

Memorandum

To: Town of Washington Planning Board
From: AKRF, Inc. (A. Werner, AICP, A. Moore, AICP)
Date: October 3, 2025
Re: Whalen Colman Lot Line Change and Subdivision (563 and 561 Verbank Rd)
cc: Richard and Judith Whalen; Jenny and William Colman (property owners)
 Brian M. Houston, L.S. (Applicant and Surveyor)
 Hannah Atkinson (PB Attorney)
 Jonathan Ialongo (Town Building Inspector)

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

- Cover Letter to Susan Meany Chairperson, Town of Washington Planning Board from Brian M. Houston, L.S., dated 9/23/25.
- Planning Board Application dated 9/17/25.
- Agent's Affidavit, signed and notarized, undated.
- Disclosure of Business Interest (x4, for each property owner) signed and notarized, undated.
- Owner's Endorsement signed by Judith Whalen and notarized 9/18/25.
- Owner's Endorsement signed by Richard Whalen and notarized 9/18/25.
- Owner's Endorsement signed by Jenny Colman and notarized 9/21/25.
- Owner's Endorsement signed by William Colman and notarized 9/21/25.
- Consent to Inspection signed by William Colman and Jenny Colman dated 9/21/25.
- Consent to Inspection signed by Richard Whalen and Judith Whalen, undated.
- Property deeds.
- Short EAF dated 9/23/25.
- Agricultural Data Statement dated 9/17/25.
- Aerial Photo dated 9/23/25.
- Subdivision and Lot Line Change (1 sheet) prepared by Brian M. Houston, L.S. dated 8/27/25.

PROJECT DESCRIPTION

The Applicant, Brian M. Houston, L.S., on behalf of property owners Whalen and Colman, proposes a lot line adjustment (LLA) and subdivision involving the Whalen property at 563 Verbank Rd (parcel ID 135889-6664-00-309457, 54.15 acres) and the Colman property at 561 Verbank Rd (parcel ID 135889-6664-00-209387, 20.69 acres). Both are in the RL-5 zoning district and APO overlay (AD 21). The Whalen property contains a residence, barn, and active farmland; the Colman property contains a residence. The properties use a common driveway. The LLA would transfer 20.58 acres from Whalen to Colman, resulting in parcels of 33.57 acres and 41.27 acres, respectively. Following the LLA, Whalen proposes to subdivide 19.58 acres of undeveloped land ("Lot A") from the remaining land, resulting in 13.99-acre parcel containing the Whalen house and barn. Lot A would be conveyed to the Whalens' daughter for estate planning. Access to Lot A is proposed from the existing common driveway and a new individual driveway, located between two wetland buffer areas. Other than the driveway, no construction is presently proposed.

COMMENTS**APPLICATION COMPLETENESS**

1. While no new development is proposed as part of the lot line adjustment, the Planning Board may request that the Applicant describe the purpose of the LLA and transfer to Colman.

PROCEDURAL / CODE CONSIDERATIONS

2. This application for a subdivision requires a public hearing.
3. The Applicant proposes a subdivision that would result in one new lot and change the sizes of two existing lots, resulting in three lots sized 13.99 acres (Whalen), 41.27 acres (Colman), and 19.58 acres (Lot A). Therefore, the application meets the Town Code's definition of a "minor" subdivision (definition from Article VII provided below).

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.

Based on review of "Filed Map 10402B" available in Dutchess Parcel Access (and emailed to the Planning Board with this memorandum), the last known alteration to the subject properties was a minor lot line adjustment in 2014 (approved by the Planning Board) conveying 36.65 acres from the Whalen property to what is now the Colman property. (The resulting parcels were sized 54.15 acres and 20.69 acres, which is their current acreage.) The 2014 plat also references FM 10402 entitled "Subdivision and Lot Line Change prepared for Whalen, Potter, and Cho" (1997) and FM 10204A entitled "Lot Line Change prepared for Whalen & Whalen-Nolan" (2006). Based on a review of those maps, no new parcels were created, but only changes in acreage to existing parcels. No other history of subdivision of the subject properties was found. Therefore, it can be inferred that no new parcels have been created since 1989 and that the cumulative "number of new parcels created" by the proposed subdivision would be one, thus satisfying the definition of a "minor subdivision."

4. Procedural considerations for minor subdivisions are found at 137-10(B) of the Town Code, as follows:

B. Minor subdivisions and lot line adjustments.

(1) If the subdivision is a minor subdivision or lot line adjustment, as defined in Article VII, the applicant may request and the Planning Board may grant waivers from informational and procedural requirements in this chapter (Chapter 137), provided that such waivers do not violate the provisions of Sections 276 and 277 of the Town Law.^[*]

(2) The Planning Board may, in its discretion, adopt a list of standard waivers that will normally be granted for minor subdivisions and lot line adjustments, respectively.

(3) No lot created through a minor subdivision approval shall be treated as a minor subdivision again until 10 years after final approval.

* NOTE: Sections 276 and 277 of the New York Town Law relate to the development, approval and filing of plats and subdivisions.

5. As noted above, since the application meets the definition of a minor subdivision, the Planning Board may grant waivers from informational and procedural requirements outlined in the Subdivision Law. These procedures include items listed in paragraphs A through P under Section 137-21 (Preliminary Plat), which include the "land inventory information relating to natural features on and within 500 feet

of the property.” As the application is a minor subdivision, AKRF recommends that the Planning Board waive the requirement to provide a land inventory analysis.

6. Any future new construction or alteration (on any lot) would be subject to the RL-5 district requirements and building permits from the Building Department. Depending on the nature of the proposal, additional approvals (e.g., variances, special permits, wetland permits, etc.) may also be required, triggering review by the Planning Board and/or Zoning Board of Appeals and, if applicable, environmental review under SEQRA. As noted in Comment 8 below, as part of its review of the current application, the Planning Board may also require the Applicant to demonstrate the potential buildability of proposed Lot A using information from the NRI and other Town mapping resources.
7. The plat shows that the Whalens’ utility well would remain within the same lot. The Applicant should confirm that the “utility risers” shown on the plat identify the septic location.
8. While no construction other than the driveway extension is currently proposed, the Planning Board can request that the Applicant demonstrates that proposed Lot A is buildable without area variances or detrimental impacts to the on-site wetlands or agricultural soils. The subject property is within the APO district, and review of the NRI shows that the entire property consists of either “farmland of statewide importance” (in brown) or “prime farmland if drained” (in green). The submitted plat identifies the southern portion of Lot A as land designated to be used for agricultural purposes only. In the APO district, residential structures shall be located on the property’s least fertile agricultural soils, and appropriate buffers shall be provided between residential and agricultural uses (see Zoning Code § 165-25(G)).

To demonstrate to the Planning Board that Lot A is buildable, the Planning Board may request that the Applicant provide a conceptual building envelope that can accommodate a footprint of a house, driveway, well, and septic system on proposed Lot A that can be protective of agricultural soils (by providing enough land for continued agricultural activities) and other sensitive features while also in compliance with the RL-5 district requirements, the Town’s Wetlands Law, and County/State health codes.



NRI Map of Agricultural Soils

9. The proposed driveway extension to Lot A runs between the protected buffer areas of NYS Freshwater Wetland MD-45 to the west and pond to the east. The plat notes that the limits of the NYS Freshwater Wetland are based on a 2014 delineation validated by NYSDEC. As the driveway runs close to the 100-foot buffer boundaries, AKRF has referred this application to the Town Wetland Consultant for review and comment, due to the age of the delineation/validation, typically valid for 5 years. AKRF recommends a site walk by the Town’s Wetland Consultant (which can be combined with or separate from a Planning Board site walk) to verify the limits of the wetlands and opine on the necessity of permits related to the proposed driveway shown on the plat.

REFERRALS

10. The subject parcel is within 500 feet of a farm operation in an agricultural district (AD 21). This application is therefore subject to General Municipal Law (GML) 239-m, which requires referral to Dutchess County. Typically, the Dutchess County Department of Planning and Development has not exercised the option to review subdivision applications that do not involve a variance. However, the Planning Board may, in its discretion, refer this application to the County as an “other authorization which a referring body may issue under the provisions of any zoning ordinance or local law” (GML §239-m(3)(vi)). Based on recent Planning Board precedent to refer all subdivision applications, this application should be referred. The County is required to respond within 30 days of receipt.
11. 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.
12. Consistent with other recent subdivision applications, the Planning Board should refer the application to the Town’s Conservation Advisory Commission (CAC) for comments. The CAC shall submit its comments to the Planning Board within 25 days of receipt.

SEQRA

13. This application is considered an “Unlisted” action under the State Environmental Quality Review Act (SEQRA). The Applicant has submitted a Short Environmental Assessment Statement (SEAF), prepared in consultation with the EAF Mapper. Under SEQRA, use of the SEAF is acceptable for Unlisted actions. The EAF Mapper did not identify any Critical Environmental Areas, threatened or endangered species, historic / archaeological resources, floodplains, or remediation sites in connection with the subject properties.
14. Wetlands: As noted above, possible wetlands are flagged by the Town’s mapping (and the EAF Mapper), consistent with the submitted plat. As noted in Comment 9, AKRF recommends the Town’s Wetland Consultant review the application and conduct a site walk. (See also, Comment 8 recommending that the Applicant demonstrates that Lot A is buildable without the need for a wetland permit.)
15. Threatened/Endangered Species: Although NYSDEC databases do not identify the presence of threatened or endangered species, according to the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) Report, the subject property has the potential to contain Indiana Bat, Northern Long-eared Bat and Bog Turtle.

To address potential impacts to protected bat species, the Planning Board can require a note on the preliminary and final subdivision plat that if any tree clearing is required future construction of a residence and driveway, trees can only be cleared during the USFWS recommended timeframe (between October 31 and March 31) when bats are hibernating.

Regarding bog turtle, the Town’s Wetland Consultant can opine on habitat as part of their review of the wetlands, buffers, and proposed driveway shown on the plat. Consistent with prior subdivision applications, the Planning Board reserves the right to require a bog turtle habitat assessment on proposed Lot A by a qualified professional as part of any future request for a wetland permit for the proposed driveway (should the Town’s Wetland Consultant determine one necessary). Therefore, in connection with any notes that may be recommended on the preliminary and final subdivision plat related to wetland permit requirements, an additional note can include the requirement for a bog turtle habitat assessment by a qualified professional to address potential presence of bog turtle as identified by the USFWS IPaC.

16. AKRF recommends that Planning Board has enough information to declare its intent to serve as Lead Agency under SEQRA. Although no approvals or permits are required from other agencies at this stage, the following agencies may be considered SEQRA “Interested Agencies,” and therefore a Notice of Intent to be Lead Agency and the SEAF should be circulated:

- a. Dutchess County Health Department (jurisdiction: permission to file for non-realty subdivision, approval of future individual well and septic)
- b. NYSDEC Region 3 (jurisdiction: potential review of wetland delineation under new state wetland regulations – no disturbance of wetlands proposed, pending confirmation from the Town Wetland Consultant.)

The Interested Agencies listed above will have 30 days to respond to the notice with any comments, at which point the Planning Board may declare itself Lead Agency provided none of the agencies object.

RECOMMENDATIONS

At the October 7, 2025 Planning Board meeting, AKRF recommends that the Planning Board 1) discuss the application and consultant comments; 2) authorize required referrals (Dutchess County, CAC); 3) authorize circulation of a notice of intent to be lead agency for an Unlisted application under SEQRA; 4) discuss scheduling a site walk; and increase the Applicant’s escrow to \$4,000.