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COUNSEL



MGS#2224.03

FRANK S. McCULLOUGH (1905-1998)  
EVANS V. BREWSTER (1920-2005)  
Copies ..... Planning Board

- ..... Town Board
- ..... Zoning Board
- ..... Legal Dept.
- ..... DOTS Director
- ..... C.A.C.
- ..... A.R.C.
- ..... Applicant
- ..... \_\_\_\_\_
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Sent 8/27/19

Chairperson Loretta Taylor and Members of the Planning Board  
Town of Cortlandt  
1 Heady Street  
Cortlandt Manor, New York 10567

**Re: Application of Beaver Brook Cortlandt, LLC (formerly Furnace Dock, Inc.),  
16 lot cluster subdivision, Furnace Dock Road**

Dear Chairperson Taylor and Members of the Planning Board:

As you will recall, by Resolution No. 17-11 dated July 6, 2011, the Planning Board granted conditional final plat approval for the above referenced application. You have previously granted thirty-one (31) ninety (90) day extensions of the conditional approval.

Once again, due to circumstances beyond our client's control, as described below, we are respectfully requesting a thirty-second (32nd) and again hopefully final ninety (90) day extension.

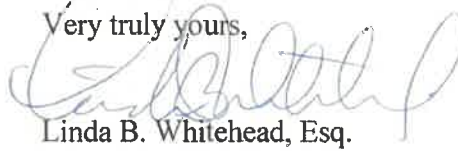
I am attaching a copy of our prior letter explaining the status of this matter. Since that time we have been advised that Jonas Bastys, Inc. has submitted to the Town for a sewer rate increase as it needs additional funds to complete the upgrades to the plant required by NYSDEC. Our understanding is that there are ongoing discussions with the Town concerning this matter and they are currently modifying the rate increase request, but no progress has been made on completing the upgrades. Therefore, we have been unable, despite our best efforts, to obtain the "will serve" letter required to meet the condition of updated DOH approval of the plat.

As stated, without the letter, DOH will not sign the updated plat. As you can see, this is completely beyond my client's control and we have undertaken our best efforts to get this resolved.

We hereby request that this matter be put on your September 10, 2019 agenda for consideration.

Thank you for your continued cooperation in this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Linda B. Whitehead".

Linda B. Whitehead, Esq.

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May 22, 2019

MGS#2224.03

Chairperson Loretta Taylor and Members of the Planning Board  
Town of Cortlandt  
1 Heady Street  
Cortlandt Manor, New York 10567

**Re: Application of Beaver Brook Cortlandt, LLC (formerly Furnace Dock, Inc.),  
16 lot cluster subdivision, Furnace Dock Road**

Dear Chairperson Taylor and Members of the Planning Board:

As you will recall, by Resolution No. 17-11 dated July 6, 2011, the Planning Board granted conditional final plat approval for the above referenced application. You have previously granted thirty (30) ninety (90) day extensions of the conditional approval.

Due to circumstances beyond our client's control, as described below, we are respectfully requesting a thirty-first (31<sup>st</sup>) and again hopefully final ninety (90) day extension.

We and our client have spent the last several years working to have all the conditions of the final subdivision approval satisfied and the plat filed. The client is prepared to provide the soil erosion and maintenance security, as well as the performance security. The payment of \$90,000 to the Town for the railroad pond property (condition 7d.) was paid by our client in 2015, and the remaining payments are due pursuant to an agreed schedule relating to the issuance of building permits and certificates of occupancy, or in the case of the inspection fee, 60 days prior to the commencement of any work on the site. Easement documents have been prepared and submitted to the Town Attorney for review. As of fall of 2017 we had satisfactorily addressed all engineering comments and had resubmitted the plans to the Department of Health.

The DOH previously signed the subdivision plat in 2011, but changes were subsequently made at the request of the Town in relation to access to the railroad pond property by the Town,

necessitating new signatures. The DOH requested updated "will serve" letters from the Town and the operator of the Baltic Estates Sewage Treatment Plant.

Based upon all the engineering comments being addressed, the Town provided the updated "will serve" letter for the water supply and other documentation required from the Town. At that time, we also reached out to Jonas Bastys, Inc., the owner/operator of the Baltic Estates Sewage Treatment Plant, to obtain merely an update of the letter they previously provided. We received an initial response from the attorney for Jonas Bastys, Inc. in December 2017 requesting changes to our existing agreement with them and significantly increased payments. We then began negotiations. In January 2018, I was advised there had been a change in ownership and that the attorney no longer represented the company. I was given a different attorney to contact and immediately reached out. In February I got a response and was given the name of yet a third attorney to contact (interestingly the original attorney we dealt with on the original agreement in 2002). In March of 2018 we were finally able to schedule a meeting with the attorney and principal of the sewer company. At that time we became aware of the fact that NYSDEC and the WCDOH had both issued violations and required certain work to be undertaken by Jonas Bastys, Inc. at the Baltic Estates Sewage Treatment Plant. Due to this, they indicated they were unable to give us an updated "will serve" letter and we have been advised they cannot allow any new connections until the work is complete. Since that time we have made repeated efforts to meet with them and try to assist them with getting the work done by providing funds or actually doing the work. Our requests and offers were repeatedly ignored, and at one point we were advised by the attorney that he was no longer authorized to speak to us and we should deal with his client directly. In December 2018 after reminding them of their obligations under the existing original Agreement to provide service, we were asked to provide the proposed amendments to the Agreement as had been discussed. We did so, and only received comments back from them on April 25<sup>th</sup>. We have also been unable to obtain any information from them on the status of the work to be completed in order to have the violations removed. Our understanding from speaking to other parties is that the work for the DOH air quality violation is close to complete, but the upgrades required by DEC have not been addressed. Therefore, we have been unable, despite our best efforts, to obtain the "will serve" letter required to meet the condition of updated DOH approval of the plat.

As stated, without the letter, DOH will not sign the updated plat. As you can see, this is completely beyond my client's control and we have undertaken our best efforts to get this resolved.

We hereby request that this matter be put on your June 4, 2019 agenda for consideration.

Thank you for your continued cooperation in this matter.

Very truly yours,

  
Linda B. Whitehead, Esq.