

Town of Otsego Planning Board

Minutes, April 4, 2023

(Will be approved with any necessary amendments at the next meeting)

PUBLIC HEARING

CAND Corp. (Bart Burr) – Site plan review, special permitted use, restaurant in GB2 district – 6208 State Highway 28 (#114.05-1-37.00)

Chairman Tom Huntsman opened the CAND Corp. public hearing at 7:32 PM and asked if anyone from the public had comments or questions about the project. No one responded. Sharon Kroker moved to close the public hearing. Antoinette Kuzminski seconded the motion and it was approved, 6-0.

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 7:33 PM and led the Pledge of Allegiance.

Clerk Bill Deane introduced newly-appointed alternate member Ann Cannon, and announced that Ted Feury had been also appointed to the Board, and that alternate member Rosemary Brodersen had resigned. Deane took roll call. Board members present were Huntsman, Sharon Kroker, May Leinhart, Antoinette Kuzminski, and Steve Talevi. With Elizabeth Horvath and Feury absent, Cannon joined the meeting table. Town Supervisor Ben Bauer, Planning Board Attorney Jill Poulson, and Zoning Enforcement Officer Wylie Phillips were also present (Poulson left at 8:32, during the Miller application).

The Board reviewed the minutes of March 7, e-mailed to the members. Talevi asked that, near the bottom of page 1, “that the campground be open” be changed to “that the campground be allowed to be open.” Kuzminski moved to approve the minutes as amended. Talevi seconded the motion and it was approved, 6-0.

Deane said there was no correspondence received since the last meeting.

Chairman Huntsman asked if anyone had a conflict with any of tonight’s applicants. No one reported any conflict. Huntsman asked if anyone from the public had comments on a non-agenda item. No one responded. The Board moved on to applications.

APPLICATIONS

CAND Corp. (Bart Burr) – Site plan review, special permitted use, restaurant in GB2 district – 6208 State Highway 28 (#114.05-1-37.00)

No one appeared on behalf of this application. Clerk Bill Deane noted that, having held the public hearing tonight, the Board had 62 days to decide on the application, or by June 5 (the day before the scheduled June meeting). The consensus of the Board was to table the application until May 2, when hopefully representative Bart Burr would be present. Zoning Officer Phillips said he would contact Burr.

Jacob Staffin – First lot split in RA1 district – 6733 State Highway 28 (#97.00-2-4.41)

Applicant Jacob Staffin submitted a site map, showing his proposed split of 4.6 acres from a 46-acre lot. He had no proposed deed language. Zoning Officer Phillips said there had been no previous divisions of the lot since 1987, making this a first lot split.

Board members asked questions, which Staffin answered. Chairman Huntsman referred to Section 2.02 of the *Land Use Law*. He noted that the resultant lots would meet acreage, frontage, and setback requirements, and that the new lot would be rectangular, as preferred by the Board.

Steve Talevi moved to accept this as a first lot split. Antoinette Kuzminski seconded the motion and it was approved, 6-0. Chairman Huntsman stamped the site map “approved” and signed it, with Phillips making a copy for the file and giving the original to Staffin. Clerk Bill Deane advised Staffin to file it with the County within 30 days.

Dave Neal – Sketch plan conference, food truck in RA2 district – 5995 State Highway 28 (#114.00-1-36.02)

No one appeared on behalf of this application. Zoning Officer Phillips said that applicant Dave Neal wants to occasionally operate a food truck from his property, on the Purple Star parking lot. Phillips said he could find nothing in the *Land Use Law* which governs or prohibits such an enterprise (not being in a fixed structure), and was looking for guidance from the Planning Board and its attorney – is it a restaurant, home occupation, accessory use, or what? The Board discussed the matter with no resolution, and with no applicant present felt it should be tabled. Phillips said he would contact Neal.

Mary Alyce Peterson (Barb Monroe/Nick Drummond) – July 2022 site plan modification, replacement of house within 100 feet of Otsego Lake in RA1 district – 6690 State Highway 80 (#69.76-1-8.00)

Nick Drummond of Redpoint Builders said that representative Barb Monroe was ill, and he was filling in. Drummond submitted a letter of representation.

Clerk Bill Deane read aloud from the Planning Board’s minutes of June 7 and July 5, 2022 relevant to the previous Peterson application. At the latter meeting, the Board had waived a public hearing due to the Zoning Board of Appeals (ZBA) having held one with no negative comments, and approved the site plan for replacement of a house within 100 feet of Otsego Lake. No construction has yet been started, but the applicant now wants to build a taller house. Deane noted that the *Land Use Law* now addresses the volume (not just the footprint) of new construction in the Lakeshore protection area, and said Zoning Enforcement Officer Phillips had discussed the case with the ZBA on March 21. Deane read aloud from the minutes (not yet approved) of that meeting:

<< [Phillips] also asked the Board about the Mary Alyce Peterson application which they approved in 2022. Peterson now wants to change the roof from flat to gabled, making it about two feet higher than proposed. This will require another site plan review, but Phillips wondered whether it would need another variance first.

Clerk Bill Deane read aloud from the May 17, 2022 minutes relevant to the application. The Board noted that the roof would still within the 40-foot height limit, and may actually be smaller in overall volume due to the different style. The consensus of the Board was that this particular situation would not require a variance. >>

Drummond said the roof would actually be about eight feet higher, resulting in “a two-story home with a walk-out basement.” Deane wondered whether the ZBA would have arrived at the same conclusion, given this information. Antoinette Kuzminski expressed concerns about the increased height, and others weighed in. Deane reminded the Board that the focus of tonight’s meeting was to determine whether the application was complete, and to schedule a public hearing, rather than to debate the merits of the application.

Chairman Huntsman agreed, and went through the site plan requirements in Section 8.04 of the *Land Use Law*. The consensus of the Board was that everything necessary was either already in the file or not applicable.

The Board discussed State Environmental Quality Review (SEQR). Kuzminski moved to deem this a Type II action per SEQR Section 617.5(c)(11), as determined in 2022. Sharon Kroker seconded the motion and it was approved, 6-0.

Kroker moved to deem the application complete. Steve Talevi seconded the motion and it was approved, 6-0. Kroker moved to schedule a public hearing for May 2. Talevi seconded the motion and it was approved, 6-0.

Drummond said he would talk to the applicant about making the building “less intrusive,” and may return with revised plans. Deane said the public hearing would be based on the current plan.

Jerry Miller – Minor subdivision and site plan review/special permitted use, residence in GB2 district – 6651 State Highway 28 (#97.00-2-6.22)

Clerk Bill Deane read aloud from the Planning Board’s minutes of October 4, 2022. During that meeting, applicant Jerry Miller had discussed his plans for a staged project involving a minor subdivision, then building of a residence on his property in the GB2 district. Chairman Huntsman had noted that the subdivision would not change the fact that a residence is not permitted in the general business districts. He suggested Miller instead either follow through with his ZBA use variance application, or petition the Town Board to amend the *Land Use Law*, adding “residence” as a special permitted use for the GB2 district. Miller had successfully done the latter, and the law was amended in March.

Miller again submitted a 10/22/20 survey Mylar from Rasmussen, showing his 13.73-acre parcel, which surrounds the Jerry’s Place restaurant property. It showed the proposed division of the property into two lots of 7.98 and 5.75 acres, respectively. The smaller lot would include the existing 12-unit Creekside Cottages, and Miller would want to build the residence on the larger lot. Zoning Enforcement Officer Phillips said there had been a previous division of the property, making this a minor subdivision. Miller said he wanted to apply for both the subdivision and the special permit for a residence.

Deane said he thought that Miller should submit be two separate applications, one for the subdivision, the other for the site plan review/special permitted use. Chairman Huntsman agreed. The Board tabled the application to allow Miller time to complete a second application form. Miller submitted this later during the meeting, along with a check for \$75 (delivered to the Town Clerk) for the special permitted use application.

Chairman Huntsman discussed the subdivision first, saying this meets the criteria for a minor subdivision. He went through those requirements in Sections 5.2 and 3.2 of the *Land Subdivision Regulations*. Miller said there were no deed restrictions. The consensus was that the Board had everything it needed.

Sharon Kroker moved to deem the application complete. May Leinhart seconded the motion and it was approved, 6-0. Antoinette Kuzmiski moved to schedule a public hearing for May 2. Kroker seconded the motion and it was approved, 6-0.

The Board then discussed the special permitted use application. Chairman Huntsman went through the special permit requirements in Section 7.03 of the *Land Use Law*. Kuzminski moved that this meets the criteria for a special permitted use. Kroker seconded the motion and it was approved, 6-0. Huntsman then went through the site plan requirements in Section 8.04. The consensus was that the Board had everything it needed.

The Board discussed State Environmental Quality Review (SEQR). Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(11). Ann Cannon seconded the motion and it was approved, 6-0.

Steve Talevi moved to deem the application complete. Kuzminski seconded the motion and it was approved, 6-0. The consensus was that the previously-scheduled public hearing could cover both applications.

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Emilie Rigby – Site plan review, reconstruction of porch within 100 feet of Canadarago Lake in RA2 district – 139 Marble Road (#52.11-1-11.01)

Applicant Emilie Rigby wants to construct an open porch in front of her house within 100 feet of Canadarago Lake. It is essentially a replacement-in-kind of a porch which was removed in 2017. Because it was not replaced within two years, it required ZBA and Planning Board review. Clerk Bill Deane read aloud from the ZBA's minutes of February 21 and March 21 (not yet approved) relevant to the application. During the latter meeting, the ZBA had held a public hearing with no comments, and approved the variances sought, specific to the proposed project: a 15-foot variance on the south side; a 10-foot variance on the north side; and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Canadarago Lake.

Chairman Huntsman went through the site plan review requirements in Section 8.04 of the *Land Use Law*. He said the survey requirement could be waived. Zoning Enforcement Officer Phillips said the application fees had been paid.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(12). Steve Talevi seconded the motion and it was approved, 6-0.

Talevi moved to deem the application complete, waiving the requirements for a survey, landscaping plans, and engineering plans. Kroker seconded the motion and it was approved, 6-0.

Kroker moved to waive the public hearing due to the ZBA hearing result. May Leinhart seconded the motion and it was approved, 6-0.

Kroker moved to approve the site plan as submitted. Talevi seconded the motion and it was approved, 6-0. Chairman Huntsman stamped the site plan "approved" and signed it, with Phillips making a copy for the file and giving the original to Rigby.

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OTHER BUSINESS

Zoning Enforcement Officer Wylie Phillips said that things were relatively quiet, and reported on a few zoning-related issues.

The Board again discussed the appointment of a permanent Vice-Chairman. Clerk Bill Deane said he had communicated with Ted Feury about it, and Feury said he was willing to be appointed to the post in absentia. The Board did so by acclamation.

Tom Huntsman said he had attended the March 8 Town Board meeting as Planning Board liaison. During that meeting, the Town Board had approved the proposed *Land Use Law* amendments. Town Supervisor Ben Bauer distributed copies of the updated law. Steve Talevi is assigned to serve as Planning Board liaison for the April 12 and May 10 Town Board meetings. Antoinette Kuzminski said that she may soon be assigned by the League of Women Voters to attend a year's worth of Town Board meetings. If so, she could also serve as Planning Board liaison during that time.

Kuzminski remarked that she felt the drawings that applicant Emilie Rigby submitted were inadequate.

Deane discussed the May 2 agenda. CAND Corp., Dave Neal, Mary Alyce Peterson, and Jerry Miller are expected to return, the latter two with public hearings. There is also a ZBA application (Peter Kapsales, replacement of shed & deck within 100 feet of Otsego Lake) which will come to the Planning Board if approved by the ZBA later this month.

With no further business, at 9:20 PM Sharon Kroker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk