

GENERAL GUIDE FOR MODIFYING LOCATION OF OPEN SPACE AREA

Various residents of Warriors Mark Township have asked for information regarding procedures for modifying open space areas on their lots. The following is intended only as a general guide for the relocation of open space areas that were approved prior to 2005 as required by the Townships Subdivision and Land Development Ordinance (98-2). Each situation is different, such that additional steps may be required, depending on the circumstances of the situation. In the vast majority of situations, the services of an attorney whose practice involves real estate transactions AND the services of an engineer or a surveyor who has experience in land use planning will be necessary.

1. Because most, if not all, of the “open space” easements in the Township are in subdivisions and are identified in the recorded subdivision plans for those subdivisions, before an open space area can be relocated, the consent of each and every lot owner in the subdivision will be required. If any lot owner in the subdivision fails or refuses to consent to the proposed relocation of an open space area, the relocation of the open space area to another part of the lot will not be permitted.

Therefore, an important first step is for a property owner who wishes to relocate the open space area on his lot is to speak with each and every property owner within the subdivision and to describe where the open space currently is located on his lot, and where he would like to move it, and to ask all the other property owners in the subdivision if they are willing to consent to the proposed relocation of the open space area. Otherwise, a property owner may invest a great deal of time and money in legal and engineering work, only to find that he is unable to relocate the open space on his lot, because one or more of the other property owners within the subdivision are unwilling to consent to the relocation.

2. If all of the other property owners within the subdivision indicate that they will consent to the proposed relocation, the next step is to consult with an engineer (or land surveyor) to determine the area on the property owner’s lot to which the open space will be relocated. The Township will require a drawing which shows where on the lot the open space currently is located, the area (to nearest hundredth of an acre) of open space on the lot, and the place on the lot to where the open space will be relocated. A metes and bounds description of the open space area will be required, and the drawing should show the proposed open space relocation area along with the metes and bounds description.
3. As noted above, it is recommended that an attorney with expertise in real estate transactions be consulted. The Township will require the preparation of an agreement pursuant to which each and every lot owner in the subdivision agrees and consents to the relocation of the open space. The attorney who represents the landowner seeking to relocate the open space will be responsible for preparation of the agreement. In many instances, the consent of the Township also will be required. If this is the case, the Township also will be a party to the Agreement.
4. Assuming that all property owners in the subdivision are willing to sign the agreement for relocating the open space, the Township will review the Agreement and sign the

Agreement, as appropriate. It is recommended that there be ongoing conversation between the engineer/surveyor, the landowner's attorney, and the Township's engineer and solicitor, at each and every step so as to reduce the possibility of miscommunication and misunderstanding.

5. After the agreement has been signed by all parties, the agreement will be recorded at the office of the recorder of deeds at the Huntingdon County Courthouse. The lot owner who has requested the relocation of the open space is responsible for paying the costs of recording.

The steps listed above are merely a guide; however, as noted above, each situation is unique, such that further steps may be required.