



Environmental, Planning, and Engineering Consultants

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Memorandum

To: Town of Washington Planning Board
From: Aaron Werner, AICP
Date: December 1, 2023
Re: 515 Woodstock Road Subdivision
cc: Timothy Clear and Johna Lee Clear (Property owner)
Douglas E Larson – Larson Architecture Works PLLC (Applicant / Architect)
Meghan Clemente (PB Attorney)
Alicia Moore (AKRF, Inc.)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Planning Board Application.
- EAF dated 11/16/2023.
- Agricultural Data Statement dated 11/5/2023.
- Agent Affidavit, notarized (undated).
- Applicant/Owner Affidavit, notarized (undated).
- Owners Endorsements notarized 11/15/2023.
- Consent to Inspection dated 11/15/2023.
- Site Plan (1 sheet) prepared by Larson Architecture and dated 11/20/2023.
 - Includes property survey, prepared by Kevin Cunningham and dated 1/8/2009.
- Deed
- Aerial image of subject property.

PROJECT DESCRIPTION

The Applicant, Douglas E. Larson, on behalf of the property owners Timothy A. Clear and Johna Lee Clear, requests approval for a non-realty subdivision of a 90.87-acre parcel into five parcels. The property is located at 515 Woodstock Road (tax parcel 6766-00-021055-0000) in the RL-5 zoning district and Agricultural District 21. The subject property is bisected east-west by Woodstock Road, resulting in a northern portion and southern portion. Each portion of the existing property contains a pond and scattered wetland areas on either side of Woodstock Road. Total existing structures include two single-family homes, an accessory dwelling unit (cottage), several agricultural accessory structures (barns/shed), and six driveways. Three of the existing structures are preexisting nonconforming due to decreased front setbacks.

The proposed subdivision would not increase the extent of any of the preexisting nonconforming front yard setbacks. The resulting parcels would have the following acreage and structures:

- Parcel 1 – 21.50 acres with one barn (tractor barn)
- Parcel 2 – 12.75 acres with one barn (modern barn)
- Parcel 3 – 5.02 acres with single-family home (farmhouse), two barns (chicken coop, timber stables), accessory dwelling unit (cottage) (The project proposes to remove the existing kitchen from the cottage.)
- Parcel 4 – 24 acres with one single-family home (modern house)
- Parcel 5 – 27.6 acres with one livestock shed

Although the proposed subdivision would not impact the preexisting nonconforming setbacks, the Applicant's proposal would create three new nonconforming setbacks on Parcels 2 and 3, which will each require area variances, as follows:

- Barn 1 (modern barn) – rear yard setback variance for 49.02 ft. (75' required; 25.98' proposed)
- Barn 2 (timber stables) – side yard setback variance for 48.5 ft (75' required; 26.5' proposed)
- Cottage (ADU) – side yard setback for 16.54 ft (75' required; 58.46' proposed)

COMMENTS

APPLICATION COMPLETENESS

1. On the Application form, the response to Question II.C states that the Preliminary Plat tentatively includes "NO" future lots. However, the proposed subdivision would create four new lots (total of 5). This response should be updated and/or clarified.

CODE COMPLIANCE / SKETCH PLAN

2. Since four of the proposed lots will not be at least five times the minimum lot size in the RL-5 zoning district, the application cannot be defined as a minor subdivision per the Town Code (definition provided below). The application would qualify as a conventional subdivision under the Code. However, in cases where no new development or infrastructure is proposed, such as this application, the Planning Board has historically not required further analysis of lot buildability, agricultural soils, delineation of wetlands, etc.

SUBDIVISION, MINOR:

A subdivision which requires no new road construction, and which creates three (3) or fewer new parcels, or six (6) or fewer new parcels if the average parcel size is at least five (5) times the minimum lot size in the zoning district. The number of new parcels shall be calculated based upon lots that were in existence on January 1, 1989 and all subdivisions since that date shall be treated as cumulative for purposes of determining the number of new parcels created.

3. This application will require a public hearing.
4. Each of the proposed new parcels would conform with the RL-5 lot requirements of minimum lot size (5 acres), minimum frontage (300 feet), and maximum lot coverage (10%).
5. The Applicant should explain why portions of Woodstock Road are included in all new lots, as opposed to having the property lines end at the edge of the road. It appears that portions of the public road are proposed to be included in these private lots.

In addition, Parcel 3 will appear to straddle a portion of Woodstock Road. If this is confirmed, the sketch plan should be updated to show the property lines ending at the road with a "land hook" symbol linking the two portions of Parcel 3 over Woodstock Road. (An example of this symbol can be seen in

the Parcel Access image of the existing subject property, over Woodstock Road.) The symbol can be colored blue to correspond with the new lot lines proposed in the subdivision.



6. The approximate location of the septic field for the house on Parcel 4 should be shown.
7. Three of the existing structures are preexisting nonconforming due to decreased front yard setbacks (100' required), as follows: single-family farmhouse (42.8' existing), cottage (45.7' existing), and tractor barn (49.6' existing). The proposed subdivision would not increase the extent of nonconformity for these preexisting reduced front yard setbacks.
8. However, the proposed subdivision would create three new nonconforming structures/setbacks, which will each require area variances from the Zoning Board of Appeals (ZBA), as follows:

Variances for Proposed Nonconformities

New Parcel #	Structure	Setback at Issue	Required	Proposed	Variance
2	Barn 1 (modern barn)	rear yard	75'	25.98'	49.02'
3	Barn 2 (timber stables)	side yard	75'	26.5'	48.5'
3	Cottage (ADU)*	side yard	75'	58.46'	16.54'
Notes: *Cottage (ADU) – In addition to the proposed reduced side yard setback, the cottage will continue to have a preexisting nonconforming front yard setback. (Comment 7)					

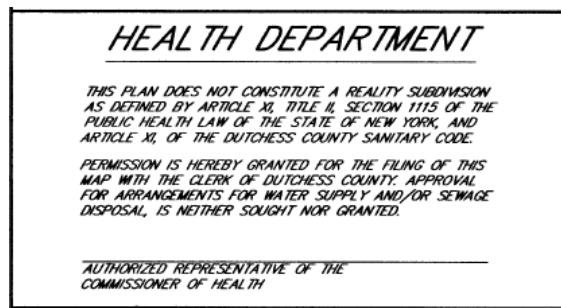
Approval of the subdivision, if granted, should be “preliminary” in nature and conditioned on the Applicant receiving the necessary variances from the ZBA prior to the Planning Board chair signing of the final plat.

9. The following should be corrected on the zoning table and site plan:
 - a. The site plan shows the farmhouse front setback as 42.83'. On the zoning table, the farmhouse front setback is 42.3'. While the actual difference is minimal, all measurements should be consistent throughout.
 - b. In the zoning table, for “MODERN HOUSE” and “BARN 1 (MODERN BARN),” the Compliance column should be changed to “yes.”

10. The property includes ponds and wetland areas. However, as no construction is currently proposed, a wetland permit is not required. If construction is proposed in the future, a wetland permit may be required if the construction is within the 100-foot wetland buffer area.

REFERRALS

11. The subject parcel is within a farm operation in an agricultural district (AD 21). This application is therefore subject to General Municipal Law (GML) 239-n, which requires referral to Dutchess County. Typically, the Dutchess County Department of Planning and Development has exercised the option to review subdivision applications that involve an application for a variance. Therefore, since a variance application will be needed, referral by the Planning Board to the County under to GML 239-n is required. The County is required to respond within 30 days of referral by the Planning Board. The ZBA would not be required to refer the variance application to the County, as their review is limited to a residential variance, which is exempt under the County-Town referral reduction agreement.
12. This application for a non-realty subdivision requires permission to file from the Dutchess County Health Department, which the Applicant must demonstrate has been received prior to the Planning Board Chair signing of the final plat. An appropriate signature block for the Health Department (similar to below) should be added to the plat.



SEQRA

13. This application is considered an Unlisted action under SEQRA. The Applicant has submitted a Short EAF Part I as required for Unlisted actions. The EAF submission appears accurate when compared to the NYSDEC EAF Mapper outputs. While wetlands and waterbodies are present on the property, no development is currently proposed. A Negative Declaration is appropriate for this application. However, the ZBA should be an Involved Agency in a coordinated review.
14. If residential development is proposed on one or more parcels in the future, it would be considered as-of-right, subject to the RL-5 district requirements and building permits issued by the Building Department. The Planning Board and/or Zoning Board of Appeals may be required to review individual development proposals (and complete a review under SEQRA) in the future if certain conditions are identified by the Town's Zoning Administrator based on the nature of the residential use (need for variances, wetlands permits, site plan/special permits, etc.).

RECOMMENDATION

At the December 5, 2023 Planning Board meeting, AKRF recommends that the Planning Board discuss the application and consultant comments; request revisions to the plat as documented in the comments; classify the application as Unlisted/Coordinated under SEQRA; declare Intent to be Lead Agency and send notice to the ZBA; refer the application to the Dutchess County Department of Planning and Development; and set the public hearing if prepared to do so.