

Town of Otsego Planning Board

Minutes, May 2, 2023

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

PUBLIC HEARINGS

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)

Chairman Tom Huntsman opened the Peterson public hearing at 7:30 PM and asked if anyone from the public had comments or questions about the proposed project.

Zoning Enforcement Officer Wylie Phillips read aloud an April 30 e-mail from Jim & Caroline Seaver of 6691 State Highway 80, offering their full support for the project.

Helen Reiss said that she had lived near Peterson for over 60 years, and that she has been a great neighbor and steward of the property. Reiss also offered her full support.

With no further speakers or correspondence, Sharon Kroker moved to close the public hearing. Elizabeth Horvath seconded the motion and it was approved, 5-0.

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

Chairman Tom Huntsman opened the Miller public hearing at 7:33 PM and asked if anyone from the public had comments or questions about the proposed projects. No one responded. Sharon Kroker moved to close the public hearing. Elizabeth Horvath seconded the motion and it was approved, 5-0.

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 7:34 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. All Board members were present: Huntsman, Sharon Kroker, May Leinhart, Antoinette Kuzminski, Elizabeth Horvath, Ted Feury, and Steve Talevi (Kuzminski and Talevi arrived after the public hearings). Alternate member Ann Cannon and Zoning Enforcement Officer Wylie Phillips were also present. Planning Board Attorney Jill Poulson was absent.

The Board reviewed the minutes of April 4, e-mailed to the members. Kroker moved to approve the minutes as written. Horvath seconded the motion and it was approved, 7-0.

Chairman Huntsman said the only correspondence received since the last meeting was a flier from the Otsego County Planning Department, advertising a May 3 training workshop.

Chairman Huntsman asked if anyone had a conflict with any of tonight's applicants. Horvath said she had a conflict with the Peterson application.

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

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APPLICATIONS

Mike Stocking/Melissa Worthington – Boundary line adjustment in RA2 district – 595 County Highway 26 (#114.00-1-77.01 & -78.00)

Mike Stocking, proprietor of Kukenberger Sand & Gravel, was present. He had come before the Planning Board in 2020-21, at which time he was approved for a special permitted use (gravel mine),

leasing part of northern neighbor Melissa Worthington's property (tax map #114.00-1-78.00) for the mine. He now wants to buy the property from Worthington, effecting a lot line adjustment. Stocking submitted a March 24, 2023 survey map showing the proposed new line, which would transfer 20 acres of Worthington's property to Stocking.

Chairman Huntsman said the Board would need proposed deed language for the new lots, to be reviewed by the Board's attorney. He asked Stocking to return to the June 6 meeting with that.

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

Representative Bart Burr was present. Clerk Bill Deane read aloud from the Planning Board's minutes of February 7, March 7, and April 4 relevant to the application. The Board briefly reviewed it.

Steve Talevi moved to approve the special permitted use for eating & drinking establishment. May Leinhart seconded the motion and it was approved, 7-0. Deane prepared a special permit which Chairman Huntsman signed; Deane said he would mail it to Burr.

Sharon Kroker moved to approve the site plan as submitted. Antoinette Kuzminski seconded the motion and it was approved, 7-0. Huntsman stamped the site plan "approved" and signed it.

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

Applicant Dave Neal said he wants to occasionally operate his catering van as a food truck on his property, on the Purple Star parking lot. Neal said he would expand the lot toward Day Road, and be open from mid-May through September or October.

Chairman Huntsman said that, in anticipation of this sketch plan conference, he had discussed the situation at length with Planning Board Attorney Jill Poulson and Zoning Board of Appeals (ZBA) Chairman Greg Crowell. They agree that this is a use issue. Restaurants are not allowed in the residential-agricultural (RA) districts. Food trucks are not addressed by the *Land Use Law*, and per Section 1.04, "any use not specifically permitted is prohibited."

Huntsman suggested that Neal appeal to the ZBA for a use variance, citing *Land Use Law* Section 9.03. Deane noted that that section requires proof that "the applicant is deprived of all economic use benefit from the property in question," and that the ZBA hadn't granted a use variance since 2002. Deane suggested that Neal appeal to the Town Board to amend the *Land Use Law*, defining food truck and adding it as a permitted or special permitted use. The Town Board next meets on May 10.

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)

Elizabeth Horvath recused herself and left the meeting table, with alternate member Ann Cannon replacing her. Applicant Mary Alyce Peterson was present, along with representatives Nick Drummond (Redpoint Builders) and Barb Monroe. Clerk Bill Deane read aloud from the Planning Board's minutes of April 4 relevant to the application.

Drummond submitted revised plans based on concerns raised at the last meeting. The proposed dormers have been removed, making the upper level a storage attic, and the top of the roof is only 2'9" higher than the roof approved in 2022.

Antoinette Kuzminski said she had visited the site, and was very concerned about the smallness of the lot. She asked where and how a septic system could be located. Deane and Zoning Enforcement Officer Phillips said the Watershed Supervisory Committee (WSC) governs Lakeside septic systems, per a Memorandum of Agreement with the Town of Otsego and four other Towns. Drummond said they had not yet received approval from the WSC. Chairman Huntsman said Peterson couldn't get a Certificate of

Occupancy without an approved septic system, and Drummond said he wouldn't do the construction without it. Monroe said the Board had never before required septic plans in her experience.

Kuzminski thought the Board should wait until Peterson got approval for the septic system before they voted whether to approve the site plan. Deane reminded the Board that in April they had gone through the site plan requirements in Section 8.04 of the *Land Use Law*, with the consensus that everything necessary was either already in the file or not applicable, and that they had unanimously voted to deem the application complete. Having held the public hearing tonight, they now had 62 days (by July 3) to decide on the application, or risk approval by default.

Chairman Huntsman said he thinks the project is an improvement, and isn't concerned about the septic system due to its separate approval process. He reviewed the Board's options and other members shared their thoughts about the project.

Kuzminski moved to approve the site plan as submitted. There was no second to the motion, and Kuzminski ultimately withdrew it.

Steve Talevi moved to table the application to June 6, requesting preliminary engineering plans for a sewage disposal system, per *Land Use Law* Section 8.04 (5). Kuzminski seconded the motion and it was approved, 6-1, with Huntsman opposed.

Horvath returned to the meeting table, and Cannon left it.

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

Applicants Jerry & Cindy Miller were present. Clerk Bill Deane read aloud from the Planning Board's minutes of April 4 relevant to their applications. The Board briefly reviewed them (Steve Talevi had temporarily left the room).

Antoinette Kuzminski moved to approve the site plan/special permitted use (residence) as submitted. Sharon Kroker seconded the motion and it was approved, 6-0. Deane prepared a special permit which Chairman Huntsman signed; Deane said he would mail it to the Millers. Huntsman also stamped the site plan "approved" and signed it.

Kuzminski moved to approve the minor subdivision as submitted. Sharon Kroker seconded the motion and it was approved, 6-0. Chairman Huntsman stamped the site plan "approved" and signed it.

Douglas & Barbara Cannon and James & Patricia Olson (Bob Birch) – First lot split in RA2 district – 488 Johnston's Road (#98.00-1-70.03)

Representative Bob Birch submitted a map and deed language, showing the division of an 11.23-acre parcel into two lots of 8.23 and 3.00 acres, respectively. He said the resultant lots would meet acreage and frontage requirements. Zoning Enforcement Officer Phillips said there had been no other divisions of the property since 1987, making this a first lot split.

Antoinette Kuzminski moved to approve the first lot split as submitted. Sharon Kroker seconded the motion and it was approved, 7-0. Chairman Huntsman stamped the site plan "approved" and signed it.

Peter Kapsales (Tim Yerdon) – Site plan review, replacement of shed & deck within 100 feet of Otsego Lake in RA1 district – 6447 State Highway 80 (#84.00-1-17.02)

No one appeared on behalf of this application. Clerk Bill Deane said the ZBA had approved variances on it two weeks ago, and representative Tim Yerdon was supposed to come tonight to pursue site plan review. Zoning Enforcement Officer Phillips said he would contact Yerdon.

OTHER BUSINESS

Zoning Enforcement Officer Wylie Phillips said that he had issued two zoning permits in April. He and Town Supervisor Ben Bauer have drafted proposed solar legislation, and are looking for Planning Board input.

Phillips said he thought the Board's advice to Dave Neal could have consequences, noting that such places as the Fenimore Art Museum often serve food for special events. Chairman Huntsman said that those situations are addressed in *Land Use Law* Section 7.03 (1): "Events of three days or less do not fall under this regulation and shall not require a special permit."

Steve Talevi said he had attended the April 12 Town Board meeting as Planning Board liaison. He reported on the Planning Board's activities and left. Antoinette Kuzminski said that she has been assigned by the League of Women Voters to attend a year's worth of Town Board meetings, so she can also serve as Planning Board liaison during that time, starting May 10.

Talevi said he had attended the recent Planning Conference in Albany, and found it very worthwhile.

The Board further discussed the Peterson application. Chairman Huntsman said the septic system is not under the Planning Board's purview, and requiring information on it could be considered "arbitrary and capricious." Clerk Bill Deane said he thought it was unfair to an applicant, pushing back a project another month after having deemed the application complete a month earlier. Antoinette Kuzminski said that members should visit sites of applications; Zoning Enforcement Officer Phillips suggested this be done before the first meeting. Steve Talevi said the Board should have public hearings on projects even if the ZBA has already held one. Deane said that second public hearings prove superfluous, only delaying projects, and creating extra work for him and cost for the Town and applicant.

Deane discussed the June 6 agenda. Stocking, Peterson, and Kapsales are expected to return. With no further business, at 10:02 PM Sharon Kroker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk