site visit. GCAC Member Matthew Minniefield recused due to possible conflict of interest.

Inspected by: Presenter Dan Hershberg; GCAC Members Laura Barry, Martin Gnacik, Elizabeth Markham, Margaretann Paczkowski, Sindi Saita and John Wemple, Chair. Also two concerned residents – Lynne Jackson and Karen White.

Conclusions: Other than the additional development of this lot and thus adding to the commercial use of the Pine Bush area, GCAC has no objection to the Subdivision of this parcel of land at 10 New Karner Road. Plan should include a storm water management plan. Likewise, since there appears to be illegal dumping into the ravine on the western side of the property plan should include a provision to stop people from using it as an illegal dumping area.

Submitted by: John G. Wemple, Jr. 4/27/2021
John G. Wemple, Jr. – Chair

INSPECTION DETAILS

Applicant(s): Joe Sausto, 14 Corporate Woods Blvd #100, Albany, NY 12211

Address: 10A and 10B New Karner Rd. Subdivision

Background: According to Presenter, Daniel Hershberg, the owner has owned the property for a little over ten years and plan is to subdivide the parcel into two lots. As part of the plan indicated on the site drawing a small 0.15 acre lot, listed as owned by Arlene D. Kehoe, would be added to the property at the north end of the lower east corner of the developed portion of the property. At the April 12th GCAC Meeting, Presenter noted that plan is to have a 2 1/2 story commercial building with part of it being in basement. Building would be behind the existing bank building (First National Bank of Scotia). It should be noted that Lot 10B has a long narrow 15 foot wide strip running along the southwest side of the front portion of Lot 10A which gives Lot 10B access to the highway (New Karner Road). Plan is to obtain a ingress/egress easement which will allow traffic to use a common curb cut which exists for 10A. It should be noted that according to Presenter, the Applicant is aware that a definite plan for development was not included with the request for subdivision since there is no proposed tenant for a new commercial building and , therefore, it would be premature to indicate the size of the proposed building or required parking. He further noted that assuming that the subdivision is approved, the Applicant will seek a tenant or tenants and then apply for site plan approval; and as an alternative, this parcel could be sold to another entity which would seek site plan or special use permit as required. The need to show the 30 foot set back reserve related to the angel of repose has also been brought to Applicant's attention.

Topography: Presenter described the front portion of the parcel as being very level with a 1½ feet slope to the north and northeast. It was further noted that the rear of Lot 10B has a very steep slope. The site drawing shows the 12 degree angle of repose but it needs to also show the 30 ft. reserve setback from that line. A review of the contour lines shown on the site drawing on the County Interactive Mapping site indicates as is also described by the description of the soils on the parcel as being rolling in nature on most of Lot 10A and the developed portion of Lot 10B. The high point on Lot 10A is at its southwest corner where the elevation is 270 Above Mean Sea Level (AMSL). To the south east of that area there is a narrow strip along the boundary line at 266 ft AMSL and 268 ft AMSL. Heading to the north, the elevation decreases to about 260 ft. AMSL near an imaginary line drawn as an extension of the south west border of the rear portion of Lot 10B and then rapidly decreases in elevation as it heads northward toward a point near the north corner of Lot 10B where the elevation is less than 208 ft. AMSL. Using a protractor the slope of the area from the edge of the relatively flat area at the rear of the building on Lot 10B to the area adjacent to the stream which runs along the north of the lot the slope was measured at about 18 degrees

Vegetation/Trees: It was noted by the Presenter that the Lot being developed has no Pine Bush vegetation on it. In order to develop Lot 10B, he felt that it would be necessary to remove a couple trees. At time of April 17th site visit, Presenter pointed out three older spruce trees on the green space designated as access to the road; but there is only grass and weeds on the lot. It should be noted that the lot has no Pine Bush vegetation apparently because it was cleared and not because it does not or did not exist previously. GCAC would recommend that plants, trees and shrubs native to the Pine Bush and suitable to such a habitat be planted on Lot 15B.

Soil: Presenter noted that some of the soil appears to be Elnoran, but it may be different and thus

Inspection (Continued) - Page 2 of 3 – Sausto – 10 New Karner Rd. - April 2021

they will do tests. GCAC's review of the County Interactive Mapping site shows that the property has two types of soil CoC and HuE. The soil on Lot 10A is CoC. The same soil also covers most of the developed portion of Lot 10B with the exception of the north corner of the forward part of that lot where there is HuE soil which covers the rear portion of this lot from a point just northwest of the midpoint of the northeast side of the forward area and continues on the north side of a line which extends to a point about 35 feet south of the inside corner of the north side of the rear portion of lot 10B and then continues across the lot to a point just north west of the point where the north corner of Lot 10A meets the south side of Lot 10B. To the north of this line there is HuE soil.

Using data from "Soil Survey of Albany County, New York" -1992 – James H. Brown, a brief description of these soils and some of the limitations of the particular soils are as follows:

CoC – Colonie loamy fine sand, rolling – This rolling soil which is very deep and well drained to somewhat excessively drained. Slopes range from 8 to 15 percent. The seasonal high water table in this Colonie soil is at a depth of more than six feet, but it may fluctuate to within 3 ½ feet of the surface for very brief periods in early spring. Depth to bedrock is more than 60 inches. Permeability is moderately rapid or rapid. The available water capacity is low, and surface runoff is medium. The main limitation of this soil on sites for dwellings with basements is the excessive slope on rolling topography. Designing dwellings to conform to the natural slope or landscaping helps overcome this limitation. The main limitation of this soil for local roads and streets is the slope. Grading and excavation costs are higher than in lesser areas of Colonie soils. Constructing roads on the contour wherever possible or landscaping and grading help overcome the slope limitation. The main limitation affecting the use of this soil as a site for septic tank absorption fields is a poor filtering capacity. The soil has moderately rapid or rapid permeability and so is a poor filter of effluent. Consequently, ground-water contamination is a hazard. A specially designed septic tank absorption field or an alternative system will properly filter the effluent. Other soils that have a moderate permeability rate are better suited to this use. Hu

HuE - Hudson silt loam, 25 to 45 percent slopes (HuE). This steep soil is very deep and moderately well drained. The seasonal high water table is perched above the clayey subsoil at a depth of 1 ½ to 2 feet between November and April. Depth to bedrock is more than 60 inches. Permeability is moderate or moderately slow in the surface and subsurface layers and slow to very slow below. The available water capacity is high. In many areas along large streams, the soil is susceptible to landslides and slumps. The main limitations on sites for dwellings with basements are the seasonal high water table and the slope. In many places the soil is also susceptible to landslides and slumps. The author notes the included soils in this unit and nearby soils that are less sloping are better suited to this use. Main limitations for local roads and streets are the frost-action potential, low strength, and the slope. Roads should be planned, where possible, to avoid this soil. The main limitations affecting the use of this soil as a site for septic tank absorption fields are the seasonal high water table, the slow percolation, and the slope. Also, effluent moving into the soil from distribution lines can make the hillside more unstable and cause landslipping. Other less sloping soils are better suited to this use.

Drainage/Wetlands: The answer to Questions to number 17 of the Short Environmental Assessment Form state stormwater discharges flow to adjacent properties and run off drains to the Kaikout Kill. Presenter noted that the site has various forms of soil and the soil is such that stormwater seeps into the ground. GCAC notes that from the contour lines on the County Interactive Mapping site drawing, it appears the natural drainage is to the north toward the stream which runs along the north side of the property. GCAC also noted that there is a very steep slope to the north and north west behind the property toward the creek. It was further noted that the rear portion of the property is used as a place for trucks to back up to the ravine and

Inspection (Continued) - Page 3 of 3 – Sausto – 10 New Karner Rd. - April 2021


dump debris down into the ravine toward the creek. This illegal dumping has been reported to the Town.

Septic/Wells: According to Presenter, plan is to connect to Town water and sewer.

Visual Impact: Due to the location of the planned commercial building being behind the existing band, Presenter feels the visual impact would be minimal. GCAC agrees with this provided the height of the building will not be very tall and appropriate vegetation and some trees will help hide the building.

Endangered Species: None according to Presenter. The answer to Question number 15 of the Short Environmental Assessment Form indicates There may be Karner Blue and Frosted Elfin (a gray/brown butterfly) on or in the locale of the parcel. Presenter noted that this listing is due to the site being adjacent to the Pine Bush. GCAC did not observe any endangered species at time of site visit.

Historical Considerations: Presenter noted that it is doubtful that there is anything of historical significance on the property; that there has been no historical search and thus site may need six to eight test pits for such a determination. GCAC did not observe anything of historical significance at time of site visit.

Submitted by:  4/27/2021
John G. Wemple, Jr. - Chair



**ALBANY COUNTY PLANNING BOARD
NOTIFICATION**

RECOMMENDATION DATE: April 15, 2021

Case #: 10-210403672
Applicant: 10A and 10B New Karner Road Minor Subdivision
Project Location: 10 New Karner Road
Tax Map Number: 51.02-1-3.1
Referring Agency: Town of Guilderland Planning Board
Considerations: Subdivision review for a two-lot minor subdivision of 4.5 acres +/- of land in the Business Non-Retail Profession District. Lot 10A would consist of 1.45 acres +/- of land and is currently undeveloped. Lot 10B would consist of 3.14 acres +/- of land and consists of an existing building with retail business.

ACPB Recommendation: Modify local approval to include

1. The Farinacci parcel at the rear of the Scotia Bank parcel (10 B) is landlocked due to previous construction over an existing access easement allowed by the Town of Guilderland with the construction of the Walgreens. This is an opportunity to provide access to the site.
2. Town of Guilderland should request deed of rights for all vehicular cross access with adjacent parcels.
3. The applicant should submit this project to the US Fish and Wildlife Services for review and comment.

Advisory:

Gopika Muddappa, Interim Senior Planner
Albany County Planning Board

NOTE:

- This recommendation is rendered in compliance with applicable requirements of Section 239 of New York State General Municipal Law. Final determination on this matter rests with the appropriate municipal body.
- A recommendation of "APPROVE" or "MODIFY LOCAL APPROVAL" should not be interpreted as a recommendation by this body that the referring agency approve the matter referred. Such recommendation does not indicate that this body has reviewed all local concerns; rather the referral has met certain countywide considerations. Evaluation of local criteria is the responsibility of the referring agency.
- General Municipal Law Section 239 requires that the local agency notify the county within thirty days of its final action. Please use the OFFICIAL NOTICE OF LOCAL ACTION form that is attached for this purpose.
- General Municipal Law Section 239 sets forth the procedural requirements for taking local action contrary to the County Planning Board's recommendation of objection or conditional approval.
- Albany County is required to submit a Municipal Separate Storm Sewer System Permit (MS4) (No. GP-0-10-002) Notice of Intent (NOI) to comply with the NYS DEC permit for the control of wastewater and stormwater discharges in accordance with the Clean Water Act. Construction Activity Permit No. GP-0-1-001 issued by NYSDEC is also required for activity with soil disturbances of one acre or more. The law is required by the Clean Water Act to control point source discharges to ground water as well as surface waters.

**449 New Salem Road, Voorheesville, NY 12186
TELEPHONE: (518) 655-7932 FAX: (518) 765-3459**

In compliance with Article 12-B, Section 239 of New York State General Municipal Law, this serves as official notification to the Albany County Planning Board of the action taken on the application described above.

LOCAL ACTION ON ACPB RECOMMENDATION:

- AGREED WITH COUNTY PLANNING BOARD RECOMMENDATIONS TO MODIFY OR DISAPPROVE
- OVER-RULED COUNTY PLANNING BOARD RECOMMENDATIONS TO MODIFY OR DISAPPROVE

LOCAL DECISION ON PROJECT:

- PROJECT APPROVED
- PROJECT DISAPPROVED

VOTE RECORDED: _____ DATE OF LOCAL ACTION: _____

Set forth the reasons for any action contrary to the ACPB recommendations (use additional sheets if needed):

SIGNED: _____ TITLE: _____

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Region 4

1130 N. Westcott Rd, Schenectady, NY 12306
P: (518) 357-2391 | F: (518)357-2398
www.dec.ny.gov

December 7, 2021

Daniel Hershberg
Hershberg & Hershberg
18 Locust Street
Albany NY, 12203

**10 New Karner Road,
Guilderland, NY
Notice of Violation**

Dear Mr. Hershberg:

Based upon my November 30, 2021 inspection of 10 New Karner Road, Guilderland, NY, the Department has determined that the Respondent has met all the requirements for waste removal and cleanup outlined in the September 14, 2021 letter to Hershberg and Hershberg and consequently, this Notice of Violation is deemed closed.

Sincerely,



Ross McCredy
Environmental Geologist
Division of Materials Management

Ec: B. Maglienti – R4 DEC
J. Weidman – R4 DEC
L. Vitelli – Town of Guilderland



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February 7, 2022

Mr. Kenneth Kovalchik, *(via email only)*
Town Planner
Guilderland Town Hall
5209 Western Turnpike; PO Box 339
Guilderland, NY 12084

Re: 10 New Karner Road

Dear Mr. Kovalchik,

The Albany Pine Bush Preserve Commission (APBPC) received subdivision plans for the above referenced project. The APBPC will not likely oppose the proposed project, given its scope and location to areas already developed. The following comments and recommendations are offered in response to the plans provided.

The proposal is located within the Albany Pine Bush Study Area, described in the 2017 Management Plan Update for the Albany Pine Bush Preserve (APBPC 2017). The proposal is located within an area recommended for Full Protection (Area 3) which was valued for its ability to buffer the Preserve lands located north of the project area. However, considering the subdivision and any subsequent development is limited to the existing developed footprint on both new parcels, it is unlikely that the proposed development will have significant adverse impacts on the APBPC's ability to create and manage a viable preserve. We recommend:

- Subject location recommended for Full Protection
A portion of the project is located within Protection Area 3. While town code may currently limit development beyond the angle of repose, we recommend that a deed restriction be used to permanently protect the steep slope and ravine on proposed parcel 10b.
- Native landscaping: Landscaping plans should attempt to retain as much of the existing native vegetation as possible, eliminate known non-native invasive plants (ex. black locust, barberry, phragmites and purple loosestrife) and incorporate locally-derived native species plantings throughout the proposed development.
- Outdoor lighting: The impact of outdoor lighting at the proposed site should be limited by using downward facing, enclosed high-pressure sodium vapor lights or LED fixtures rather than mercury vapor lights. Mercury vapor lights negatively affect nocturnal animals including rare amphibian and insect species in the Pine Bush. Downward facing, enclosed sodium vapor or LED lights, however, are significantly less disruptive than mercury vapor lights and have been successfully utilized elsewhere in the Albany Pine Bush Study Area.

These comments represent likely APBPC reactions to the plans submitted and are my speculation of the opinion of the APBPC. This letter is not an endorsement of the proposed plans.

Sincerely,



Neil A. Gifford
Conservation Director

cc: APBPC Technical Committee
Mr. Anthony Luisi, APBPC Chair – NYSDEC Region 4 Regional Director
Mr. Christopher A. Hawver, APBPC Executive Director
Ms. Trish Gabriel, NYSDEC Environmental Analyst – Region 4
Mr. Michael Clark, Regional Wildlife Supervisor, NYSDEC-Region 4

Citations:
APBPC. 2017. Management Plan Update for the Albany Pine Bush Preserve. Albany, NY.
(www.albanypinebush.org)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

March 21, 2022

Daniel Hershberg
Hershberg & Hershberg
18 Locust Street
Albany, NY 12206

Re: 10 New Karner Road Subdivision
County: Albany Town/City: Guilderland

Dear Daniel Hershberg:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

Enclosed is a report of rare or state-listed animals and plants, and significant natural communities that our database indicates occur in the vicinity of the project site.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our database. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 4 Office, Division of Environmental Permits, at dep.r4@dec.ny.gov.

Sincerely,



Heidi Kraehling
Environmental Review Specialist
New York Natural Heritage Program

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New York Natural Heritage Program



Report on State-listed Animals

The following state-listed animals have been documented in the vicinity of the project site.

The following list includes animals that are listed by NYS as Endangered, Threatened, or Special Concern; and/or that are federally listed.

For information about any permit considerations for your project, please contact the Permits staff at the NYSDEC Region 4 Office at dep.r4@dec.ny.gov, 518-357-2449.

The following species have been documented within 0.5 mile of the project site.

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>	<i>NY STATE LISTING</i>	<i>FEDERAL LISTING</i>	
Butterflies				
Karner Blue	<i>Plebejus melissa samuelis</i>	Endangered	Endangered	3228
Frosted Elfin	<i>Callophrys irus</i>	Threatened		15245

This report only includes records from the NY Natural Heritage database.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the listed animals in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org, and from NYSDEC at www.dec.ny.gov/animals/7494.html.

New York Natural Heritage Program



Report on Rare Animals, Rare Plants, and Significant Natural Communities

The following rare plants, rare animals, and significant natural communities have been documented at the project site, or in its vicinity.

We recommend that potential impacts of the proposed project on these species or communities be addressed as part of any environmental assessment or review conducted as part of the planning, permitting and approval process, such as reviews conducted under SEQR. Field surveys of the project site may be necessary to determine whether a species currently occurs at the site, particularly for sites that are currently undeveloped and may still contain suitable habitat. Final requirements of the project to avoid, minimize, or mitigate potential impacts are determined by the lead permitting agency or the government body approving the project.

The following natural communities are considered significant from a statewide perspective by the NY Natural Heritage Program. Each community is either an example of a community type that is rare in the state, or a high-quality example of a more common community type. By meeting specific, documented criteria, the NY Natural Heritage Program considers these community occurrences to have high ecological and conservation value.

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	HERITAGE CONSERVATION STATUS
Upland/Terrestrial Communities			
Pitch Pine-Oak Forest			High Quality Occurrence of Rare Community Type
<p>Documented at the project site. The forest is relatively large and in fair to good condition with several invasive species estimated to have less than 10% total cover. It is imbedded within the remaining natural portions of a moderately sized landscape that is fragmented by development.</p>			8107
Pitch Pine-Scrub Oak Barrens			High Quality Occurrence of Rare Community Type and Globally Rare
<p>Documented within 300 yards northwest of the project site. This is a large barrens that is in good to excellent condition with excellent physiognomic diversity in a fragmented landscape. Exotic species are present but active management including prescribed burning is reducing their extent and will increase the acreage of the community over time.</p>			4632

This report only includes records from the NY Natural Heritage database. For most sites, comprehensive field surveys have not been conducted, and we cannot provide a definitive statement as to the presence or absence of all rare or state-listed species. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the rare animals and plants in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org, from NatureServe Explorer at www.natureserve.org/explorer, and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

Information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org. For descriptions of all community types, go to www.dec.ny.gov/animals/29384.html for Ecological Communities of New York State.

TOWN OF GUILDERLAND

Peter G. Barber
Supervisor

Kenneth Kovalchik, AICP
Town Planner

Planning Department
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339
Phone: (518) 356-1980 x 1061
Fax: (518) 356-5514
Email: kovalchikk@togny.org



MEMORANDUM

TO: Stephen J. Feeney, Chairman
& Town Planning Board

FROM: Kenneth Kovalchik, AICP, Town Planner

DATE: April 5, 2022

SUBJ: Eric Yucai Li - 3 Lot Minor Subdivision – 6185 Johnston Road
Project Update and Consideration of Final Plat Approval

Background

The Planning Board issued concept plan approval for the minor subdivision at your September 8, 2021 meeting. A SEQR negative declaration was issued and public hearing held at your October 13, 2021 meeting. The application was last before the Planning Board at your February 9, 2022 meeting where the Board continued the public hearing from your October 13, 2021 meeting.

The applicant is proposing a 3 lot minor subdivision of 2.2 acres located in the R15 District. Lot 1 will consist of 0.52 acres and contains an existing residential dwelling with accessory structures that will be removed as part of the subdivision. Lot 2 will consist of 0.96 acres and is undeveloped land. Lot 3 will consist of 0.74 acres and is undeveloped land. All three lots will be accessed from Johnston Road and will utilize a shared driveway. The applicant is proposing a 20' wide driveway, with a 14' wide asphalt surface and 3 ½' wide gravel surface on both sides of the driveway.

Lot 3 has frontage on Bentwood Court, but will not obtain access to Lot 3 from Bentwood Court. Lot 3 will be accessed via a shared driveway between Lot 1 and Lot 2 from Johnston Road. Lot 2 and Lot 3 will have access to public water and sewer, which will be extended from Bentwood Court.

Visit the Town of Guilderland Website at <http://www.townofguilderland.org>

Project Update

Drainage Easement on Lot 3

There is an existing open drainage channel located on the northern portion of proposed Lot 3. Drainage flows in the direction from Johnston Road to the subject parcel. After discussions with the applicant's engineer and Albany County Department of Public Works it was determined the drainage channel should be placed within an easement that will be conveyed to the Town. A condition of final plat approval will require the applicant to go through the process of Town Board acceptance of the drainage easement.

Sight Distance

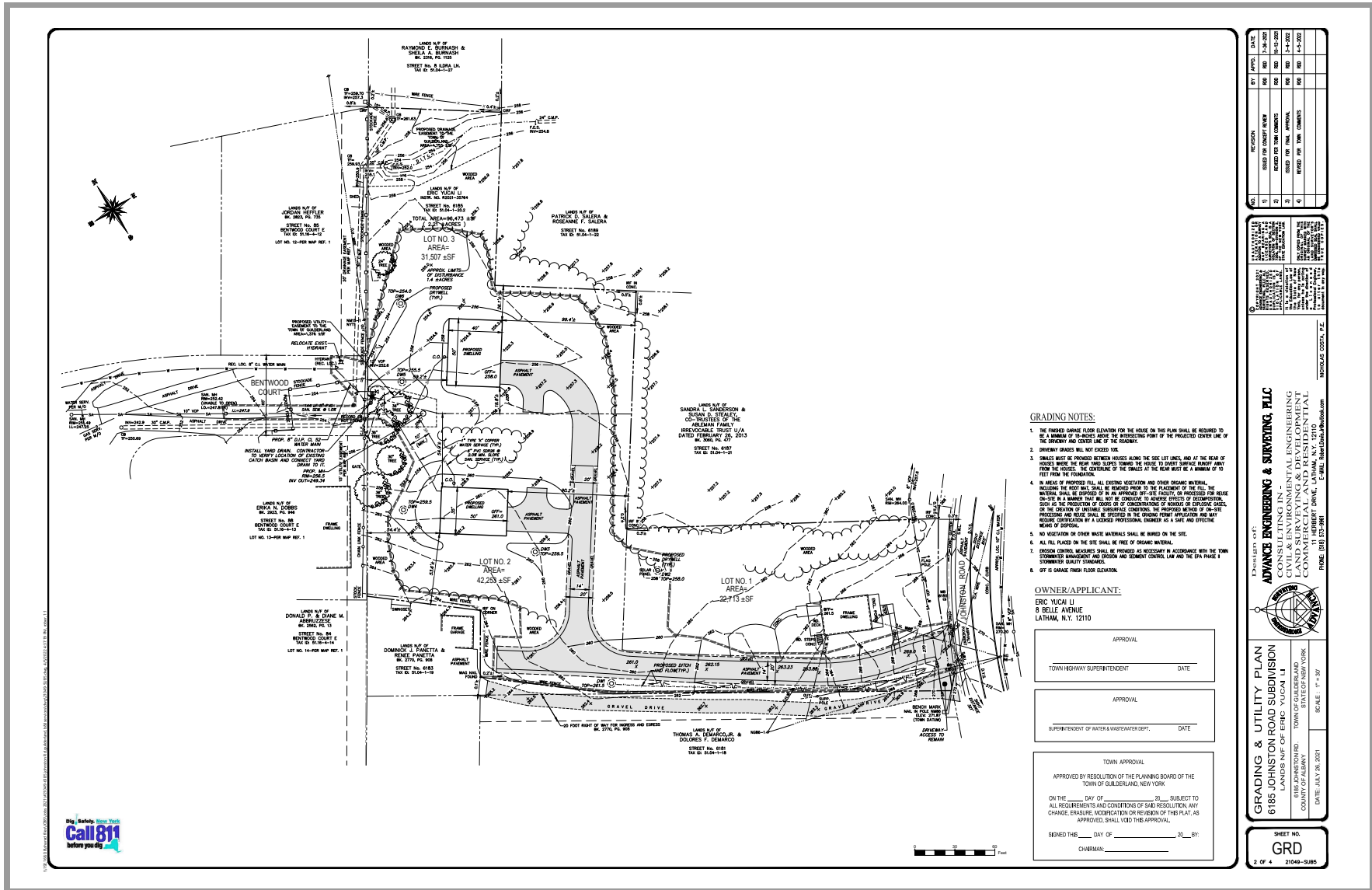
Johnston Road is a County road. Neighbors have expressed concerns related to the curve in Johnston Road, located to the south (looking right) of the existing driveway entrance, and the limited sight distance. The applicant and Albany County Department of Public Works discussed this issue. The emails of this discussion were included with the agenda and posted online. Albany County indicated the 321' sight distance to the right of the driveway exceeds stopping sight distance for 40mph (305'), and basically meets the intersection sight distance for the 30mph speed limit (325').

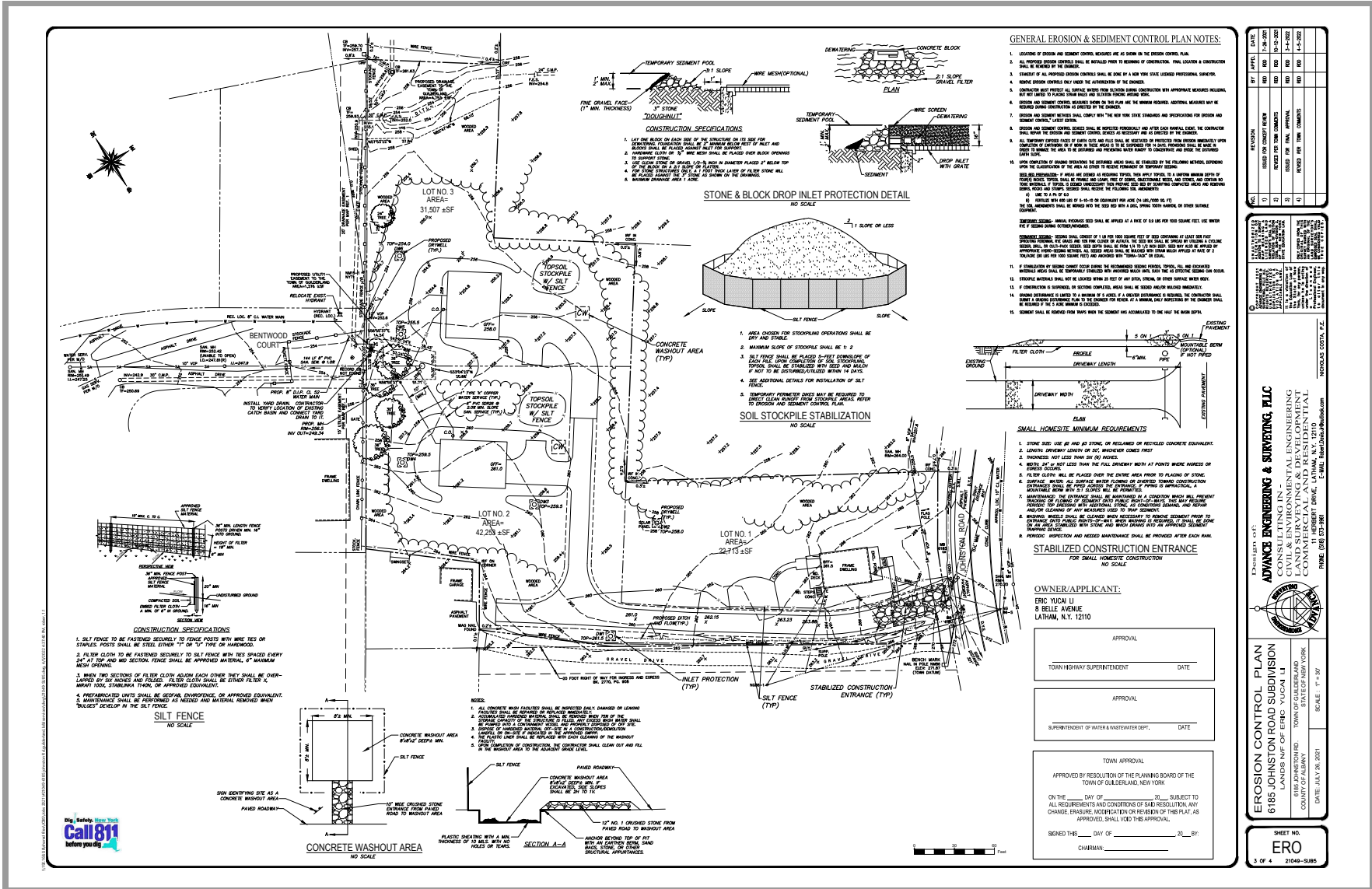
Shared Access Driveway

The driveway providing access to 6181/6183 Johnston Road partially extends onto the 6185 Johnston Road parcel where the driveways meet Johnston Road. There is an existing 20' right-of-way for ingress/egress purposes for 8181/6183 Johnston Road. There is a note on the plans with Book and Page number referencing the right-of-way. The plans also show the property owners at 6181/6183 Johnston Road will still be able to access their driveway in the same manner as they have been.

Next Steps:

Unless there are other issues the Planning Board would like the applicant to address, the Board may consider granting final plat approval at your April 13th meeting.





GENERAL EROSION & SEDIMENT CONTROL PLAN NOTES:

1. LOCATION OF EROSION AND SEDIMENT CONTROL MEASURES ARE SHOWN ON THE EROSION CONTROL PLAN.
2. ALL PROPOSED EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO BEGINNING OF CONSTRUCTION. FINAL LOCATION A CONTRACTOR SHALL BE DETERMINED BY THE CONTRACTOR.
3. STABILITY OF ALL PROPOSED EROSION CONTROL MEASURES SHALL BE DONE BY A NEW YORK STATE LICENSED PROFESSIONAL ENGINEER.
4. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
5. CONTRACTOR MUST PROVIDE ALL DETAILS FROM THIS PLAN INCLUDING EROSION CONTROL MEASURES INCLUDING:
 - a. EROSION CONTROL MEASURES SHOWN ON THIS PLAN ARE TO BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
 - b. EROSION CONTROL MEASURES SHALL COMPLY WITH THE NEW YORK STATE STANDARDS AND PRESCRIPTIONS FOR EROSION AND SEDIMENT CONTROL, LATEST EDITION.
6. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
7. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
8. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
9. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
10. UNLESS OTHERWISE NOTED, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL EROSION CONTROL MEASURES THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
11. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
12. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
13. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
14. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.
15. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS OTHERWISE NOTED.

NO.	DATE	BY	APPROVED
1	12-14-2021	MD	MD
2	12-14-2021	MD	MD
3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
1	12-14-2021	MD	MD
2	12-14-2021	MD	MD
3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
1	12-14-2021	MD	MD
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3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
1	12-14-2021	MD	MD
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3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
1	12-14-2021	MD	MD
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3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
1	12-14-2021	MD	MD
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3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
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3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

NO.	DATE	BY	APPROVED
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2	12-14-2021	MD	MD
3	12-14-2021	MD	MD
4	12-14-2021	MD	MD
5	12-14-2021	MD	MD

DESIGNER OF: ADVANCE ENGINEERING & SURVEYING, PLLC
CONSULTING IN - CIVIL, ENVIRONMENTAL, ENGINEERING, LANDSCAPE ARCHITECTURE, COMMERCIAL AND RESIDENTIAL
6185 JOHNSTON ROAD, TOWN OF GULLERLAND, NEW YORK
COUNTY OF ALBANY
PHONE: (518) 538-9999
EMAIL: INFO@ADVANCEESURV.COM

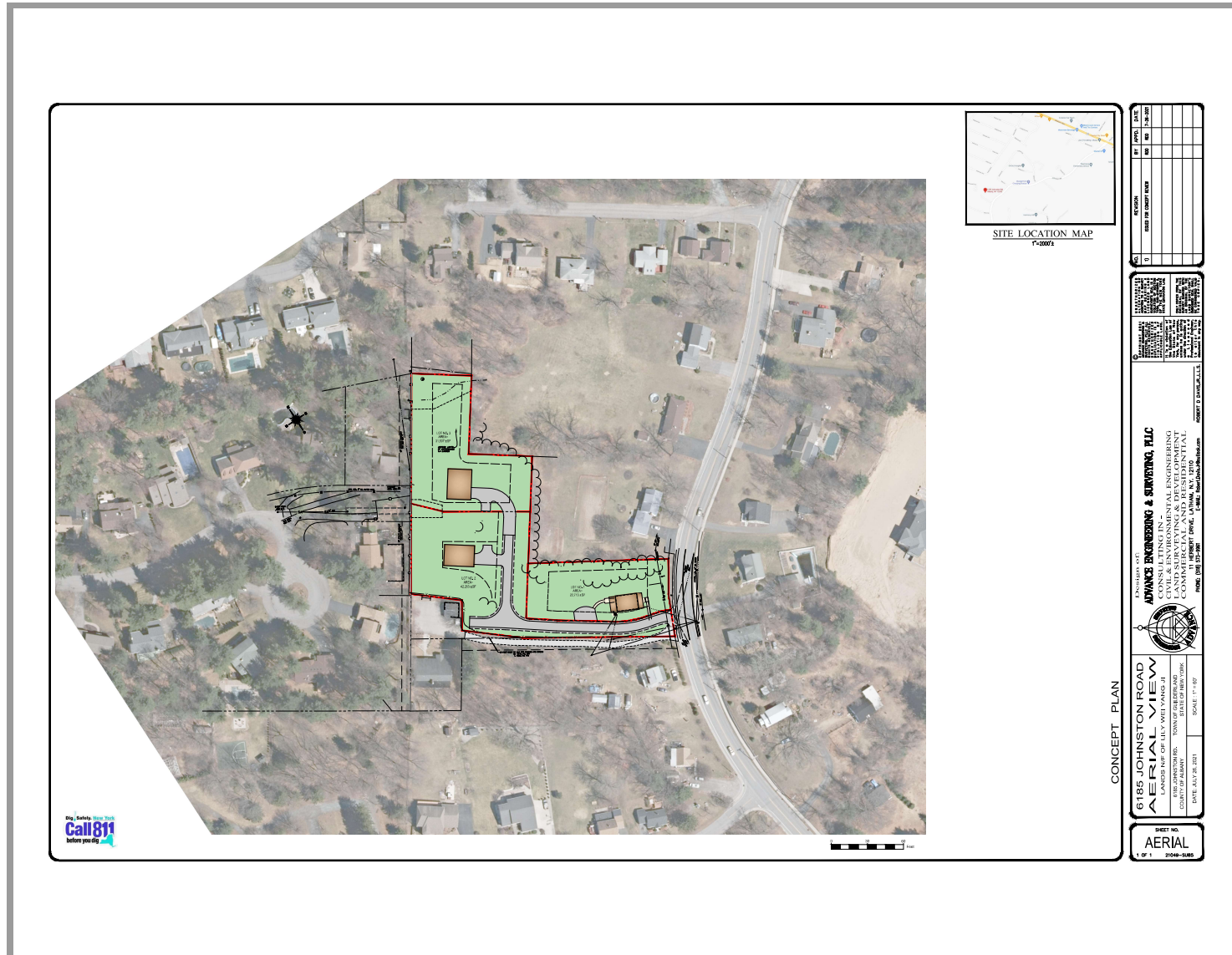
OWNER/APPLICANT:
ERIC YUAI LI
8 BELLE AVENUE
LATHAM, NY, 12110

APPROVAL: TOWN HIGHWAY SUPERINTENDENT DATE: _____
APPROVAL: SUPERINTENDENT OF WATER & WASTEWATER DEPT. DATE: _____
APPROVAL: TOWN APPROVAL DATE: _____
ON THE _____ DAY OF _____, 20____ SUBJECT TO ALL REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION, ANY CHANGE, ERRATA, MODIFICATIONS OR REVISIONS TO THIS PLAN AS APPROVED, SHALL VOID THE APPROVAL.
SIGNED THIS _____ DAY OF _____, 20____ BY: _____
CHAIRMAN: _____

SHEET NO. ERO
3 OF 4 21048-SUB5

6185 JOHNSTON ROAD SUBDIVISION
 EROSION AND SEDIMENT CONTROL PLAN
 SHEET NO. ERO
 3 OF 4 21048-SUB5
 DATE: JULY 26, 2021
 SCALE: 1" = 30'
 DESIGNER OF: ADVANCE ENGINEERING & SURVEYING, PLLC
 CONSULTING IN - CIVIL, ENVIRONMENTAL, ENGINEERING, LANDSCAPE ARCHITECTURE, COMMERCIAL AND RESIDENTIAL
 6185 JOHNSTON ROAD, TOWN OF GULLERLAND, NEW YORK
 COUNTY OF ALBANY
 PHONE: (518) 538-9999
 EMAIL: INFO@ADVANCEESURV.COM
 OWNER/APPLICANT:
 ERIC YUAI LI
 8 BELLE AVENUE
 LATHAM, NY, 12110
 APPROVAL: TOWN HIGHWAY SUPERINTENDENT DATE: _____
 APPROVAL: SUPERINTENDENT OF WATER & WASTEWATER DEPT. DATE: _____
 APPROVAL: TOWN APPROVAL DATE: _____
 ON THE _____ DAY OF _____, 20____ SUBJECT TO ALL REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION, ANY CHANGE, ERRATA, MODIFICATIONS OR REVISIONS TO THIS PLAN AS APPROVED, SHALL VOID THE APPROVAL.
 SIGNED THIS _____ DAY OF _____, 20____ BY: _____
 CHAIRMAN: _____
 SHEET NO. ERO
 3 OF 4 21048-SUB5





**TOWN OF GUILDERLAND
PLANNING BOARD
ALBANY COUNTY, NEW YORK**

**SEQR DETERMINATION
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION
6185 JOHNSTON ROAD – THREE LOT MINOR SUBDIVISION**

APPLICATION TYPE: Three Lot Minor Subdivision

APPLICANT/OWNER: Eric Yucai Li

PROJECT DESCRIPTION: The applicant is proposing a 3 Lot Minor Subdivision of 2.2 acres located in the R15 District. Lot 1 will consist of 0.57 acres and contains an existing residential dwelling with accessory structures that will be removed as part of the subdivision. Lot 2 will consist of 0.9 acres and is undeveloped land. Lot 3 will consist of 0.74 acres and is undeveloped land. All three lots will be accessed from Johnston Road and will utilize a shared driveway.

TYPE OF ACTION: TYPE I TYPE II UNLISTED

LEAD AGENCY: Town of Guilderland Planning Board

CONTACT: Kenneth Kovalchik, Town Planner
Town Hall, Route 20
Guilderland, NY 12084-0339
Phone: (518) 356-1980 x 1061

In accordance with Section 8-0113, Article 8 of the New York State Environmental Conservation law, this Agency has conducted an initial review to determine whether the above named project may have a significant effect on the environment and on the basis of that review hereby finds:

The proposed project will not have a significant effect on the environment and therefore does not require the preparation of an Environmental Impact Statement. This determination is based on the reasons stated below.


REASONS FOR DETERMINATION:

After review of the Environmental Assessment Form, the criteria contained in section 617.7 (c) of the SEQR regulations, and supporting correspondence from the Guilderland Conservation Advisory Council, Albany County Planning Board and Westmere Fire District, and the fact that public water and sewer will be utilized, the Town of Guilderland Planning Board determined that the Project will not have a significant adverse impact on the environment.

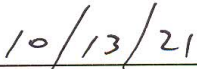
SUPPORTING INFORMATION:

1. A short Environmental Assessment Form was prepared for the project by Eric Yucai Li, and reviewed and accepted by the Town Planner.

2. The Albany County Planning Board (ACPB) reviewed the application at their September 16, 2021 meeting. The ACPB commented that a highway work permit will be required from the Albany County Department of Public Works, SWPPP will be required for construction activities that disturb greater than 1 acre of land, and a shared access agreement should be referenced in the deeds for both properties.
3. The GCAC reviewed the application at their September 13, 2021 meeting and conducted a site visit on September 18, 2021. In a report dated September 24, 2021 the GCAC concluded they do not find the proposed subdivision having a negative impact on the environment provided the final plan includes adequate control and management of wastewater, possibly through rain gardens and other vegetation when the new sites are developed. The final plan should also include an effort to minimized tree removal and include planting of additional native trees to replace trees that are removed.
4. The plans were referred to the Westmere Fire District for review. In an email dated October 8, 2021 the fire district provided preliminary comments indicating they would require 1 or 2 fire hydrants in the subdivision, a turnaround to be provided at the end of the driveway and the driveway to be constructed to handle a 60,000 pound fire apparatus vehicle. Formal comments from the fire district will be provided.



Planning Board Chairman



Date

Short Environmental Assessment Form Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

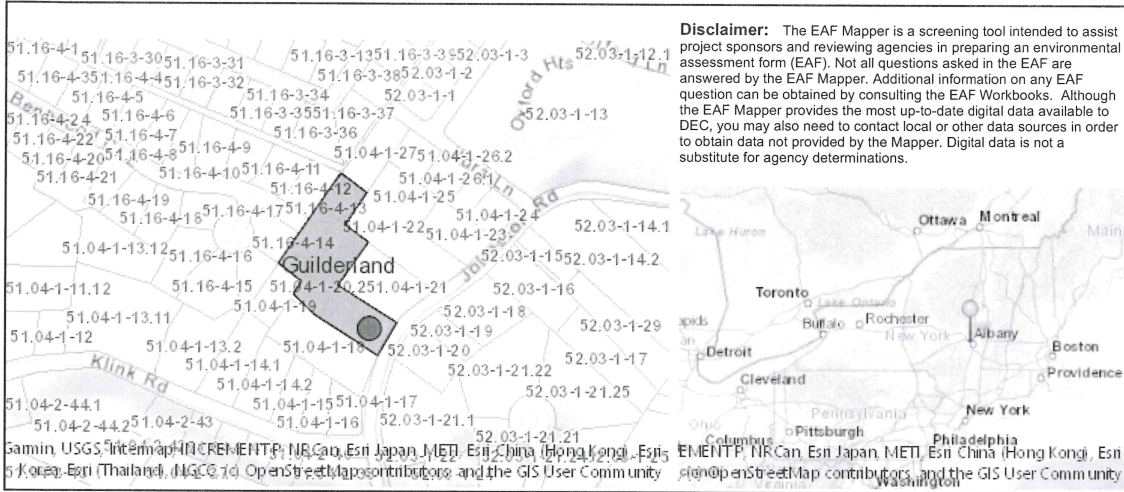
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: 6185 JONSTON RD MINOR SUBDIVISION			
Project Location (describe, and attach a location map): 6185 JOHNSTON ROAD			
Brief Description of Proposed Action: 3 LOT MINOR SUBDIVISION. LOT 1 BEING THE EXISTING RESIDENCE.			
Name of Applicant or Sponsor: ERIC YUCAI LI		Telephone: 518-698-1269	
		E-Mail: LIWEIHE68@GMAIL.COM	
Address: 8 BELLE AVENUE			
City/PO: LATHAM		State: NY	Zip Code: 12110
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 2.21 acres			
b. Total acreage to be physically disturbed? _____ 1.1 acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 2.21 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

EAF Mapper Summary Report

Wednesday, June 16, 2021 12:18 PM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Karner Blue
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

TOWN OF GUILDERLAND
APPLICATION FOR SUBDIVISION

RETURN TO:

Planning Department, Attn: Town Planner
Guilderland Town Hall, Rte 20
Guilderland, NY 12084
(518)356-1980 ext 1061
(518)356-1990 (fax)

FEES:

Subdivision Application Fee: _____ Subdivision Hearing Fee: _____
 Minor Concept Plan \$150 _____ Minor Final Plat - \$50 per lot
_____ Major Concept Plan \$500 _____ Major Preliminary Plat - \$75 per lot
_____ Lot Line Amendment \$100
_____ Fee in lieu of parkland reservation* - See §280-36 of Town Code
*Payable with building permit application

APPLICANT INFORMATION

Name: Eric Yucai Li
Address: 8 Belle Ave.
Latham NY 12110
Zip: 12110
Phone #: 518-698-1269
Email: liweihc68@gmail.com

SUBDIVISION INFORMATION

Name of Subdivision: 6185 Johnston Rd. Subdiv.
General Location: Johnston Rd.
Zoning: R15 Total Acreage: 2.21
Tax Map number(s): 51.04-1-20.2
Number of Proposed Lots: 3

Relationship to property:

owner _____
contract vendee _____
other, explain _____

ENGINEER, ARCHITECT OR SURVEYOR: (if other than applicant)

Name: Advance Engineering Surveying PLLC
Address: 11 Herbert Drive
Zip: 12110
Phone: 518-698-3772
Email: ncostape@gmail.com

PROPERTY DESCRIPTION

Current land use of the property: Residential
Briefly describe proposed project 3 Lot Subdiv., Lot 1 being existing residence.

Generally describe any restrictions on the property (easements, deed restrictions, etc.): _____

N/A

Does the property contain any of the following: _____ Stream _____ Pond _____ Wetlands _____ Other body of water
_____ Floodplain _____ Steep Slopes _____ Pine Bush _____ Historic/Archeological Resources

If yes, please elaborate: _____

Water will be provided by:

_____ Well Connect to existing Town water _____ Extension of Water district

Sanitary sewer will be provided by:

_____ Septic system Connect to existing Town sewer _____ Extension of Sewer District

Will there be any land dedicated to the Town for a park or open space commonly owned by a Homeowner's Association?

No If yes, what is the percentage and proposed ownership of the open space? _____

AGREEMENT

The applicant hereby certifies that he/she is the owner of record of the above property, or that he/she has been duly authorized by the owner of record to make this application. Further, by signing this application, the owner/designee gives permission for a representative(s) of the Town of Guilderland to walk the property for the purposes of conducting a site review.

Signature of Owner: Eric Li Date: 6/21/21
Contract Vendee



**ALBANY COUNTY PLANNING BOARD
NOTIFICATION**

RECOMMENDATION DATE: September 16, 2021

Case #: **10-210903805**
Applicant: **6185 Johnston Road - 3 Lot Subdivision**
Project Location: 6185 Johnston Road
Tax Map Number: 51.04-1-20.2
Referring Agency: Town of Guilderland Planning Board
Considerations: Subdivision review for three lot minor subdivision of 2.2 acres in the R15 zoning district.

ACPB Recommendation: Modify local approval to include

1. A highway work permit from the Albany County Department of Public Works for driveway construction, drainage and public utility connections within the county right of way is required.
2. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-15-003, May 1, 2015) for construction activities that disturb more than one acre of land.
3. A shared access agreement (including a maintenance agreement) should be referenced in the deeds for both properties, due to the proposed use of shared driveway.

Advisory:

Gopika Muddappa, Senior Planner
Albany County Planning Board

NOTE:

- This recommendation is rendered in compliance with applicable requirements of Section 239 of New York State General Municipal Law. Final determination on this matter rests with the appropriate municipal body.
- A recommendation of "APPROVE" or "MODIFY LOCAL APPROVAL" should not be interpreted as a recommendation by this body that the referring agency approve the matter referred. Such recommendation does not indicate that this body has reviewed all local concerns; rather the referral has met certain countywide considerations. Evaluation of local criteria is the responsibility of the referring agency.
- General Municipal Law Section 239 requires that the local agency notify the county within thirty days of its final action. Please use the OFFICIAL NOTICE OF LOCAL ACTION form that is attached for this purpose.
- General Municipal Law Section 239 sets forth the procedural requirements for taking local action contrary to the County Planning Board's recommendation of objection or conditional approval.
- Albany County is required to submit a Municipal Separate Storm Sewer System Permit (MS4) (No. GP-0-10-002) Notice of Intent (NOI) to comply with the NYS DEC permit for the control of wastewater and stormwater discharges in accordance with the Clean Water Act. Construction Activity Permit No. GP-0-1-001 issued by NYSDEC is also required for activity with soil disturbances of one acre or more. The law is required by the Clean Water Act to control point source discharges to ground water as well as surface waters.

449 New Salem Road, Voorheesville, NY 12186
TELEPHONE: (518) 655-7932 FAX: (518) 765-3459

In compliance with Article 12-B, Section 239 of New York State General Municipal Law, this serves as official notification to the Albany County Planning Board of the action taken on the application described above.

LOCAL ACTION ON ACPB RECOMMENDATION:

- AGREED WITH COUNTY PLANNING BOARD RECOMMENDATIONS TO MODIFY OR DISAPPROVE
- OVER-RULED COUNTY PLANNING BOARD RECOMMENDATIONS TO MODIFY OR DISAPPROVE

LOCAL DECISION ON PROJECT:

- PROJECT APPROVED
- PROJECT DISAPPROVED

VOTE RECORDED: _____ DATE OF LOCAL ACTION: _____

Set forth the reasons for any action contrary to the ACPB recommendations (use additional sheets if needed):

SIGNED: _____ TITLE: _____

To: Guilderland Planning Board
From: Guilderland Conservation Advisory Council
Date: September 24, 2021
Re.: Yucaili – Johnston Road

APPLICATION

Applicant(s): Eric Yucaili Li, 8 Belle Ave., Latham NY

Proposed Subdivision: A proposed three lot subdivision of 2.21 acres.

Location: Property is located in the southeast corner of the Town on the west side of Johnston Road to the south of Western Avenue about 300 feet north of Klink Rd..

Zoning: R15

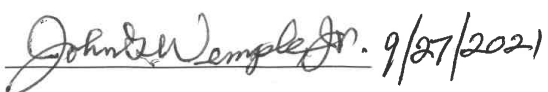
Site Inspection Summary:

Site Inspection Date: September 18, 2021

Meeting Attendees: (Sept.13, 2021) Presenter Nicholas Costa; GCAC Members Laura Barry, Martin Gnacik, Elizabeth Markham, Matthew Minniefield, Darrell McKnight, Margaretann Paczkowski, Sindi Saita and John Wemple Chair; Town Supervisor Peter Barber and Town Board Member Laurel Bohl.

Inspected by: Presenter Nicholas Costa; GCAC Members Laura Barry, Martin Gnacik, Elizabeth Markham, Matthew Minniefield, Darrell McKnight, Margaretann Paczkowski and John Wemple, Chair.

Conclusions: Other than added two new residences to the neighborhood and resulting need to use more Town services and in turn use more of the Town's natural resources, GCAC does not see this proposed subdivision having a negative impact in the environment provided the final plan includes an adequate control and management of wastewater possibly through rain gardens and other vegetation when the new sites are developed. Final plan should also include an effort to minimize tree removal and include planting of additional native trees to replace trees that are removed.

Submitted by: 
John G. Wemple, Jr. - Chair

INSPECTION DETAILS

Applicant(s): Eric Yucaili Li, 8 Belle Ave., Latham NY

Address: 6185 Johnston Avenue, Albany, NY 12203

Background: According to Presenter, the Applicant identified as a contract vendee has a contract to purchase the property which is owned by Lily Wei Yang Ji. The property is on the west side of Johnson Road, consists of 2.21 acres, has an existing home, a garage, driveway and an above ground pool. Presenter noted that the property is clear where it is to be developed; there is ground based solar, there is fencing around the pool area and there is a fire pit. Plan is to remove the existing home and three new single family homes would be built on Lots 1, 2 and 3. It was further noted that there are utilities (water, sewer and power) available from Johnston Road as well as water and sewer for Bentwood Court. Back or side yards of both Lots 2 and 3 are adjacent to lots on Bentwood Court.

Topography: Presenter noted that highest point on the property is along Johnston Road where the elevation is 272 feet and the lowest is at the rear where there are two culverts (12" and 30") where the elevation is 252 feet. Presenter further noted the property is fairly flat and is gentle sloping toward the rear with about 16 feet decrease in elevation at the rear. At time of site visit, GCAC noted a relatively sharp decline in elevation from the rear of the house on Lot 1 toward the northwest toward the area where is the remains on a circular above ground pool which is about $\frac{3}{4}$ the distance to the rear of Lot 1. Much of the rear appeared fairly flat with a slight rise toward the Bentwood Ct. Properties.

Drawing from the County Interactive Mapping site shows property to be relatively flat with the highest point being close to 270 ft. AMSL at the south corner of Lot 1 from which the property slopes toward the center of the property with the 260 ft. contour line across close to the middle of Lot 2. On Lot 3 elevation is around 256 ft. near the location of proposed dwelling on that lot. Applicant's concept drawing shows a ditch about 2 to 6 feet deep near the rear of Lot 3.

Vegetation/Trees: Presenter said the rear of the site where two new homes are proposed are fairly wooded and would be cleared enough to accommodate the two new homes. He noted that tree cutting will only be where needed and that the trees will be kept along the outer border. This property has two types of vegetation. Lot # 1 contains common suburban plantings. In the area near the house are Smoke Bush, Arborvitae, Fraser Fir, Blue Spruce, Rose of Sharon, Boxwood, Juniper, Japanese Maple, Flowering Cherry, Catalpa, maple, white pine, apple and pear trees. In lot #2 & #3 the land is less developed and the native trees are larger. There are Red Oaks measuring 54" and 44" in circumference (about 17.2 in. and 14 in. in diameter respectively). The largest tree was a giant Cottonwood at 76" in circumference (about 24.2 in. in diameter). There is Larch, Paper Birch, bittersweet and sumac also on the property.

Soil: According to the Presenter, he thinks the soil is a combination of clay with sandy silt on the upper portion of the soil. He further noted that there are no mounds or hills. GCAC's review of the County Interactive Mapping site shows that the property has four types of soil – CoC, EnA, EnB and Gr. The front 2/3 of Lot 1 has CoC soil while the rear portion of that lot has EnB soil. This EnB soil continues on Lot 2 where it covers all of that lot with the exception of a wedged shaped area at its northeast corner covering an area which covers the portion of that lot northeast of a line running from a point a little over 50 feet southwest of the east corner of the lot to a point on the rear border 50+ feet from the northwest boundary. Lot 3

Inspection (Continued) - Page 2 of 3 – Li – Johnston Rd. - September 2021

Has mainly Gr soil except for the southwest corner where there is EnB soil and a strip about 30 feet wide which runs across the rear of the lot.

CoC – Colonie loamy fine sand, rolling – This rolling soil which is very deep and well drained to somewhat excessively drained. Slopes range from 8 to 15 percent. The seasonal high water table in this Colonie soil is at a depth of more than six feet, but it may fluctuate to within 3 ½ feet of the surface for very brief periods in early spring. Depth to bedrock is more than 60 inches.

Permeability is moderately rapid or rapid. The available water capacity is low, and surface runoff is medium. The main limitation of this soil on sites for dwellings with basements is the excessive slope on rolling topography. Designing dwellings to conform to the natural slope or landscaping helps overcome this limitation. The main limitation of this soil for local roads and streets is the slope. Grading and excavation costs are higher than in lesser areas of Colonie soils. Constructing roads on the contour wherever possible or landscaping and grading help overcome the slope limitation. The main limitation affecting the use of this soil as a site for septic tank absorption fields is a poor filtering capacity. The soil has moderately rapid or rapid permeability and so is a poor filter of effluent. Consequently, ground-water contamination is a hazard. A specially designed septic tank absorption field or an alternative system will properly filter the effluent. Other soils that have a moderate permeability rate are better suited to this use.

EnA – Elnora fine sandy loam, 0 to 3 percent slopes. This nearly level soil is very deep and moderately well drained. Seasonal high water table is at a depth of 1 ½ to 2 feet from February to May. Depth to bedrock is more than 60 inches. Permeability is moderately rapid to rapid. The available water capacity is low, and surface runoff is slow. The surface layer ranges from very strongly acid to slightly acid. The main limitation of this soil on sites for dwellings with basements is the seasonal high water table. Installing foundation drains, applying protective coatings to basement walls, and diverting surface water away from dwellings help prevent wet basements. Main limitations for local roads and streets are a moderate frost-action potential and the seasonal high water table. Adequate drainage of surface water and constructing the road on a textured subgrade or base material help overcome these limitations. The main limitations of this soil on sites for septic tank absorption fields are the seasonal high water table and a poor filtering capacity. This soil is rapidly permeable and is a poor filter of effluent. Consequently, ground-water contamination is a hazard. A specially designed septic tank absorption field or an alternative system will adequately filter the effluent. Other less sandy soils in the higher landscape positions are better suited to this use.

EnB- Elnora loamy fine sand, 3 to 8 percent slopes This gently sloping soil is very deep and moderately well drained.– This nearly level soil is very deep and moderately well drained. Seasonal high water table is at a depth of 1 ½ to 2 feet from February to May. Depth to bedrock is more than 60 inches. The main limitation of this soil on sites for dwellings with basements is the seasonal high water table. Installing foundation drains, applying protective coatings to basement walls, and diverting surface water away from dwellings help prevent wet basements. Main limitations for local roads and streets are moderate frost action potential and seasonal high water table. Adequate drainage of surface water and constructing the road on a course textured subgrade or base material help overcome these limitations. The main limitations of this soil on sites for septic tank absorption fields are the seasonal high water table and a poor filtering capacity. The soil is rapidly permeable and a poor filtering capacity. This soil is rapidly permeable and is a poor filter for effluent. Consequently, ground-water contamination is a hazard. The author notes that a specially designed septic tank absorption field or an alternative system will adequately filter the effluent. Other less sandy soils in the higher landscape positions are better suited to this use.

Inspection (Continued) - Page 3 of 3 – Li – Johnston Rd. - September 2021

Gr – Granby loamy fine sand. This nearly level soil is very deep and poorly drained to very poorly drained. The seasonal high water table is at a depth less than one foot from November to June. Bedrock is more than 60 inches deep. Permeability is rapid. The available water capacity is moderate, and surface runoff is very slow or ponded. The surface layer and subsoil are

moderately acid to neutral. The seasonal high water table causes shallow root development, which results in seedling mortality and windthrow hazard. Main limitations on sites for dwellings with basements are the seasonal high water table and ponding. Similar limitation for local roads and streets due to the high water table and ponding. Installing drainage will lower the water table near road sites. Constructing roads on raised fill material will also reduce wetness. The main limitations affecting the use of this soil as a site for septic tank absorption fields are the seasonal high water table, ponding, and poor filtering capacity. Other nearby soils are better suited to this site.

Drainage/Wetlands: Presenter noted that drainage is toward the rear culverts to a closed drainage system in the Bentwood area.

The County Interactive Mapping site shows no DEC nor Federal wetlands on the property; but it does show floodway about 8/10 of a mile south of the site and also about ½ mile south east with a watercourse and floodway. To GCAC's knowledge, Bentwood Court has had a history of drainage issues in the past but current status is not known.

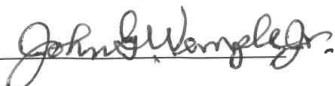
Septic/Wells: Applicant's Subdivision Application from shows plan is to connect to Town water and sewer. Also see above under background section where it is noted that water and sewer is available on Bentwood Court. No septic system nor wells are planned according to Presenter.

Visual Impact: Presenter feels that because of the topography the two new houses at the rear would not be visible from Johnston Road. He noted that plan is proposing single family homes which will be in sync with what's already in the neighborhood. GCAC agrees that the topography and trees will hide much of the new houses provided the development of the rear lots leaves a sufficient amount of existing trees.

Endangered Species: While the Short Environmental Assessment Form indicates there may be Karner Blue on the property, Presenter said he doesn't know of any Karner Blue on the property nor is it large enough to accommodate them. He noted that there is no evidence of such but he will review and confirm this. GCAC did not see any endangered species on the property at time of site visit although evidence was seen suggesting a very recent and a past visitation by a bear.

Historical Considerations: None known to the Presenter who said there is no known evidence of cemeteries or historical value on the existing site. None observed by GCAC at time of site visit.

Submitted by:

 9/27/2021

John G. Wemple, Jr. - Chair

Dominick and Renee Panetta
6183 Johnston Rd.
Albany, NY 12203

February 15, 2022

Mr. Kenneth Kovalchick, ALCP
Town Planner
Town of Guilderland Planning Dept.
Town Hall, Rt. 20
PO Bx 339
Guilderland, NY 12084-0339

And via electronic mail at: kovalchikk@togny.org, and Town website message to the Town Board

Subject: Potential Danger of Proposed Development of 6185 Johnston Rd

Dear Mr. Kovalchick,

The existing roadway to be used for ingress and egress of the planned subdivision presents the significant threat of catastrophic collision at the intersection of Johnston Road on a blind curve and hill crest, and we adamantly oppose it.

Our adjacent driveway serving the properties at 6183 and 6181 Johnston Road parallels this proposed roadway, and the additional traffic of 3 homes can easily add between 10 and 15 new vehicles including service and delivery vehicles, using this proposed roadway on a constant basis.

The dangers of multiple vehicles from adjacent driveways attempting to enter and/or exit this roadway are clear and imminent, even in good weather. In snow or heavy rain, with reduced visibility or traction in an already precarious location, the potential for a deadly collision is frighteningly high.

It is difficult enough to see oncoming traffic in time to make a safe turn at this location with its current traffic levels due to the hill crest and the blind curve. Add to that the fact that even though Johnston Road is a 30 MPH speed zone, most of the traffic is proceeding at 40 and above. With the addition of very likely multiple vehicles from new houses in the proposed development, this proposed subdivision presents to the town (and our normally peaceful neighborhood) a prime recipe for disaster.

This proposal for a multiple unit subdivision is dangerously designed, and again, we adamantly oppose it.


Dominick J. and Renee Panetta
6183 Johnston Road

Feb 11 22 05:49p

De Marco Garage

5184565896

p.1

February 11, 2022

Mr. Kenneth Kovaichik, ALCP, Town Planner
Town of Guilderland Planning Department
Town Hall Route 20, PO Box 339
Guilderland NY 12084-0339

Dear Mr. Kovaichik:

The Town Board Meeting of February 10, 2022, concerning the matter of the 3-lot subdivision of 6185 Johnston Road, which I believe was a continuance of the October 13, 2021, meeting took me by surprise as they drastically changed the proposal made on October 13, 2021. The new proposal did not give us time to digest the negative ramifications that would apply to us. The following is a list of our concerns:

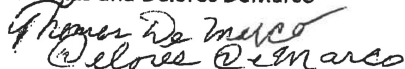
1. The survey map submitted by Advance Engineering and Surveying PLLC, dated July 26, 2021, did not show the easement of the right-of-way of the owners of the property at 6181 Johnston Road and the owners of the property at 6183 Johnston Road as I believe it should have. Also, how these two right-of-ways would safely interface with each other and Johnstown Road. The Board should take into consideration the fact that there is a steep hill when heading north on Johnston Road, which eventually slopes toward the right-of-way in close proximity to the proposed right-of-way, which makes this a traffic hazard, and a traffic study should be required before any proposal could be approved. We strongly object to a new right-of-way over 6185 Johnston Road as it would adversely affect us.
2. When the winter snows come and the new right-of-way at 6185 Johnston Road is plowed, the snow will pile up alongside the southern portion of the right-of-way at 6185 Johnston Road causing it to spill over onto the right-of-way at 6181 Johnston Road and thereby creating a potential blockage to ingress and egress to 6181 Johnston Road right-of-way.

This new proposed right-of-way will cause a new adverse condition to the right-of-way at 6181 Johnston Road.

Your and the Planning Board's consideration of our reasonable concerns, as outlined in this letter and hopefully in person, of these issues and possibly a few others.

Sincerely,

Thomas and Delores DeMarco



PS We did attempt to speak at the February 10, 2022, Planning Board meeting but we were unable to enroll.

Feb 28 22 03:29p

De Marco Garage

5184565896

p.1

February 28, 2022



Mr. Kenneth Kovaichik, ALCP, Town Planner
 Town of Guilderland Planning Department
 Town Hall Route 20, PO Box 339
 Guilderland NY 12084-0339

Dear Mr. Kovaichik:

My wife, Delores De Marco, and I, Thomas De Marco, live at 6181 Johnston Road, Albany NY 12203, and we have done so for over 50 consecutive years. When we purchased our home, we knew it had a travel-way/right-of-way on it, and continued onto three other contiguous properties. The travel-way/right-of-way was lawfully being used by all four families whose abodes were located on those properties. One such notable property was, and still is, located on the Southeast Conner of 6185 Johnston Road. The travel-way/right-of-way was lawfully created by an agreement made, on June 30, 1949, by four adjacent property owners and filed in the Albany County Clerk's Office.

Those four original adjoined property owners used the travel-way/right-of-way for access from their respective abodes to Johnston Road (egress) and from it (ingress) to their abodes, and had done so for quite a few years before we purchased our property at 6181 Johnston Road. Our rights to the entire travel-way/right-of-way stems from the 1949 Agreement.

As of today's date, the travel-way/right-of-way has been used for more than 73 consecutive years.

On February 9, 2022, the Planning Board held a second virtual meeting of the proposed minor subdivision of 6185 Johnston Road. I thought the hearing was for the purpose of addressing, for better or worse, the concerns of the public at the October 13, 2021, meeting and any new public comments since then.

To the best of my recollection, every comment made at that first meeting amounted to only one thing; for various reasons, nobody wanted any part of the proposed subdivision at 6185 Johnston Road, and that included my wife and I.

Page 1 of 3

Feb 28 22 03:30p

De Marco Garage

5184565896

p.2

My Wife and I were extremely shocked when the main things the Planning Board had to communicate to the attendees of the February 9 virtual meeting was that they had a new map that was superimposed on a survey made by Advance Engineering & Surveying, PLLC, dated, July 26, 2021. Now the new map showed everything the old map had on it, excepting for the new point of ingress and egress from and to Johnston Road for all the traffic that would be generated by the subdivision, and that the existing Frame Dwelling at 6185 Johnston Road was to remain as is, and that an existing 1 lane driveway located on the South side of the Frame Dwelling was to be widened to 20' towards an existing "gravel drive" on the property of 6181 Johnston Road; all ingress and egress for the subdivision was now going to be on the South side of the existing frame dwelling, as opposed to the North side of it, as was shown on the first map.

The new map was touted by the Board members as a significant improvement from the old map shown at the October 13, 2021, meeting. We heard no indication from any of the Board members that the application for the subdivision was in jeopardy of being denied, on the contrary by virtue of the new map it looked like the subdivision was going to be approved.

We believe that the Planning Board purpose is to present to the public all pertinent information of the project being proposed for approval.

We are of the very strong opinion that all the necessary information needed for a fair hearing of the minor subdivision was not provided to the public at either of the Planning Board Hearings. In the October 13, 2021, Planning Board Hearing, something very, very wrong was said aloud and was simultaneously broadcasted by Mr. Barber at that public hearing and it concerned the right-of-way we have over the property located at 6185 Johnston Road, the property on which a 3 lot sub division is proposed to be built on. The following is what Mr. Barber wrongly said in that hearing to a call in question!

The situation is as follows:

A caller into the meeting identified as Siss and Carl;

Carl's question to the Board was "I don't know if you people talked about the right-of-way that's there now? That would be to the South of the house you want to tear down." Mr. Barber's immediate response was "Hey Nick is that the existing driveway?" Nick's response was, "Yes" to Mr. Barber's question, Mr. Barber then says "We have talked about it, there is an encroachment, correct and I don't know what the resolution to that problem is but there is an encroachment on the property, Yes I think that would be a property owner to property owner dispute."

Note: even the caller said this is a "right-of-way that's there now." Meaning the one on our property and on the property of 6185 Johnston Road, the very land that someone wants to put a 3 lot sub division on. Why would I need a right-of-way over my own property? A right-of-way is for the purpose for its use over someone else's property. Caller stated a fact!

Feb 28 22 03:30p

De Marco Garage

5184565896

p.3

Mr. Barber presented no proof of an existing encroachment on the property at 6185 Johnston Road at the public hearing of October 13, 2021.

We think Mr. Barber owes us an apology and an explanation as to where he got that wrong headed information about our right-of-way (calling it instead an encroachment) over the of 6185 Johnston Road. Also, who is it we are suppose to be having a "property owner to property owner dispute" with?

If we were having a dispute with anyone, I'm sure we would know about it!

We have a burning Question in regard to the new map displayed at the February 9, 2022, hearing; why was our right-of-way not shown on it?

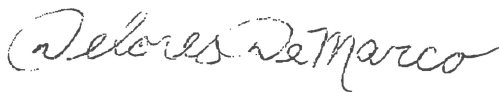
If our right-of-way was shown on the new map, one could see how our right-of-way over the land at 6185 Johnston Road would interface with the widened one lane driveway proposed to be widened to 20' thereby moving it closer to our right-of-way.

There is a popular saying; a picture is worth a 1,000 words. Let's see a picture of these two driveways on a new map! followed up by an open Planning Board Hearing before anyone makes a decision on whether or not the traffic from the minor subdivision can safely use the proposed roadway on the Southeast Conner of the land located at 6185 Johnston Road and how all the vehicular traffic coming into and out of it will affect our safety using OUR righ-of-way.

Sincerely,



Thomas De Marco



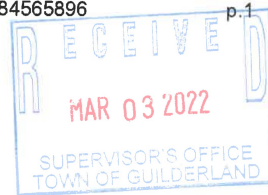
Delores DeMarco

Mar 03 22 02:47p

De Marco Garage

5184565896

p.1



March 3, 2022

Thomas & Delores De Marco
 6181 Johnston Road
 Albany NY 12203
 Phone # 518-456-5896

Mr. Kenneth Kovaichik, ALCP, Town Planner
 Town of Guilderland Planning Department
 Town Hall Route 20, PO Box 339
 Guilderland NY 12084-0339

Dear Mr. Kovaichik:

With the caveat that we have already stated very clearly to you in our Fax on February 28, 2022, that we have a legal right-of-way over the Southeast corner of the property located at 6185 Johnston Road, which was created via an Agreement on June 30, 1949, and has existed for over 73 consecutive years.

We cannot phantom any legitimate reason why our right-of-way was not clearly shown on the New Map proffered at the February 9, 2022, Planning Board Hearing.

Why would the Town Planning Board allow a Map such as the one proffered at the February 9, 2022, Hearing **to be presented at all**? It does not show on it the fact that an existing right-of-way already exist on the same Southeast corner of 6185 Johnston Road as would be the proposed one lane drive way expanded to a new width of 20'.

There is a popular saying I know of and it speaks loudly and clearly for what should be understood from what I expounded upon in my last paragraph and it is:

A PICTURE IS WORTH A 1,000 WORDS

Let's have a **clear picture** (visual) Shown on a new map of our right-of-way shown together with the proposed new 20' wide roadway that would be used for all the ingress/egress vehicular traffic that will be generated by the 3 lot minor subdivision! It is necessary that a new map be shown at the next hearing if full disclosure is what is be obtained! And for RECORD.

We regretfully can't show a visual here, as what promises to be a dangerous **bottle neck** of vehicular traffic generated by the ingressing/egressing from our right-or-way as it interfaces with the ingressing/egressing of the traffic of the subdivision.

Safety for vehicle, pedestrian, bicycle, motorcycle, etc., should be one of the paramount concerns of any decision the Planning Board makes in this matter; We know it is defiantly one of ours!

Sincerely,

Thomas De Marco
Delores De Marco
 Thomas and Delores De Marco

4/6/22, 4:29 PM

Town of Guilderland Mail - 6185 johnston Road Subdivision



Kenneth Kovalchik <kovalchikk@togny.org>

6185 johnston Road Subdivision

1 message

Kenneth Kovalchik <kovalchikk@togny.org>
To: Delores DeMarco <youngatheart66@outlook.com>

Thu, Mar 10, 2022 at 4:19 PM

Mr. Demarco,

I am in receipt of the letters you mailed and wanted to take this time to follow up with you. I've attached to this email an updated subdivision plan, and offer the following comments in response to your letter.

1. As a point of clarification. You had referred to Peter Barber as the Planning Board Chairman. Mr. Barber is the Town Supervisor. Steve Feeney is the Planning Board Chairman.
2. The darker gray areas on the plan identify the existing driveway on 6181 Johnston Road and proposed driveway on 6185 Johnston Road. As you can see on the plan your existing driveway access from Johnston Road is not changing. Your driveway actually encroaches onto the 6185 Johnston Road parcel.
3. The 20' right of way for ingress and egress, with Book and Page number, is noted on the plan for your driveway.
4. Elevations have been included on various points of your driveway and the proposed driveway on 6185 Johnston Road. As you can see on the plans there are sections of your driveway which are higher in elevation, and sections of the 6185 Johnston Road driveway that are higher in elevation. The area between the two driveway will be graded and the ditch will direct flows.
5. The proposed driveway on 6185 Johnston Road will be a 14' wide asphalt surface, with 3 1/2 feet of gravel on either side of the driveway.

I hope this addresses your concerns. At this time I am not sure of the date the application will return to the Planning Board for continued review. I will keep you updated.

Regards.

Kenneth Kovalchik, AICP
Town Planner
Guilderland Town Hall – 2nd Floor
5209 Western Turnpike
P.O. Box 339
Guilderland, NY 12084

(518) 356-1980 ext 1061
kovalchikk@togny.org

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6185 johnston rd minor subdivision.pdf
1101K

<https://mail.google.com/mail/u/0/?ik=891c08f431&view=pt&search=all&permthid=thread-a%3Ar-5899550839426734043%7Cmsg-a%3Ar-4865027091...> 1/1

4/5/22, 5:46 PM

Town of Guilderland Mail - Fwd: johnston rd drainage



Kenneth Kovalchik <kovalchikk@togny.org>

Fwd: johnston rd drainage

1 message

nicholas costa <ncostape@gmail.com>
To: Kenneth Kovalchik <kovalchikk@togny.org>

Thu, Mar 31, 2022 at 4:48 PM

Ken,
here is the email from Jim Mearkle and my response to his comments.....I have not heard anything more from Jim and he does mention that he thinks that the easement should be to the Town.....thank you

Nicholas Costa, PE



Advance Engineering & Surveying, PLLC

Consulting in:

Civil & Environmental Engineering • Land Surveying • Land Development

11 Herbert Drive, Latham, N.Y. 12110

Phone: (518) 698-3772

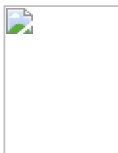
"Engineering Innovative & Sustainable Solutions"

----- Forwarded message -----

From: **nicholas costa** <ncostape@gmail.com>
Date: Mon, Mar 28, 2022 at 6:42 PM
Subject: Re: johnston rd drainage
To: Mearkle, James J. <James.Mearkle@albanycountyny.gov>
Cc: Anslow, William <William.Anslow@albanycountyny.gov>

Hi Jim,
the surveyors used the 42-inch target height.....we will let the Town know that it is your preference that the easement be dedicated to the Town since they have control of the downstream system.....the Panetta driveway cannot be relocated; they have contacted the Town and stated that their driveway has been there for a very long time and they do not want any interference with their driveway; you may want to discuss that driveway with Ken Kovalchick.....thank you

Nicholas Costa, PE



Advance Engineering & Surveying, PLLC

Consulting in:

Civil & Environmental Engineering • Land Surveying • Land Development

11 Herbert Drive, Latham, N.Y. 12110

Phone: (518) 698-3772

<https://mail.google.com/mail/u/0/?ik=891c08f431&view=pt&search=all&permthid=thread-f%3A1727383466255573739%7Cmsg-f%3A1728849897164...> 1/4

4/5/22, 5:46 PM

Town of Guilderland Mail - Fwd: johnston rd drainage

"Engineering Innovative & Sustainable Solutions"

On Thu, Mar 24, 2022 at 11:45 AM Mearkle, James J. <James.Mearkle@albanycountyny.gov> wrote:

Hi, Nick. We have a few comments and questions:

Were the sight distances on the plans measured using the target heights for stopping sight distance (24") or intersection sight distance (42")? Were they limited by obstructions or vertical curves? The 321' sight distance to the right exceeds stopping sight distance for 40 mph (305'), and basically meets the intersection sight distance for the 30 mph speed limit (325').

The proposed drainage easement should belong to the Town of Guilderland, since part of their system is within the proposed easement, and Albany County's is not.

Can the Panetta property driveway be moved more onto their frontage, or would that risk premature damage to the DI?

Jim Mearkle, P.E.

Traffic Engineer

Albany County Department of Public Works

449 New Salem Rd

Voorheesville, NY 12186

(518) 655-7928

From: nicholas costa <ncostape@gmail.com>
Sent: Tuesday, March 22, 2022 4:50 PM
To: Anslow, William William.Anslow@albanycountyny.gov
Cc: Mearkle, James J. <James.Mearkle@albanycountyny.gov>
Subject: Re: johnston rd drainage

greatly appreciated Bill

Nicholas Costa, PE



Advance Engineering & Surveying, PLLC

<https://mail.google.com/mail/u/0/?ik=891c08f431&view=pt&search=all&permthid=thread-f%3A1727383466255573739%7Cmsg-f%3A1728849897164...> 2/4

April 7, 2022

Thomas and Delores De Marco
6181 Johnston Road
Albany NY 12203
Phone # 518-456-5896

Kenneth Kovalchik, ALCP, Town Planner
Town of Guilderland Planning Department
Town Hall Route 20, PO Box 339
Guilderland NY 12084-0339

Mr. Kovalchik:

We are in receipt of your March 10, 2022 email and have comments and questions directly and peripherally related to it. We would appreciate prompt and considered responses to all of them.

We also will make several statements that **should demand** your and the rest of the Planning Board's attention. After perusing them, I am sure each of you will find them probing enough and rightful enough to strike down the Concept Plan submitted at the February 9, 2022 Meeting.

We will begin with what you said in paragraph number 3 of your email where you say "The 20' right of way for ingress and egress, with Book and Page number, is noted on the plan for your driveway. "
(Please provide us with the document found in Book # 2770 at Page #908.

Our comment on that statement is as follows:

For your and the rest of the Planning Board's enlightenment, we will explain how the statement in paragraph 3 is totally incorrect.

First of all, there **never** was a 20' right-of-way over our property, but there was, and still is a 20' easement. It is along the total length of the northerly boundary of our property at 6181 Johnston Road.

For further enlightenment of the entire Planning Board; **our right-of-way is mostly confined within the 20' easement on our property and the remaining part of it is located on the parcel of land on the southeast corner of 6185 Johnston Road.**

You will find proof of these facts in:

A legal Agreement made on June 29, 1949, filed in the Albany County Clerk's Office.

Comment:

Why don't You and or Mr. Costa or someone else from Advance Engineering and Surveying PLLC, do your due diligence to discover the facts as to whether or not we really have a legal right-of-way, which includes the driveway over the parcel of land located at the southwest corner of 6185 Johnston Road? Maybe Mr. Costa and or the company he works for can provide you and the rest of the Planning Board with an UP-TO-DATE ABSTRACT OF TITLE OR TITLE REPORT, and or the results obtained from a Title lawyer (?) Then you will have a much better chance of finding the, June 29, 1949 LEGAL AGREEMENT THAT CREATED OUR RIGHT-OF-WAY. IT WON'T BE FOUND BY JUST SAYING OVER AND OVER AGAIN that the driveway that exist on the southeast corner of 6185 Johnston Road is an "encroachment" !!!

When due diligence is done by those responsible for doing so, let everybody that needs to know the exact steps they took to prove that we don't have a right-of-way and that the driveway over the southeast corner of 6185 Johnston Road is an encroachment.

Notes that we think should be of considerable interest to the Planning Board:

On February 9, 2022, the Planning Board held a virtual meeting which was **broadcast** on ZOOM for the supposed purpose of receiving comment on it and

answering questions of concern from the residents' livening within 500' of said sub division.

A "Concept Plan" Map was presented at that meeting which overlaid, for the most part, the Survey of July 26, 2021. That survey had on it "Survey notes" which in part read as follows:

"Survey Notes:"

Survey Note 1, reads as follows:

1. "BOUNDRY EVIDENCE AND PLANMETRIC INFORMATION SHOWN HEREON WAS COMPILED FROM AN ACTUAL FIELD SURVEY CONDUCTED BY ADVANCE ENGINEERING & SURVEING, PLLC ON JUNE 11, 2021 AND REFLECTS VISIBLE CONDITIONS EXISTING ON THAT OCCASION."

(Did not the surveyor see in plain sight the driveway (our driveway) that exist over the parcel of land located at the southeast corner of 6185 Johnston Road? If they did see it, why was it not on either the Survey Of July 26, 2021 or the Map presented at the February 9, 2022 Planning Board Meeting?

It was the Planning Board's obligation that it be shown on the Map, as it would have shown 3 driveways that would dangerously intersect and crisscross before reaching Johnston Road. Is that the reason it was left off of the Map? The meeting was for the purpose of presenting to the public a full discloser of all the important aspects of the sub division. There was not any mention on how their proposed 20' wide 2 lane driveway would exist (interfere) with our over 73 year old driveway, which is used by necessity by 3 families who use it every day, but it should have, as it would not be of any small matter when the one lane and the proposed 2 lane 20' driveway come together when they both intersect at Johnston Road.)

Survey Note 4. Reads as follows:

4. " SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS, OF RECORD."

(Did anyone from Advance Engineering and Surveying PLLC, bother to look for these documents? If not why not?)

Survey Note 5. Reads as follows:

5. "THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP-TO-DATED ABSTRACT OF TITLE OR TITLE REPORT AND IS THEREFORE SUBJECT TO ANY EASEMENTS, COVENANTS, RESTRICTIONS, OR STATE OF FACTS THAT AN UP-TO-DATE ABSTRACT OF TITLE WOULD DISCLOSE."

(Did anyone from Advance Engineering and Surveying PLLC, try to find any of these documents?

We know of one such document and it is a Legal Agreement made on June 29, 1949, and it was filed in the Albany County Clerk's Office; hard to find? We don't think so, but of course if there is some secretive or improper reason for not finding it, then that explains why it is never revealed by Advance Engineering and Surveying, PLLC.)

THERE IS AN OLD PROVERB THAT GOES SOMETHING LIKE THIS "SEEK AND YOU SHALL FIND"

But first, you must want to find the thing that is of importance to you.

Here is another apropos saying;

If a falsehood is said over and over again, it can get by as believable.

We think that is what is called in the vernacular gaslighting.

The survey made on June 11, 2021 was at the least, plainly insufficient for the purpose of an application for a minor 3 lot sub division and at most meant to prevent important information, such as our right-of-way, from the Planning Board and other decision makers for the 3 lot sub division.

If the Concept Map had shown it at the February 9, 2022 Planning Board Meeting the proposed 20' wide 2 lane driveway that the entire population of the sub division was to use for ingress and egress to and from Johnston Road along with our right-of-way/driveway by 3 families, then it would be visually very clear that a very dangerous situation would exist, especially since the grade levels of the **driveways are substantially different**. Yes, Advance Engineering and Surveying, PLLC., somehow neglected to include on the Concept Plan Map our driveway (right-of way). It was absolutely imperative that our driveway be shown on it, as the safety implications of our driveway merging with the proposed 20' wide 2 lane driveway and both of them simultaneously merging onto Johnston Road would have necessitated a very vigorous discussion.

There is an old saying that says, a picture is worth a thousand words and a picture of this entanglement of driveways as they crisscross one another egressing onto and off of Johnston Road would easily make it plain that such a dangerous situation cannot be allowed to exist. If for some unfortunate reason, the Planning Board would give their blessings to such a crushingly bad idea they would do so without conscience for the people who will daily have to put themselves in the perilous situation every time they ingress or egress from or to Johnston Road, and that would include the people from the sub division as well as us rightful users of the existing right-of-way, one that has been in use for over 73 years.

Why allow an ill-conceived and unwanted project such as the proposed sub division to disturb the enjoyment of our properties. We are your constituents and have been so for many years; therefore why throw us under the bus so to speak for the benefit of a rogue company that submits ill-conceived plans for a 3 lot minor sub division? If the people who propose this collision of driveways would come out to the location to see for themselves where these driveways come together and pay particular attention to the significant difference in their grades levels of the two driveways in vicinity of Johnston Road area, they would clearly see that these driveways could not reasonably coexist safely. If this dangerous situation should become reality, an actual Darwinian situation would exist when all the sub division traffic and all the traffic from the 3 families that now use our right-of-way for ingress and egress to and from Johnston Road. The situation at times would be a real life example of the phrase "the survival of the fittest" postulated by Charles Darwin.

Also note there is another significant safety issue to be taken into consideration and that is the precariously short sight distance from these driveways located just slightly north of the intersection of Klink Road and the apex of a very steep hill it directly intersects.

Note that at the October 13, 2021 Planning Board Meeting the matter of the very short sight distance issue was several times brought to the attention of the Planning Board. Mr. Tabor who lives at 6186 Johnston Road brought the issue up several time to the Board and Mr. Morse who lives at the home located at the corner of Johnston Road and Ildra lane also brought it up at least twice and that was when the ingress and egress location for the sub division was between 6185 and 6187 Johnston Road.

At that time the sight distance from those driveways to the intersection of Klink Road and the apex of a very steep hill it intersects with, was about 300', as was the accepted figure by Mr. John G. Wimple, Jr.

on or about September 18, 2021. Now the Concept Plan presented at the Planning Board Meeting of February 9, 2022 shows that the ingress and egress for the sub division is about 150' less than it was on the Concept Plan shown at the September 30, 2021, Planning Board Meeting,

What is the actual sight distance from the proposed 2 lane 20' wide driveway to the intersection of Klink Road and the apex of a very steep hill it directly intersects?

Has that information ever been made available in a published record? if not why not?

Was the actual sight distance given at the February 9, 2022 meeting. if not why not?

What was the original sight distance given for the the proposed driveway located beteen 6185 and 6187 Johnston Road Klink Road, etc.?

So when the sight distance was about 150' further than the Concept Plan of February 9, 2022, how does the Planning Board square that with the residence who had very serious concerns of matter of the very short sight distance at the October 13, 2021 Planning Board Meeting? In their eyes and ours, we can't imagine how it is even vaguely conceivable that the Planning Board would even consider a much shorter sight distance for an even more congested 3 driveway ingress and egress to and from Johnston Road. Our question is why a much shorter sight distance would even be considered at all for, not just a two driveway ingress and egress to and from Johnston Road but for what would be a 3 driveway point of ingress and egress to and from Johnston Road. We consider ourselves very good citizens of The Town of Guilderland for many years and we expect to be treated as such and should not have to be pushed aside for the whims of a developer who has shown no obvious concerns for the residence who already live in this town.

Advance Engineering and Surveying, PLLC had at least a moral, if not a legal duty to show any and all existing driveways, easements, covenants, restrictions, or state of facts that an up-to-date abstract of title would disclose; clearly they did not do so and their involvement in the application for a 3 lot sub division should cause it to be denied.

One last thing we want to make clear to the Planning Board and that is our more than 73 year old right-of-way has been in place at least 7 times longer than the existing driveway on the southeast side of the house located at 6185 Johnston Road and if there is an encroachment of any kind on the southeast corner parcel of 6185 Johnston Road, it is the relatively short lived existing 1 lane driveway located at 6185

Johnston Road *which presently encroaches on our right-of-way* and the widening of the now existing one lane driveway at 6185 Johnston Road even, 1 inch more would constitute a further encroachment on it.

Thank you for your attention to our concerns.

Thomas and Delores De Marco

PS – Please post this letter to the Planning Board’s public Website for the April 13, 2022 Planning Board Meeting regarding the 3 lot sub division at 6185 Johnston Road.



**Albany County Clerk
Albany County Court House
16 Eagle Street Rm 128
Albany, NY 12207**

Return to:

**DOMINICK J PANETTA
6183 JOHNSTON RD
GUILDERLAND NY 12203**

Instrument: Deed

Document Number: 9271032 Book: 2770 Page: 908

Grantor RICCIO, JEFFREY P
LAIER, LAURAL

Grantee PANETTA, DOMINICK J
PANETTA, RENEE

Number of Pages: 3

Transfer Tax Receipt
Albany County Clerk Received:
Trans Tax # 9788
.....\$818.00

Amount: \$204000.00

Filing Date/Time: 06/14/2004 at 10:11 AM

Receipt Number: 133532

Note:

THIS PAGE CONSTITUTES THE CLERK'S ENDORSMENT, REQUIRED BY SECTION 316A(5) & 319 OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH.

Thomas G. Clingan

Thomas G. Clingan, County Clerk

h.j.

LIBER 2770 PAGE 908

Albany County Clerk
Document Number 9271032
Rcvd 06/14/2004 10:11:16 AM

WARRANTY DEED



THIS INDENTURE (9788

Made the 10th day of June, 2004

BETWEEN

JEFFREY P. RICCIO and LAURA L. LAIER, both residing at 6183 Johnston Road, Guilderland, New York 12203,

parties of the first part, and

J.P.R.
L.L.

DOMINICK J. PANETTA and ~~RENE~~ RENE PANETTA, husband and wife, both residing at 44 Wedgewood Drive, Loudonville, New York 12203,

parties of the second part,

WITNESSETH that the parties of the first part, in consideration of ONE & NO/100 (\$1.00) DOLLAR lawful money of the United States, and other good and valuable consideration, paid by the parties of the second part, does hereby grant and release unto the parties of the second part, their successors and assigns forever, All

THAT CERTAIN PIECE OR PARCEL OF LAND, situate, lying and being in the Town of Guilderland, County of Albany and State of New York, as set forth in Schedule "A" attached hereto.

Being the same premises conveyed to the parties of the first part by deed from Anthony R. Riccio, Jr. a/k/a Anthony Riccio and Phyllis M. Riccio a/k/a Phyllis Riccio dated November 15, 1998 and duly recorded in the Albany County Clerk's Office on January 6, 1999 in Liber 2620 of Deeds at page 328.

The premises are not in an agricultural district and the premises are wholly owned by the grantors.

SUBJECT to all enforceable covenants, restrictions and easements of record, if any.

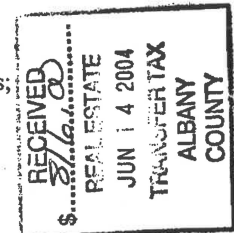
TOGETHER with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the parties of the second part, their heirs and assigns forever.

AND said parties of the first part, covenant as follows:

FIRST, That the parties of the second part shall quietly enjoy the said premises;

R.R.
M. - Mrs. Panetta
6183 Johnston Rd
Guilderland NY 12203



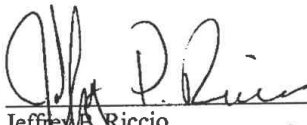
LIBER 2770 PAGE 909

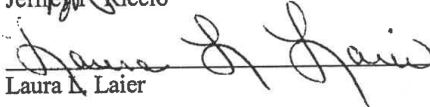
SECOND, That said parties of the first part will forever **WARRANT** the title to said premises.

THIRD, that in compliance with Sec. 13 of the Lien Law, the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.


IN PRESENCE OF


 _____ L.S.
 Jeffrey P. Riccio


 _____ L.S.
 Laura L. Laier

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On this 2nd day of June, 2004, before me, the undersigned, personally appeared JEFFREY P. RICCIO personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the foregoing instrument and he/she/they acknowledged to me that he/she/they executed the same in his/her/their capacity and that by his/her/their signature(s) on said instrument, the individual(s) or the person(s) upon behalf of which the individual(s) acted, executed the instrument.



 NOTARY PUBLIC

DONNA D. GAUNAY
 Notary Public, State of New York
 Qualified in Albany County
 No. 01GA6024722
 Commission Expires 5/17/2007

STATE OF NEW YORK)
COUNTY OF *Albany*) SS.:

On this *10th* day of *June*, 2004, before me, the undersigned, personally appeared LAURA L. LAIER personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the foregoing instrument and he/she/they acknowledged to me that he/she/they executed the same in his/her/their capacity and that by his/her/their signature(s) on said instrument, the individual(s) or the person(s) upon behalf of which the individual(s) acted, executed the instrument.



 NOTARY PUBLIC

R&R to:

PAUL B. KNAPP
 Notary Public, State of New York
 County of Albany # 02KN48611
 Commission Expires March 1st 2006

LIBER 2770 PAGE 910

SCHEDULE A LEGAL DESCRIPTION

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, situate, lying and being in the Town of Guilderland, County of Albany and State of New York, bounded and described as follows:

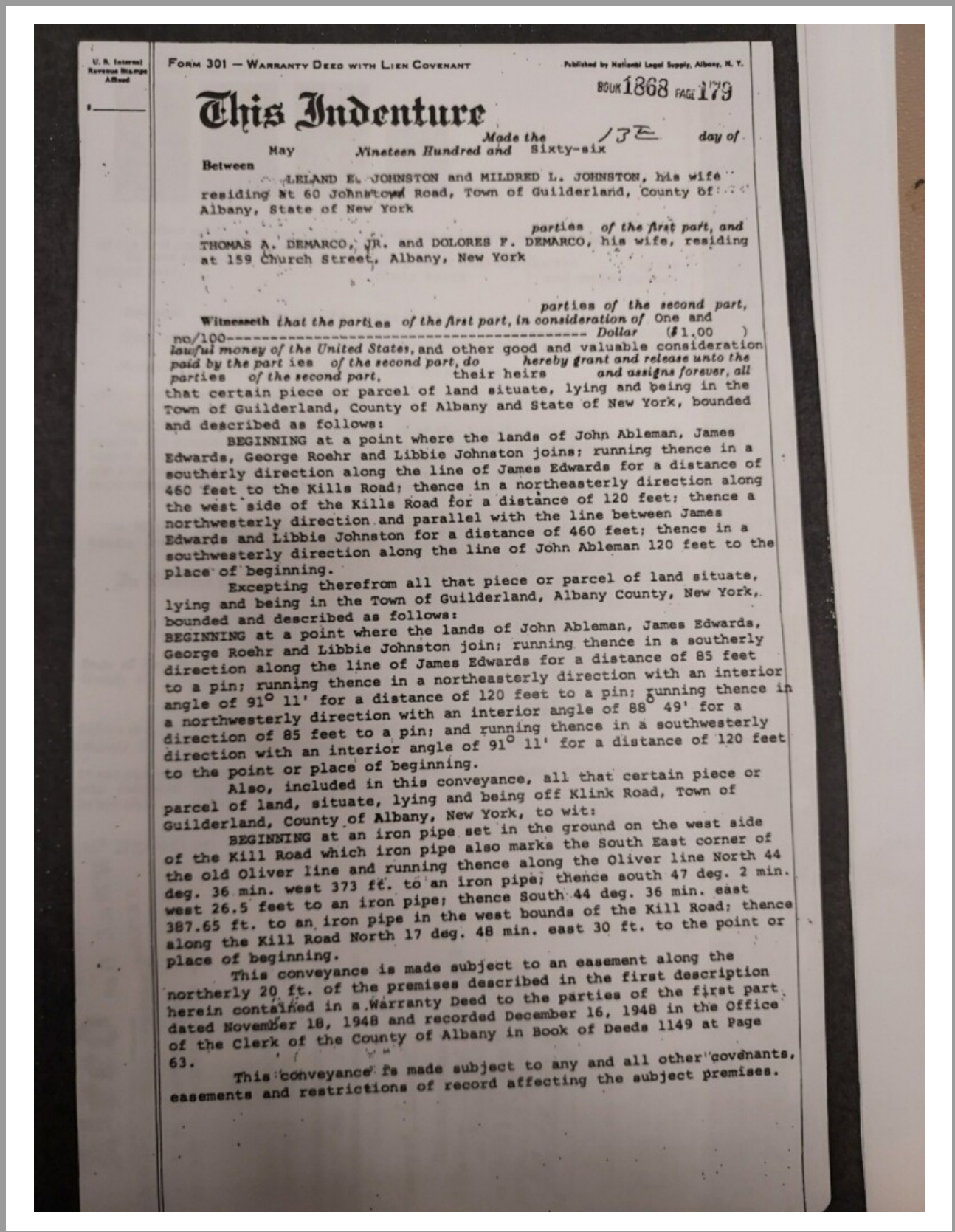
BEGINNING at a point where the lands now or formerly of John Ableman, James Edwards, George Roehr and Libbie Johnston join; running thence in a southerly direction along the line now or formerly of James Edwards for a distance of 85 feet to a pin; running thence in a northerly direction with an interior angle of 91° 11' for a distance of 120 feet to a pin; running thence in a northwesterly direction with an interior angle of 88° 49' for a distance of 85 feet to a pin; and running thence in a southwesterly direction with an interior angle of 91° 11' for a distance of 120 feet to the point and place of beginning.

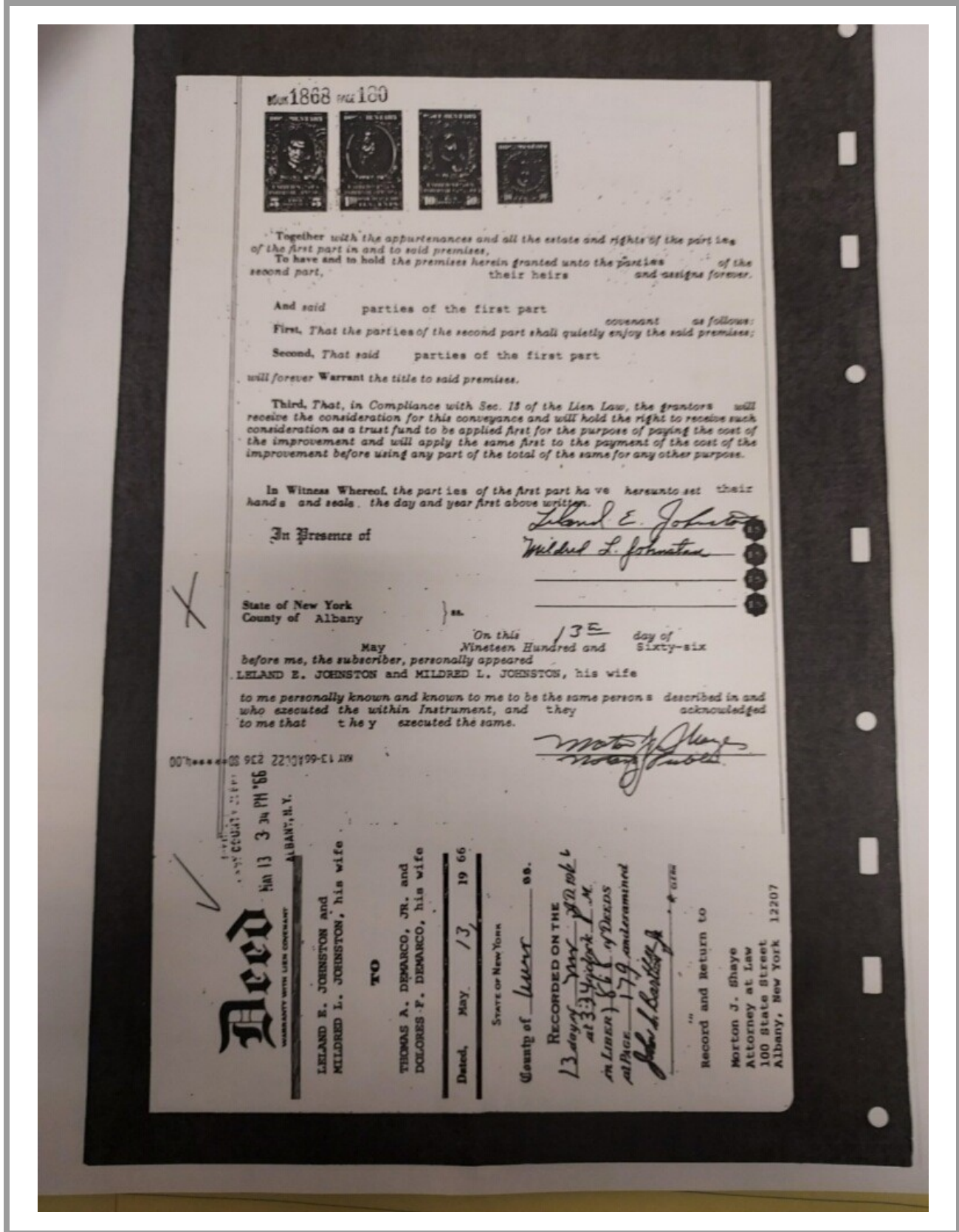
Together with a right of way for ingress and egress to and from the above described premises along the northerly 20 feet of that portion of the premises conveyed to Edward L. Welsch by Nelson C. Quant and Bertha Quant, his wife by deed dated June 2, 1947 and recorded in the Albany County Clerk's Office on the same day.

ALSO, all that tract or parcel of land situate in the Town of Guilderland, County of Albany, State of New York, more particularly described as follows:

BEGINNING at a point, said point being the most westerly corner of a 2.36 parcel of land as the same is shown on a map entitled "Map Showing Survey of Remaining Lands of Ildra E. Ableman", dated August 20, 1980 and made by Donald W. Selee, Land Surveyor; thence northeasterly and along the northwesterly line now or formerly of said Ableman a distance of 75 feet to a point; thence southeasterly with an interior angle of 82° 59' 01" a distance of 85.64 feet to a point; thence southwesterly with an interior angle of 97° 00' 59" a distance of 50 feet to a point; thence southeasterly with an interior angle of 262° 59' 01" a distance of 100.75 feet to a point in the southwesterly line of lands now or formerly of the said Ableman; thence northwesterly and along the southwesterly line now or formerly of said Ableman with an interior angle of 7° 42' 29" a distance of 185 feet to the point of beginning, making an interior angle of 89° 18' 30" with the first mentioned line.

STATE OF NEW YORK }
COUNTY OF ALBANY } ss.:
Recorded in DEEDS
As Shown Hereon And
Examined
Thomas G. Clingan
THOMAS G. CLINGAN
ALBANY COUNTY CLERK





Bk 1868 Page 100



Together with the appurtenances and all the estate and rights of the part lies of the first part in and to said premises, To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.

And said parties of the first part covenant as follows:

First, That the parties of the second part shall quietly enjoy the said premises;

Second, That said parties of the first part

will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 15 of the Lien Law, the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals, the day and year first above written.

In Presence of

Leland E. Johnston
Mildred L. Johnston

State of New York
County of Albany

On this 13th day of May Nineteen Hundred and Sixty-six before me, the subscriber, personally appeared LELAND E. JOHNSTON and MILDRED L. JOHNSTON, his wife

to me personally known and known to me to be the same persons described in and who executed the within Instrument, and they acknowledged to me that they executed the same.

Morton J. Shaye
Notary Public

007***** 962 221099-01 108

ALBANY, N.Y.
MAY 13 3 34 PM '66

Deed
WARRANTY WITH LIEN CONVEYANCE

LELAND E. JOHNSTON and
MILDRED L. JOHNSTON, his wife

TO

THOMAS A. DEMARCO, JR. and
DOLORES F. DEMARCO, his wife

Dated, May 13, 19 66

State of New York
County of West

RECORDED ON THE
13 day of May 1966
at 3:34 PM '66
in Liber 866 of Deeds
at Page 179, and examined
John H. Bentley

Record and Return to

Morton J. Shaye
Attorney at Law
100 State Street
Albany, New York 12207