

# **Town of Otsego Planning Board**

Minutes (unapproved), April 3, 2018

## **REGULAR MEETING**

The monthly meeting of the Town of Otsego Planning Board was held on this date at the Town Office Building in Fly Creek, New York. Chairman Tom Huntsman called the meeting to order at 7:02 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. Board members present were Huntsman, Scottie Baker, Chip Jennings, Walter Dusenbery, and Ted Feury. With Darryl Szarpa (Vice-Chairman), Elizabeth Horvath, and alternate member Toby Wilcox absent, alternate member Sharon Kroker joined the meeting table. Also present were Zoning Enforcement Officer Ed Hobbie, Planning Board Attorney Ryan Miosek, and Town Board members Carina Franck and Tom Hohensee.

The Board reviewed the minutes of March 6, 2018, taken by acting clerk Meg Kiernan and e-mailed to the members. Feury moved to approve the minutes as written. Dusenbery seconded the motion and it was approved, 4-0, with Baker and Jennings abstaining because they were not at the meeting.

Chairman Huntsman read from the only correspondence received since the last meeting, a March 7 letter from Delaware Engineering regarding Oneonta Rail Yards Redevelopment.

Chairman Huntsman asked if anyone had a conflict with any of tonight's applicants. No member reported any conflict, but Miosek said he would be recusing himself from the Hall application.

Chairman Huntsman asked if anyone from the public had a comment on a non-agenda item. No one responded. The Board moved on to applications.

## **APPLICATIONS**

### **Otsego Sailing Club (David Ainsworth, Ronald Streek) – Site plan review, construction of pavilion within 500 feet of Otsego Lake – State Highway 80 (#99.00-1-32.02)**

Scottie Baker read aloud from the March 6 minutes relevant to the Otsego Sailing Club application. Representatives David Ainsworth and Ronald Streek were present, submitting completed application, a short environmental assessment form (EAF), and updated maps and drawings. The proposed pavilion is now 112 feet from Otsego Lake, removing the need for a variance.

Chairman Huntsman went through the site plan requirements from Section 8.04 of the *Land Use Law*. No unmet requirements were noted.

The Board discussed State Environmental Quality Review (SEQR). Walter Dusenbery moved to declare lead agency status for the Planning Board, and deem this a Type II action per SEQR Section 617.5(c)(7). Scottie Baker seconded the motion and it was approved, 6-0.

Baker moved to deem the application complete. Chip Jennings seconded the motion and it was approved, 6-0. Ted Feury moved to schedule a public hearing for May 1. Dusenbery seconded the motion and it was approved, 6-0.

**Aaron Hall – Sketch plan conference, replacement of garage in Otsego Lakeshore protection area – 6555 State Highway 80 (#84.08-1-24.01)**

Attorney Miosek left the meeting table. Applicant Aaron Hall explained that he had started erecting a detached garage (replacing one which had been demolished by a falling tree) on his 4.71-acre property, when he was issued a “stop-work” order by Zoning Enforcement Officer Hobbie. The garage is 155 feet from Otsego Lake and larger than the one it replaced (28x32’ vs. 12x16’), thus requires site plan review.

Chairman Huntsman went through the site plan requirements from Section 8.04 of the *Land Use Law*. He said that the topographic contours requirement could be waived. The consensus of the Board was that the applicant needed to submit a complete application form, information on exterior lighting, and a list of neighbors within 200 feet of the property boundaries. Hall will plan to return on May 1 with these items.

The Board discussed State Environmental Quality Review (SEQR). Chip Jennings moved to declare lead agency status for the Planning Board, and deem this a Type II action per SEQR Section 617.5(c)(7). Walter Dusenbery seconded the motion and it was approved, 6-0.

Miosek returned to the meeting table.

**Bill Michaels (Jon McManus, David Brennan) – Site plan review, special permitted use (“Heirloom Barn”), craft beverage manufacturing business – 276 Goose Street (#98.00-1-29.00)**

Applicant Bill Michaels was present, along with representatives David Brennan, Jon McManus, and Hyde Clarke. Scottie Baker read aloud from the March 6 minutes relevant to the application. The representatives submitted a 40-page revised site plan package, including evidence that the barn is more than 60 years old, and Zoning Enforcement Officer Hobbie’s written determination that the proposed project meets the provisions of the “Heirloom Barn Law.”

Chairman Huntsman cited various thoughts, questions, and concerns he had about the application after reviewing the Town’s Comprehensive Plan and *Land Use Law*. Huntsman said that he agrees that the building fits the definition of “Heirloom Barn” in Section 3.15. He asked what use is being proposed; i.e., what district’s list of permitted uses is the applicant borrowing from? Brennan said it would be a farm distillery/winery/brewery, and that it would fit with several of the Town’s special permitted uses, including retail sale of food & beverage.

Brennan asked about Pail Shop Vineyards, an existing winery/brewery establishment on Goose Street. Board members advised him that that project had never come before the Planning Board.

Chairman Huntsman noted the lot is less than one acre, making it pre-existing, non-conforming. He cited Section 1.04, which states that “Non-conformities of lots, buildings, or uses of land or buildings may not be increased, expanded, or exchanged for other non-conformities.” Brennan disagreed that this law applies, citing Hobbie’s written determination, and saying that they are actually *decreasing* the non-conformity by removing buildings from the setback areas. Attorney Miosek agreed with Brennan.

Chairman Huntsman cited Section 3.04, which says that “There shall be only one principal building per lot.” With the existing house, and the barn used for commercial enterprise, there would be two principal buildings. Brennan said that most barns are on lots

with a house; how could one use the “Heirloom Barn Law” if this law applies? Attorney Miosek noted that the Kimmerer application, which the Board approved under the “Heirloom Barn Law” in January, also involved a house and barn on the same lot. Chip Jennings said that that is not in the hamlet residential district.

Chairman Huntsman expressed concern about two septic systems on such a small lot. McManus said he was confident that they would be able to accommodate a second system, explaining the requirements and options.

McManus submitted a signed and sealed survey and a revised site plan dated 1/22/18 revision 4A. He explained the plans and answered questions. He said the establishment would have to follow New York State Departments of Environmental Conservation and Health (DEC and DOH) requirements.

Chairman Huntsman cited Section 4.01, addressing flood plains. Michaels said that the property is not in a designated flood hazard area. McManus said that they would have to comply with FEMA regulations in order to get a building permit.

Chairman Huntsman asked Danny Lapin, an environmental planner for the Otsego County Conservation Association, for input regarding Ag & Markets concerns. Lapin said that, unless a property is in a New York State Ag District, Town laws apply.

Chairman Huntsman went through the site plan requirements from Section 8.04 of the *Land Use Law*. The consensus of the Board was that the only missing item was a floor plan. Scottie Baker remarked that the applicants are downplaying the potential increase in customer traffic that they hope for. Walter Dusenbery again expressed concern about the proposed hours of operation, 8 AM to 11 PM.

Attorney Miosek said that the Board needed to decide whether this project qualifies under the “Heirloom Barn Law,” or else none of the other discussion is relevant. After long discussion, Ted Feury moved that the project qualifies under the “Heirloom Barn Law,” Section 3.15. Baker seconded the motion and it was approved, 4-2, with Jennings and Dusenbery opposed.

The Board discussed SEQR, and Chairman Huntsman went through the short EAF submitted by the applicant, again asking Lapin for input. Ted Feury moved to declare lead agency status for the Planning Board, and deem this a Type II action per SEQR Section 617.5(c)(2). After long, tangential discussion, Sharon Kroker seconded the motion and it was approved, 4-2, with Jennings and Dusenbery opposed.

Baker moved to deem the application complete, contingent on the floor plans being received by April 17. Dusenbery seconded the motion and it was approved, 6-0. Dusenbery moved to schedule a public hearing for May 1 under the same contingency. Feury seconded the motion and it was approved, 6-0.

## **OTHER BUSINESS**

Ed Hobbie said he had no Zoning Enforcement Officer report. He said he believed some members were letting personal feelings color their judgment on the Michaels application. Chip Jennings strongly disagreed.

Chairman Huntsman asked for a volunteer to serve as Planning Board liaison for April 11 Town Board meeting. Scottie Baker volunteered.

The Board discussed Pail Shop Vineyards. Clerk Bill Deane reminded the Board of Dan Rowley’s December, 2016 sketch plan conference for a microbrewery. Planning Board

Attorney Jim Ferrari had noted that there is no definition of “brewery” in the *Land Use Law*. He said that the Board could deem that an agricultural use, in which case it would be permitted without Planning Board intervention, and Rowley would have to come before the Board only if he expanded the use (e.g., added a restaurant). At that time, the Board unanimously agreed by motion.

Bill Deane discussed the May 1, 2018 agenda, noting resumption of the 7:30 start time. He said that so far it was the same as the April 3 agenda, adding public hearings for the Sailing Club and Michaels. Zoning Enforcement Officer Hobbie said that there were a few other potential applications in the works.

Chairman Huntsman discussed training opportunities, including the possibility of Danny Lapin doing a relevant presentation.

With no further business, at 9:56 PM Scottie Baker moved to adjourn the meeting.

Respectfully submitted,  
Bill Deane, Planning Board Clerk