

Town of Otsego Planning Board

Minutes – April 5, 2011

PUBLIC HEARING

Robert Faller – Minor subdivision – Stone House Road (#98.00-1-44.01)

Chairman Joe Galati called the Faller public hearing to order at 7:29 PM, and asked if anyone had comments or questions. No one responded. Galati noted that a notice addressed to Robert and Thomas Mackie had been returned to sender. Donna Borgstrom moved to close the public hearing. John Phillips seconded the motion and it was approved, 7-0.

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 Joe Galati called the meeting to order at 7:31 PM, and roll call was taken by clerk Bill Deane. Members present were Galati, Donna Borgstrom (Vice-Chairman), Paul Lord, John Phillips, Steve Purcell, Joe Potrikus, and Rosemary Craig. Planning Board Attorney Jim Ferrari was also present. Alternate member Dan Croft and Zoning Enforcement Officer Hank Schecher were absent.

The Board reviewed the minutes of March 1, 2011, e-mailed to the members. Lord asked that the following be added after the word “bucket” on the fourth paragraph on page 2: “to show how the project will result in ‘cumulative effects’ in a 100-year storm.” He also noted that “Board” was misspelled on page 4, paragraph 4. Borgstrom moved to approve the minutes as amended. Purcell seconded the motion and it was approved, 7-0.

Chairman Galati reviewed and passed around correspondence received since the last meeting:

- The Winter 2011 issue of the New York Planning Federation’s *Planning News*.
- A brochure on “Pipeline Safety” from Enterprise Products.
- A brochure on municipalities conferences offered by Bond, Schoeneck & King.
- The Winter 2010-11 issue of the *Biological Field Station Reporter*.
- A March 7 e-mail from Veronica Seaver, objecting to applicant’s comments at the March 1 LLIB public hearing.

Copies of Hank Schecher’s April 5 Zoning Enforcement Officer report were distributed and filed. It listed two land use permits issued, and four pending Planning Board review.

Chairman Galati asked if there were any public comments on non-agenda items. No one responded. The Board moved on to applications.

APPLICATIONS

Robert Faller – Minor subdivision – Stone House Road (#98.00-1-44.01)

Donna Borgstrom read aloud from the minutes of March 1 relevant to the application. Applicant Robert Faller submitted a final plat, unchanged from the preliminary version.

John Phillips moved to approve the subdivision plat as submitted and authorize the chairman to sign it. Paul Lord seconded the motion and it was approved, 7-0. Chairman Galati stamped the plat “approved” and signed it.

LLIB, LLC (Bill Miller/Jon McManus) – Upper West Side major subdivision – County Highway 28, Pierstown (#84.00-1-15.62)

Joe Galati and Rosemary Craig recused themselves and left the meeting table. Donna Borgstrom read aloud from the minutes of March 1 relevant to the application. Engineer Jon McManus submitted an estimate (\$54,843.23) for the road and storm-water pollution protection plan (SWPPP), for performance bond purposes.

Paul Lord moved to reopen State Environmental Quality Review Act (SEQRA) review, to look at cumulative effect and controversy. With no second, the motion failed.

Acting Chairman Borgstrom reviewed the Board's options: to approve the preliminary plat, to approve it with waivers and/or modifications, or to deny it.

John Phillips began a motion to approve the preliminary plat with waivers, as was made during the December 7, 2010 meeting. After various hesitations and interruptions, at 7:58 Borgstrom called for a recess to "work on the motion." The meeting was resumed at 8:04.

Joe Potrikus moved to waive the requirements of *Land Subdivision Regulations* Sections 4.2(a) and 4.3(a), as the proposed road is consistent with the existing Reiss Road; and 4.2(b), due to the public's desire for it to be a dead-end street, and the applicant's willingness to conform to that desire, noting that these waivers do not impact public health or safety, and that the other requirements of Sections 4.2 and 4.3 are either being met or not relevant to this application. Phillips seconded the motion. After discussion to clarify the motion, it was approved, 5-0.

Applicant Bill Miller asked that the performance bond issue be decided after approval of the preliminary plat. Lord noted that the plat is labeled "final plat;" McManus relabeled it "preliminary plat."

Potrikus moved to approve the preliminary plat with the aforementioned waivers on road requirements and specifications. Phillips seconded the motion and it was approved, 4-1, with Lord opposed.

Miller asked for a waiver on *Land Subdivision Regulations* Section 3.4, which requires he submit an application that doesn't exist. Phillips moved to waive that requirement for that reason. Steve Purcell seconded the motion. Borgstrom noted that the Town should create such an application to conform with its law. The motion was approved, 5-0.

The Board discussed the performance bond required by *Land Subdivision Regulations* Section 3.5. Miller asked for a conditional approval, in which the final plat would not be signed by the chairman until Miller completed the road and SWPPP to specifications. Miller would then have 180 days to complete these items, with possible 90-day extensions by the Board, if warranted. This would give someone the opportunity to buy the entire lot before any construction begins, without Miller's financial commitment required by a bond.

Attorney Ferrari said that, based on State and Town law, he didn't think the Board could grant a conditional approval on a final plat.

Miller said that he could chop down all his trees and sell the timber for up to \$40,000. He just might do that rather than be shackled by a performance bond. Miller also expressed frustration in the Board and attorney not reading material he had sent weeks ago, and being prepared to take action.

Purcell said that permitting a conditional approval would be preferable to letting Miller clear-cut his land. Borgstrom discussed other options to a bond, including a letter of credit. Phillips suggested phasing of the project.

Lord listed what he thought were the possible outcomes on this application: (1) Miller could sell his timber, clear-cutting his land; (2) he could install the road and SWPPP; (3) he could pay the

performance bond; (4) the Board could grant a conditional approval as Miller requested, though it apparently is not allowed by Town law; (5) Miller could try to sell the entire parcel; (6) the Board could wait another month before making a decision; (7) the application could be approved by default by the Board's failure to act within 45 days of tonight; or (8) the Board could disapprove the application.

Phillips moved to conditionally approve the final plat, in which the plat would not be signed by the chairman until Miller completed the road and SWPPP to specifications. Purcell seconded the motion. Bill Deane noted that the applicant did not have a final plat (Mylar). Attorney Ferrari said that he still didn't think this was a viable option, and opined that it "convolutes things." Lord suggested that the Board table the application, giving Ferrari time to check the relevant laws. Phillips agreed.

After the Board returned to this application, Attorney Ferrari said that he still was not comfortable with a conditional approval, but that it was the Board's decision. Phillips withdrew his motion.

Phillips moved to waive the same road requirements and specifications as waived for the preliminary plat, and also to waive another public hearing, due to sufficient public input in several previous hearings. Purcell seconded the motion and it was approved, 5-0.

Phillips again moved to conditionally approve the final plat, in which the plat would not be signed by the chairman until Miller completed the road and SWPPP to specifications. With no second, the motion failed.

Miller will return in May. Galati and Craig returned to the meeting table.

Vision's Way LLC (Jeff Haggerty/Jon McManus) – Site plan review, expansion of Haggerty Ace Hardware – State Highway 28 (#131.00-1-7.00)

Joe Galati recused himself and remained in the public seating section. Donna Borgstrom read aloud from the minutes of March 1 relevant to the application.

Engineer Jon McManus submitted copies of a revised site plan, a March 21 letter to the Board, hydrograph reports, and a long environmental assessment form (EAF). McManus explained the slight changes to the site plan, explaining that they would reduce runoff while keeping the project within the 70%-limit of impervious surface. He said they had been before the Zoning Board of Appeals (ZBA), and have a public hearing before that Board scheduled for April 19.

Paul Lord checked the Town maps and determined that the property is in the historic district, so it is a Type I action under SEQRA and the long EAF is appropriate. Acting Chairman Borgstrom went through the EAF. Joe Potrikus moved to declare lead agency status. John Phillips seconded the motion and it was approved, 6-0. Borgstrom said she would take care of the necessary mailings.

McManus said he would return in May with a final plan. Galati returned to the meeting table.

Dan Rowley – Sketch plan conference, major subdivision – State Highway 80 & Raymond Fish Road (#96.00-1-14.01)

Applicant Dan Rowley returned with a different site plan than he had submitted at the October 5, 2010 meeting. He now plans to divide his 24.54-acre lot into two parcels of approximately 13.5 and 11 acres, respectively. The Board examined the plan and their consensus was that there were no issues with it.

Paul Lord advised Rowley to provide a survey and proposed deed language. Bill Deane asked Rowley to give two weeks' notice when he was ready to return before the Board.

OTHER BUSINESS

Paul Lord noted that alternate member Dan Croft has missed the last two meetings without notice. If he doesn't intend to fulfill his commitment, he should be replaced. John Phillips said he would contact Croft and report back to the Board.

John Phillips reported on attending the most recent Town Board meeting as the Planning Board's liaison. He said the Town Board was having a public hearing on April 13, and would then likely pass a new law. Phillips shared the proposed law with the Board, expressing concern over the wording, and encouraging Planning Board members to attend the hearing. After discussion, Paul Lord moved to recommend that the Town remove references to "geothermal" in the proposed law. Steve Purcell seconded the motion and it was approved, 7-0.

Chairman Galati discussed rescheduling the workshop to discuss potential changes to the *Land Subdivision Regulations*. Members expressed no interest in rescheduling at this time.

Bill Deane discussed the May 3, 2011 agenda. The only applicants on at this time are LLIB and Haggerty.

With no further business, at 10:26, Joe Potrikus moved to adjourn the meeting.

Respectfully submitted,
Bill Deane
Planning Board Clerk