

**RESOLUTION
TOWN OF ROCHESTER PLANNING BOARD
MINOR SUBDIVISION APPROVAL
OCTOBER 11TH, 2023**

**Decision PB 2023-329 Minor Subdivision
Minor Subdivision Conditional Final Approval**

Applicants: Daniel Barry and Barbara Thom

Applicants propose a minor subdivision to create one lot of +-47 acres and another of +- 42 acres.

Location: 170 Stony Kill Road, Accord, NY 12404

S/B/L: 77.3-1-49.100

Total Acreage: +/- 89 acres

Planning Board Application: 2023-329

Zoning District:H Zoning District

Code Enforcement Determination: Applicant has met zoning requirements and no physical restrictions apply, from CEO Letter dated June 26, 2023.

Zoning Permit: #23/329, with Zoning Determination Letter dated June 26, 2023.

Planning Board Application: 2023-329 Minor Subdivision

Planning Board Application Filed: 06/23/2023

Application of Zoning Permit and Classification filed:06/23/2023

SEQR Type: Unlisted

WHEREAS, Daniel Barry and Barbara Thom (the “Applicants”) propose a two-lot minor subdivision, with one lot comprising +-47 acres and the other comprising +-42 acres; and

WHEREAS, the Project is located on a +-89 acre parcel at 170 Stone Kill Rd, Accord, NY 12404, SBL 77.3-1-49.100 (the “Property”); and

WHEREAS, the Property is located in the H Zoning District; and

WHEREAS, on June 23, 2023 the Applicants submitted a Subdivision Application for the Project pursuant to So-Ordered Stipulation of Settlement in a judicial proceeding in which they are parties; and

WHEREAS, on June 23, 2023 the Applicants submitted an Application of Zoning Permit and Classification; and

WHEREAS, on August 8, 2023 Barry Medenbach, P.E., submitted a memo noting that the site is suitable to support a septic system and would meet NYS Department of Health standards for septic design; and

WHEREAS, on June 26, 2023 the Town of Rochester Code Enforcement Officer determined that the Project met zoning requirements; and

WHEREAS, the Project is an Unlisted action pursuant to SEQRA; and

WHEREAS, on 06/20/2023 the Applicants submitted a Preliminary Site Plan prepared by Medenbach & Eggers Civil Engineering & Land Surveying which was updated on 07/24/2023 and then again on 09/05/2023; and

WHEREAS, the Town Planning Board held a duly noticed public hearing on October 11, 2023; and

WHEREAS, the Planning Board has carefully considered all submittals relating to the Project from the Applicants and their consultants, its own consultants, comments and/or approvals from public officials and agencies including without limitation the Code Enforcement Officer, the Ulster County Department of Health, and the general public; and

WHEREAS, the Planning Board has carefully reviewed the potential adverse environmental impact of the Project, taken a hard look and evaluated such potential against the criteria for significance in 6 NYCRR § 617.7(c).

NOW, THEREFORE, BE IT RESOLVED, that the Town of Rochester Planning Board hereby finds that there is no potential for significant adverse environmental impact from the proposed subdivision within the meaning of 6 NYCRR § 617.7 and determines that no draft environmental impact statement will be required; and

BE IT FURTHER RESOLVED, that the Town of Rochester Planning Board hereby finds the application in compliance with the criteria in chapters 125 and 140 of the Town Code and grants preliminary approval to the Project subject to the below conditions.

GENERAL CONDITIONS OF APPROVAL

1. This Approval is conditioned upon the Applicant submitting all necessary final copies of the plans, reports, and documents to the Town of Rochester Building Inspector. The Applicant shall present Final Plans for signature, which shall be entitled "Final Subdivision Drawings for Barry Minor Subdivision" and modified as conditioned.
2. This Approval is further conditioned upon all other approvals which are currently required or any which may be determined in the future to be required in conjunction with the construction and/or operation of this use being secured or renewed as applicable and which are needed by operation of federal, State or local laws and regulations, whether or not noted above in the Specific Conditions of this Resolution, including, but not limited to the United States Army Corps of Engineers, New York State Department of

Environmental Conservation, New York State Department of Transportation, New York State Department of Health, Ulster County Department of Health, the Town of Rochester Board, and compliance with the New York State Uniform Fire Prevention and Building Code. Should any permit approvals or any subsequent activities necessitate a change to the approved plat or contravene any conditions herein or any applicable code, the matter shall be referred to the Planning Board for consideration. Should any conditions imposed by other agency permits cause conditions to be in conflict, the more restrictive condition shall prevail.

3. The subdivision plat as approved by the Planning Board shall be binding upon the Applicant and any subsequent owner. Any changes from the approved plan shall require resubmission and re-approval by the Planning Board. No deviation from the plans, reports or other documents that form the basis for this approval are effective unless and until an amendment to this Resolution is secured from the Planning Board in writing. The Town may stop work on this project, and/or revoke a building permit, and/or withhold a certificate of occupancy, and/or seek any other additional relief as authorized by law, if any term or condition of this Resolution is violated.
4. All fees regarding this Application must be paid in full, including all application fees, other fees required by the Town Code, and the fees of the Planning Board consultants, including all engineering, planning, and legal fees. Any bonds or other security required by this Resolution shall be submitted in a timely manner as required by the Town Code or Building Inspector. No building permit may be issued by the Building Inspector unless and until such fees have been paid in full and such bonds or other security, if any, shall have been filed with the Town.
5. Any bonds necessary for the performance of the work shall be in such form and in such amounts as required by the Town Board of Trustees, in consultation with the Town Engineer, the Town Highway Superintendent, and the Town Attorney.
6. The Owners' Consent Block shall be signed and dated by the Owners following the date of last revision and prior to the Chair signing the plat.

The Town of Rochester Planning Board further grants the authority to the Chairman to certify that the conditions have been completed without further resolution and to sign and date the plat at such time.

EFFECT of APPROVAL:

1. This Subdivision Approval and associated conditions shall be binding upon the applicant and all successive owners of the land so long as such use(s) shall occur.
2. This approval shall remain effective as an authorization to secure the required permits and establish the use(s) for a maximum of one year from this date of approval unless the applicant shall have submitted written request and the Planning Board shall have

adopted such resolution granting an extension and provided the applicant has submitted proof of having diligently pursued the implementation of the plans.

Draft resolution was prepared by the Chairman and was read, discussed, and amended by the Planning Board.

Adopted October 11, 2023, by the following vote:

Ayes: Nays: Absent:

**Motion made by
Seconded by**

Date

Marc Grasso, Chair

cc: Kathleen Gundberg, Town Clerk, T/ Rochester
 David Gordon, Esq., Planning Board Attorney
 Jerry Davis, Code Enforcement Officer, T/ Rochester
 Assessor, T/ Rochester
 Daniel Barry and Barbara Thom, Applicants

The following plans and materials were submitted and reviewed for this application:

Materials Reviewed:

1. Septic Feasibility memo from Medenbach& Eggers, Civil Engineering and Land Surveying P.C., dated 8/8/2023
2. Site Plan dated 9/5/2023
3. Site Plan, dated 7/24/2023
4. Subdivision Application, dated 6/23/2023
5. So Ordered Stipulation of Settlement, dated 5/19/2023
6. Sketch Site Plan, dated 6/20/2023
7. Application of Zoning Permit and Classification, dated 6/23/2023