



# TOWN OF NEW CASTLE

Greeley Avenue, Chappaqua, New York 10514 • Ph. (914) 238-4724 • Fax (914) 238-5177

**PLANNING BOARD**


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Counsel  
Jennifer Gray, Esq.

Director of Planning  
Sabrina Charney Hull, AICP

Town Engineer  
Robert J. Cioli, P.E.

Secretary  
Janice Friend  
(914) 238-4724  
(914) 238-5177

TO: New Castle Planning Board (via email)  
FROM: Sabrina D. Charney Hull, AICP  
Director of Planning   
DATE: February 13, 2019 for February 19, 2019 Planning Board Meeting  
SUBJECT: Birdoff/Burack/Durst Subdivision Amendments (Lot Line / CGLL) SWPPP and Wetlands Permit Approvals [TM: 81.20-3-11, 81.20-3-1 & 92.8-2-2]

<b>PROJECT NAME</b>	<b>Birdoff/Burack/Durst Subdivision Amendments (Lot Line/CGLL), SWPPP and Wetlands Permit Approvals</b>
<b>TM #</b>	81.20-3-11 & 81.20-3-1 & 92.8-2-2
<b>OWNER/APPLICANT</b>	Vicki and Richard Birdoff, Durst Buildings Corporation & Peter Burack/ Marjorie Becker
<b>ADDRESS</b>	24 Trails End, 14 Trails End and Old Roaring Brook Rd.
<b>PROPERTY SIZE</b>	Birdoff 4.978AC/Burack 2.200AC/Durst 24.634AC
<b>ZONING DISTRICT</b>	R-2A
<b>APPLICATION FOR</b>	Subdivision amendments, wetlands permit, steep slopes permit, tree removal permit, site plan amendment & SWPPP
<b>SEQR CLASSIFICATION</b>	Type II.

**Project Description**

As per discussions with the Applicant’s representatives and the submitted application material, the Birdoffs were preparing to sell their property and discovered some nonconformities. The following information has been identified by the Applicant and confirmed by Town Staff in regards to the property known as the Birdoff residence at 24 Trails End [TM: 81.20-3-10]:

- The Birdoff property was approved as a 4.98AC property in an R-2A zoning district;
- The existing building coverage on the property is 9,922 SF where the approved maximum building coverage was 8,333.48 SF. There is currently a 1,588.52 SF exceedance in building coverage on the property.
- The existing development coverage is 34,011SF where the approved maximum development coverage was 22,178.68 SF. There is currently an 11,832.32 exceedance in development coverage on the property.
- There is a non-conforming side-yard setback of 40.9 feet where 45 feet are required.
- The Applicant has also surpassed the approved Clearing and Grading Limit Line with retaining walls, a fire pit, lawn area, stepping stones, pool equipment, and a porch.

To address the issues outlined above, the Applicant has proposed the following through the submission of the subject applications:

- Undertaking a lot line adjustment consisting of 1,132SF with the property owner to the southwest known as Burack at 14 Trails End [TM: 81.20-3-11]. This lot line adjustment will not change the size of either property in that the proposed change is an equal swap of 1,132 SF. This lot line change will remove the non-conforming setback of 40.9 feet and will result in a code compliant side yard setback of 45 feet.

- A second lot line adjustment is proposed with the south eastern neighbor known as the Durst Corporation located on Old Roaring Brook Road [TM:92.8-2-2]. In this instance 4.1 Acres of property will be deeded to the Birdoff property. As such, the Durst Property will be reduced in size, from 24.634 AC to 20.534 AC. The Birdoff property will increase in size, from 4.978 Acres to 9.078 Acres.
  - This lot line change will result in a new maximum allowable building coverage of 11,907.096 for the Birdoff property, which will bring the existing building coverage of 9,922SF into compliance.
  - This lot line change will also result in a new maximum allowable development coverage of 34,686.336, which will bring the existing development coverage of 22,178.68 into compliance.
- The Applicant is proposing an amended Clearing and Grading Limit Line (CGLL). The new proposal will remove a majority of the improvements to be located outside of the CGLL. In total, the Applicant has created approximately 300 square feet of net new impervious surface within the approved CGLL that was separate and apart from the previously approved wetland permit application. The applicant is proposing mitigation planting of approximately 300 SF to mitigate this disturbance. This aspect of the application is under review by the Environmental Coordinator and the application has been referred to the ERB/CB.
- The applicant is requesting that the Planning Board waive jurisdiction in accordance with §113-3 of the *Code of the Town of New Castle*.

### **Project History**

05/02/18	Pre-application meeting with Town Staff
09/06/18	Pre-application meeting with Town Staff
10/10/18	Pre-application meeting with Town Staff
01/14/19	Application Submission for Lot Line Amendment (2) Wetlands Permit Approval and Stormwater Pollution Prevention Plan
02/06/19	Planning Board referral of application to ERB/CB

### **Project Review**

The Applicant has submitted the following documents and plans:

- Cover letter to the Planning Board from Geraldine Tortorella of Hocherman, Tortorella & Wekstein, LLP, dated January 14, 2019;
- Application for Subdivision Approval (Birdoff/Durst) and Short Form EAF dated January 7, 2019;
- Application for Subdivision Approval (Birdoff/Burack) and Short Form EAF dated January 4, 2019;
- Application for Subdivision Approval (CGLL) and Short Form EAF dated January 11, 2019;
- Application for Wetlands Permit Approval, dated January 9, 2019;
- Application for Stormwater Management and Erosion and Sediment Control, dated January 4, 2019;
- Plan labeled “Development Coverage Plan (DC-1) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated January 11, 2019, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;
- Plan labeled “Grading/Clearing Limit Line Mitigation Plan (MP-1) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated January 11, 2019, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;

- Plan labeled “Resubdivision Lot Line Change Plan (LLP-1) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated January 11, 2019, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;
- Plan labeled “Aerial Plan (A-1) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated January 11, 2019, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;
- Plan labeled “Wetland Development Coverage Plan (WP-1) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated January 11, 2019, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;
- Plan labeled “Wetland Mitigation Plan (WP-2) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated January 11, 2019, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;
- Plan labeled “Survey of Property (SU-1) Birdoff Residence 24 Trails End, Chappaqua, Town of New Castle, NY,” dated December 8, 2017, prepared by JMC Planning Engineering, Landscape Architecture & Land Surveying, PLLC;
- Plan titled “Re-Subdivision Map of Lot 7” prepared by JRL Land Surveying P.C, dated August 20, 2018 and last revised November 3, 2018; and
- Plan titled “Re-Subdivision Map of Lot 5, 6, and 7 prepared for Richard Birdoff and Peter Burack” prepared by JRL Land Surveying P.C, dated November 3, 2018.

**Review Comments:**

1. The maximum coverage calculations for the existing 498AC property should be included on the Development Coverage Plan (DC-1), not just the proposed maximum development coverage calculated after the lot line changes.
2. The calculations regarding the property area within the Maximum Coverage Calculations Table should be re-calculated-there appears to be errors with the math.
3. The bulk requirement table should include identification of the existing non-conformities (side-yard setback, building coverage, development coverage), through a foot note or color variation in the table with a key.
4. The combined action of the lot line amendments as well as the wetland permit and approval of the stormwater pollution prevention plan are considered TYPE II actions in accordance with the State Environmental Review Act. Specifically Sec. 617.5(c) (11) *construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance or upgrade of a drinking water well or a septic system or both, and conveyances of land in connection therewith;*
5. The Planning Board may wish to schedule a site walk to view the subject properties.

This office will continue to review the application per the direction of the Planning Board.

ecc: Janice Friend, Planning Board Secretary  
 Robert Cioli, Town Engineer  
 Steve Coleman, Environmental Coordinator  
 Jenifer Gray, Esq., Planning Board Counsel  
 Geraldine Tortorella, Esq. Hocherman, Tortorella &Wekstein, LLP  
 Vicki and Richard Burdoff, Applicant  
 Peter Burack & Marjorie Becker, Applicant  
 Durst Buildings Corporation, Applicant