

Town of Washington Planning Board
Feb 2, 2010

The monthly meeting of the Town of Washington Planning Board was held on February 2, 2010, at the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Chairman, Josh Mackey, Thomas Beaumont, Donald Hanson, James Shequine, Matthew Rochfort, consultant Neil Wilson. Absent: Robert Alley.

Chairman, Mackey opened the meeting at 7:30 P.M. with the Pledge of Allegiance.

Chairman, Mackey read the meeting's agenda, asked for a motion to approve the December 1, 2009 meeting minutes. The minutes were approved with the following corrections: page 8, paragraph 2, line 5, insert the word "and" between ground surface, to read, the ground and surface water, page 8, paragraph 2, line 7, correct spelling of Genova, on a motion by board member Hanson, and seconded by board member Rochfort. 4 ayes, 1 abstain.

The application of Murray Boundary Line Change (Tracy Murray) west side of Chestnut Ridge Road is for two adjacent parcels presently owned by Murray containing 5.25 and 171.39 acres taking twenty (20) acres of land from the large parcel and merge it with the small parcel. The change would result in the west line of the small parcel moving to a stream, with said stream being the new line. The property is zoned RR 10.

Dutchess County Tax Map Grid No: 171.39 acres parcel - 6864-00-688291, 5.25 acres parcel- 6864-00-769451.

Previously submitted to the board were four (4) copies of survey map, completed application form, Short Environmental Assessment Form.

Kevin Cunningham, L.S. appeared before the board, said Tracy Murray owns both parcels. Originally there was a one acre parcel in the northeast corner, the Murray's purchased this from Shaun Campbell two years ago, then merged some land on the main farm bringing the parcel to 5.25 acres. The main farm is 171.39 acres. Jim Murray built a new house that he is selling, has a buyer for the house. Next pointed out the location of the existing boundary line.

Said, Mr. Murray has come to an agreement with the buyer to extend the boundary lines westerly to the stream, the center of the stream will be the new boundary line. This is two (2) acres of land, will add two acres of land bringing the amount of acreage to 7.25 acres.

Said, after his telephone conversation with Chairman, Mackey, suggesting that the parcel should be divided to equal ten acres since the district is zoned RR 10, talked with Jim Murray, expressed the board's concern about the probability of bringing the parcel to ten (10) acres. Mr. Murray has twenty-five head of cattle on the property now, (black Angus) he bails four hundred bails of hay per year to feed them, they are round bails with plastic, stores the hay bails in the area

pointed out on the survey map which was an old farm gravel bank, stores the hay bails there to get away from the stream. The stream runs through the property, there is quite a bit of wetland through the middle. According to Mr. Murray, there is a problem with seepage out of those bails of hay. When the plastic rips, rain gets through them, whatever leaks out of those hay bails, if it gets into the stream will kill the fish. This is a big problem, the reason that he does not want to increase the size of the 5.25 acre parcel.

On the west side of the stream is a pasture, the cattle graze there. Said, the stream makes a very natural boundary line, the location is a very defined channel, is very steep from the house down to the stream, also slopes back down to the stream from the west side. It is a very defined channel, is rocky, doesn't have a tendency to move around like a lot of streams that would be in a more flatter flood plain area. The stream vegetation, trees, go right to the bank, then drops off. The stream is the obvious property line that is defined by the channel. If it did slightly change, which probably wont, the boundary line would move with the stream. The stream would always be the boundary line, both parties would have use of the stream.

Board member Beaumont remarked, because the land does have a lot of contour, suggested that contours be placed on the survey map. Review of the March '06 original mapping by the board, Kevin Cunningham, followed.

Consultant Wilson requested that the approximate location of the septic system and well be shown on the survey map. Remarked that the board spent a lot of time working through the driveway on the original application.

Chairman, Mackey spoke on the issue of the stream, the boundary being down the middle of the stream. The board talked about the fact that it is a natural meandering stream, is a potential problem. During the workshop it was talked about perhaps having meets and bounds on the map so that it was defined. Questioned if board members still feel strongly about that. Said, he is not familiar with the stream that Kevin is describing. The reality is that the way that the environment is behaving in the past couple of years, we are seeing more and more changes to stream banks. Frank Genova remarked on the baseline of the stream, said, the topography is rather flat, in a flood plain situation this could cross over, then it would be a contentious situation down the road for the next owner. Said, this is his only concern, doesn't know what the baseline of the stream is, seems to be a meandering stream. Most streams in the Town, County, if they are bedrock baselines they will be straight. Kevin Cunningham said it is a very defined channel, the stream will not cut across. Said, he agrees that in some situations streams do not make a good boundary line. Said, it would be meaningless to have meets and bounds, the language is very clear in the deed.

Board member Hanson questioned if both parties agree that if the stream does shift it would still remain the boundary line. Kevin said, when you define the center of the stream as being the boundary line, if the stream had a tendency to shift one way or the other, the boundary line would

Page 2

shift with it. Where ever you measure the cross in the short interval it is going to be in a different spot, the banks are not totally parallel. The intention is to have the stream as the

boundary line, it makes sense because where ever it is, that is the boundary line, whereas as some arbitrary line, if meets and bounds were run, is it meaningless because the intention is to have the center of the stream as being the boundary line. Chairman, Mackey remarked that both parties, the potential purchaser and Murray want to have access to the stream so they have worked out a compromise.

Kevin said no matter who owns the property that is how it is going to be deeded. Board member Beaumont commented that in a future survey if the stream changed it would be a moot point. Kevin said it is going to be deeded that way, if the stream did change, the intention is to have the centerline of the stream as the boundary line. Board member Beaumont remarked, “the boundary stays where the stream goes.” Board member Hanson questioned if this is in the deed? Kevin said it typically would say in describing the property, generally northerly along the center of the stream as the line determines, so many feet. Consultant Wilson remarked that as long as the stream is there, you are going to be able to find the centerline.

Kevin said the language is clear in the deed that the stream is intended to be the boundary line. The way boundary laws work on streams, if the deeds call for the center of the stream, if the stream moves, so does the boundary line. Unless there is a major storm, suddenly the channel is at another point, you can see visibly from one day to the next day that it has moved, then it would stay in its original channel. If it gradually goes one way or the other over time, really can't see that change, that is how the line goes, otherwise you will never know where it is.

The board requested 1) the survey map is to show the contour lines 2) the survey map is to show the location of the septic and well

A public hearing is scheduled for the next meeting, March 2, 2010.

Fee Status: Application fee \$ 500.00 paid
Escrow fee 500.00 paid
Total paid \$1,000.00

A motion to adjourn the meeting was made by Chairman, Mackey and seconded by board member Hanson, All ayes. The meeting was adjourned at 7:57 P.M.

Respectfully submitted,

Nikki Caul, secretary

