

Town of Otsego Planning Board

Minutes – April 7, 2015

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 (there was no meeting in March due to no agenda items). Acting Chairman Joe Potrikus called the meeting to order at 7:01 and had visiting Boy Scouts lead the Pledge of Allegiance.

Clerk Bill Deane took roll call. Members present were Potrikus (Vice-Chairman), Steve Purcell, Rosemary Craig, Tom Huntsman, Scottie Baker, and Ed Hobbie. With Chairman Donna Borgstrom absent, first alternate member John Phillips joined the meeting table. Also present were second alternate member Darryl Szarpa, Planning Board Attorney Jim Ferrari, and Zoning Enforcement Officer Tavis Austin, who arrived later during the meeting.

The Board reviewed the minutes of February 3, 2015, e-mailed to the members. Baker moved to approve them as written. Purcell seconded the motion and it was approved, 7-0.

Correspondence received since the last meeting consisted of:

- The January/February 2015 issue (Volume 29, #1) of Talk of the Towns & Topics, copies of which were distributed.
- A letter from third alternate member Trevor Fuller, apologizing for missing meetings during the first months of this year due to his teaching a class on Tuesday nights this semester.
- An e-mailed letter from engineer Jon McManus, stating his intent to reintroduce the original (July, 2014) application from Roger Heroux, which McManus said was never formally withdrawn. Potrikus said the Board would discuss this later during the meeting.

Acting Chairman Potrikus asked if anyone on the Board had a conflict with any of tonight's applicants. He said that of course he would act as an applicant rather than a Board member for his own sketch plan conference.

Acting Chairman Potrikus asked if anyone from the public had a comment on a non-agenda item. Town Board member Julie Huntsman said she wanted to "clear the air" following the March 11 Town Board meeting (during which that Board – following a controversial public hearing – passed amendments to the Land Use Law without or contrary to Planning Board input, and affecting a potential future application by Roger Heroux). This touched off a 48-minute dialog between Town Board members, Planning Board members, and members of the public in attendance.

Julie Huntsman passed out copies of the amendments passed by the Town Board on March 11. She said the amendments had nothing to do with the Fly Creek Cider Mill, as some people thought. She said the process to pass the laws was lawful and open. The proposed amendments were discussed at the February Town Board meeting, and State Environmental Quality Review (SEQR) and other processes were properly done. She thinks the Board took the right action to avoid setting a precedent, and she stands by it.

She is still working on Land Use Law review and updates and wants to continue to work with the Planning Board in that process. She noted that the Town Board is not required to include Planning Board input when amending laws. She consulted the New York Planning Federation on this situation.

Community member Rob Boehm said that what the Town Board did was disrespectful to the Planning Board. He did not hear any support of the Town Board's proposed amendments at the March 11 public hearing, only objections, and thus thinks the Town Board had its "own agenda" in passing the laws so hastily. He urged the Board to slow down and review the laws.

Town Board member Carina Franck said that she agrees with what Julie Huntsman said. She heard from a lot of residents in support of the amendments, and feels good about passing them.

Rosemary Craig said that the Planning Board is aware the Town Board can amend the law without Planning Board input. There was nothing improper or illegal done.

However, she doesn't feel that is the way to do things. She asked that, in the future, the Town Board invite Planning Board members to discussions involving proposed Land Use Law amendments.

John Phillips said that the Town Board's action was done in haste and was not respectful. He said it was legal, but not right. Phillips said that he and Paul Lord had done considerable work on proposing Land Use Law language regarding storage units, and submitted it to the Town Board back in March, 2005, but it was ignored, as happened with many other things the Planning Board submitted to the Town Board.

Steve Purcell asked what the reason for the haste in the decision was. Joe Potrikus also wondered about the urgency of the Town Board's action. With input from Attorney Ferrari Potrikus, Potrikus clarified the Planning Board's process in the Heroux project and in general. He questioned Julie Huntsman's representing the Town Board on this matter, since she was not even at the March 11 meeting.

Tom Huntsman read aloud from the August 5, 2014 Planning Board minutes regarding the original application by Heroux. He also asked that the current applicable Land Use Law be read into the record.

Ed Hobbie said the Town Board should have waited a month or two before making a decision on the proposed amendments.

Bill Deane said that the discussion had gone off in many directions, but he feels the crux of the problem is that this is another example of the Town Board deliberately

excluding the Planning Board from important decisions. This promotes disrespect and mistrust between the Boards.

Community member Adrian Kuzminski said that he was on the Town Board when the original Land Use

Law was implemented, and there was friction between the two boards even then. He said there should be one set of rules.

The Board moved on to applications.

APPLICATIONS

Alex Zoeller – Minor subdivision with clustering – 667 Cty. Hwy. 26 (#114.00-1-54.02)

Zoning Enforcement Officer Austin said that applicant Alex Zoeller had formally withdrawn his application for a minor subdivision. After reviewing other options, Zoeller now plans to put in a private road to Donovan specifications, and then come before the Board with a simple lot split. Austin suggested that the Land Subdivision Regulations should be reviewed. Attorney Ferrari noted that the tax map number listed is incorrect.

Otsego Land Trust – Site plan review, shed/composting toilet within 500 feet of Otsego Lake; recreational facility? Brookwood Point, 6000 St. Hwy. 80 (#99.00-1-32.01)

Otsego Land Trust officials Virginia Kennedy (Executive Director), Marcy Foster, and Joe Homburger were present. They described their proposal to put in a 20x40' shed, composting toilet, and organic path at Three-

Mile Point. The shed would be used for storage of kayaks and canoes available to the public for rent. They hope to begin work on the project around August of this year, to be ready for 2016. Grant money for the project expires in December, 2015.

Zoning Enforcement Officer Austin said that the Planning Board had already vetted most of this proposal.

The toilet doesn't require their review. He feels the shed would require site plan review, and a special permit for a recreational facility. Attorney Ferrari said that the property is pre-existing, non-conforming, and that the commercial use isn't an issue.

The Board gave Kennedy a list of site plan requirements from Section 8.04 of the Land Use Law. Acting

Chairman Potrikus clarified what would be needed, including a long environmental assessment form (EAF) and hours of operation. The Land Trust officials will plan to return to the May meeting with the necessary items. They said there would be no tree removal or exterior lighting.

Joe Potrikus – Sketch plan conference, special permitted use (solar panels) – 467 County Highway 26 (#114.00-1-74.01 & 130.00-2-74.01)

Joe Potrikus left the meeting table and went to the applicants' side of it, leaving John Phillips as acting chairman. Second alternate member Darryl Szarpa joined the meeting table.

Potrikus described his proposal to install five acres of solar panels on his 19.05-acre lot. This would be a \$5-10 million project involving investors. The panels would generate 20 megawatts of electricity, which could be leased to people who do not have enough room for panels on their own property. The proposed location of the panels would be ideal as far as minimal impact on neighbors and traffic. There would be no ground disturbance. Potrikus asked for thoughts and ideas from Board members.

Ed Hobbie said that he had information on applicable New York State laws from a training he went to.

John Phillips pointed out that the property is in a residential-agricultural district, but the use would be neither residential nor agricultural. He said the Board members should do research and be prepared to give direction at the next meeting. The consensus was that the project fits into the Town's Comprehensive plan, and the Town Board should find a way to make it legal.

Potrikus returned to the members' side of the table.

OTHER BUSINESS

Tavis Austin distributed copies of his April 7 Zoning Enforcement Officer report (filed). He discussed situations involving the Bissell brothers and Alex Zoeller.

John Phillips passed around a draft proposal regarding notification about new laws, asking that the Board review it and be prepared to discuss it next month. Scottie Baker moved to submit it to the Town Board for consideration, and Steve Purcell seconded the motion. After discussion, Baker withdrew the motion. Ed Hobbie moved to table further discussion until May. Baker seconded the motion and it was approved, 7-0.

Acting Chairman Potrikus noted that Donna Borgstrom is moving from the area after the June meeting, and that the Town Board would have to appoint both a new Planning Board member and chairperson to replace her. Purcell moved to recommend that the Town Board appoint Potrikus as chairman, and Phillips seconded the motion.

Potrikus said he had almost no chance of being reappointed by the Town Board when his term ends on December 31, and offered criticism of that Board. This touched off another long, spirited dialog between Town Board and Planning Board members.

Carina Franck said that she had no private agenda, but was merely serving the community. Bill Deane reminded the Board that there was a motion and second on the table. The motion was passed, 6-0, with Potrikus abstaining.

Ed Hobbie moved to recommend that the Town Board appoint John Phillips as a full-fledged member, completing Borgstrom's term from July 1, 2015 through December 31, 2016, and promote Darryl Szarpa to first alternate member effective July 1, 2015.

Steve Purcell seconded the motion and it was approved, 7-0, with Phillips abstaining.

Bill Deane discussed the May 5, 2015 agenda, noting the resumption of the 7:30 start time. Otsego Land Trust (public hearing) will be returning, as will Joe Potrikus; Bill Miller is due back for another extension of his conditional approval, the 2014 Heroux application may be revisited, and Chris Kjolhede may be coming for a sketch plan conference. Attorney Ferrari advised the members to read Land Use Law 3.04 relevant to the Heroux application. Deane said that the real issue would be that McManus is maintaining that this application was never withdrawn, thus predates the amendment added by the Town Board.

Julie Huntsman asked the Board whether they wanted a Town Board liaison at Planning Board meetings. The consensus of the Board was that that would be a good idea.

With no further business, at 9:55, Baker moved to adjourn the meeting.

Respectfully submitted,

Bill Deane, Planning Board Clerk