

Town of Otsego Planning Board

Minutes – May 3, 2011

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 7:30 PM, and roll call was taken by clerk Bill Deane. All members were present: Galati, Donna Borgstrom (Vice-Chairman), Paul Lord, John Phillips, Steve Purcell, Joe Potrikus, and Rosemary Craig. Alternate member Dan Croft, Planning Board Attorney Jim Ferrari, and Zoning Enforcement Officer Hank Schecher were also present.

The Board reviewed the minutes of April 5, 2011, e-mailed to the members. Borgstrom moved to approve the minutes as written. Potrikus seconded the motion and it was approved, 7-0.

Chairman Galati reviewed correspondence received since the last meeting:

- The April 2011 issue (passed around) of *Earth Matters*, published by Phillips Lytle LLP, along with a related letter and questionnaire from Phillips Lytle.
- Postal return receipts (filed) on April 11 mailings to the State Historic Preservation Office (SHPO) and the Otsego County Planning Board, regarding the Vision's Way application.
- A flier (passed around) from the Catskill Center for Conservation and development, advertising a planning meeting ("Municipal Tools for Ridgeline Protection") to be held in Arkville on June 8.

Copies of Hank Schecher's May 3 Zoning Enforcement Officer report were distributed and filed. It listed two land use permits issued, and five pending Planning Board review. Schecher said he had a few issues to discuss during "other business."

Chairman Galati asked if there were any public comments on non-agenda items. Jon McManus suggested scheduling meetings at an earlier hour, especially in the summer months. Galati said the Board would discuss this during "other business."

The Board moved on to applications.

APPLICATIONS

Vision's Way LLC (Jeff Haggerty/Jon McManus) – Site plan review, expansion of Haggerty Ace Hardware – 5390 State Highway 28 (#131.00-1-7.00)

Joe Galati recused himself and went to the public seating section, and alternate member Dan Croft joined the meeting table. Donna Borgstrom read aloud from the minutes of April 5 relevant to the application. She noted the mailings to SHPO and the County mentioned during correspondence. Bill Deane read aloud from the minutes (not yet approved) of the April 19 Zoning Board of Appeals (ZBA) meeting, during which a public hearing was held with no public comment, and the applicant's setback variance was granted.

John Phillips moved to waive the public hearing due to the result of the ZBA's hearing. Rosemary Craig seconded the motion and it was approved, 6-1, with Paul Lord opposed.

Acting Chairman Borgstrom completed part 2 of the environmental assessment form (EAF) with member input. Lord moved to declare “no significant impact” and authorize the acting chairman to sign the EAF. Steve Purcell seconded the motion, it was approved, 7-0, and Borgstrom signed the EAF.

Engineer Jon McManus distributed copies of the applicant’s March 1 site plan. The Board went through site plan requirements, noting that they would need security lighting information, and preliminary building plans/construction sequence.

Since SHPO and the County have 30 days (until May 11) to respond to the mailings, the Board will have to wait until the next meeting before taking action on the application. The applicant will return in June.

Lark Haven LLC (Jon McManus) – Site plan review, expansion of residence within 500 feet of Otsego Lake – State Highway 80 (#84.12-1-13.01)

Joe Galati recused himself and remained in the public seating section, with alternate member Dan Croft remaining at the meeting table.

Lark Haven LLC wants to add two enclosed porches to an existing home about 250 feet from Otsego Lake. The Board examined the application package, including a site plan, tax map, list of neighboring property owners, photos, and plans. They noted an error in the depiction of the driveway entrance, and absence of information on elevations (rooflines). Engineer Jon McManus said that construction would take about two months, and that they would install a silt fence for runoff control sufficient for a ten-year storm event. He asked that the public hearing be waived.

Paul Lord suggested that McManus add additional runoff control measures. This led to a heated exchange between the two. McManus said the current plan was sufficient according to Town Laws and engineering principles. Adding additional measures would unfairly increase the cost to the applicant, and waste his and the Board’s time.

The Board discussed the State Environmental Quality Review Act (SEQRA). John Phillips moved to declare this a Type II action per SEQRA Section 617.5(c)(9). Joe Potrikus seconded the motion and it was approved, 7-0.

Phillips moved to waive the topographic survey requirement due to photographic evidence and type of construction. Steve Purcell seconded the motion and it was approved, 7-0.

Lord moved to deem the application complete, contingent on a revised plat to show the correct driveway entrance, and information on elevations (rooflines), silt fence, and construction sequence by May 24, and to schedule a public hearing for June 7. Purcell seconded the motion and it was approved, 7-0. Galati returned to the meeting table.

The Mill at Oaks Creek, LLC (Donna Borgstrom) – Lot line adjustment – State Highway 28, Oaksville (#97.00-1-40.00)

Donna Borgstrom recused herself and went to the applicants’ side of the table, with alternate member Dan Croft remaining at the meeting table. Borgstrom is representing The Mill at Oaks Creek, LLC, which wants to effect a lot line adjustment, deeding 1.02 of its 1.72 acres to the neighboring Philip Hodgins Living Trust. Since that would leave the applicant only .7 acres, less than the required one, they will need a variance from the ZBA. Bill Deane pointed out that

the ZBA would need the applicant to be denied by the Planning Board in order to consider her application for a variance.

Paul Lord moved to deny the application for a lot line adjustment due to insufficient acreage. Purcell seconded the motion and it was approved, 7-0. Borgstrom returned to the members' side of the meeting table.

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, with alternate member Dan Croft remaining at the table. Donna Borgstrom read aloud from the minutes of April 5 relevant to the application.

Engineer Jon McManus submitted the December 7, 2010 final plat. Paul Lord noted e-mails from Donna Borgstrom and John Phillips which had been sent to the other members. Borgstrom's concerned the possibility of a conditional approval, as requested by the applicant, while Phillips offered a proposed motion to approve the application with waivers and conditions. No one had responded to those e-mails due to the open meeting rules.

Attorney Ferrari said that a conditional approval is defensible, if the conditions are clear. Lord questioned Croft about his familiarity with the application. Croft said he had reviewed everything submitted and discussed the application with other Board members.

Phillips read aloud his proposed motion and, after considerable review and feedback, made the following formal motion:

I move to approve LLIB, LLC's Upper West Side Subdivision application with certain conditions and waivers as follow:

This is a conditional approval of the final plat; prior to the signing of the final plat by a duly authorized officer, the applicant shall either construct the storm-water pollution prevention plan (SWPPP) and roadway as described on the final plat, or shall file with the Town Clerk a performance bond to cover the full cost (\$54,843.23) of such construction. Such conditional approval shall last for 180 days subject to the Board's authority, pursuant to New York State Town Law section 276(7)(c), to extend such time for consecutive periods of 90 days based on circumstances. In granting approval with conditions, I move that the Board grant the following waivers (some previously approved):

1. The Board shall waive the requirements for curbs and gutters, sidewalks, water mains, sewers, street lights and signs, street trees, and fire hydrants. Such improvements are inconsistent with the character of the neighborhood and may be omitted without jeopardy to the public health, safety and general welfare. The *Land Subdivision Regulations* Section 4.3(b) requirement for storm drainage facilities is met by LLIB's approved SWPPP.
2. The Board shall waive the Department of Transportation (DOT) specification 403.13 (asphalt as per Donovan specifications), and approve the compacted gravel item #4 crusher run, minimum six inches deep, as specified on the plat. A paved road is inconsistent with the character of

the neighborhood and may be omitted without jeopardy to the public health, safety and general welfare.

3. The Board shall waive the requirement for the applicant to submit a final application for approval and fee under *Land Subdivision Regulations* Section 3.4(a). The Board acknowledges that it has not developed or required such an application and/or fee.

The applicant shall return before the Board upon completion of construction to the satisfaction of Town-appointed engineer James Forbes, or submission of a \$54,843.23 performance bond, or to request an extension of the 180-day period, before October 30, 2011.

Joe Potrikus seconded the motion and it was approved, 5-1, with Lord opposed. Galati and Craig returned to the meeting table.

OTHER BUSINESS

John Phillips said that he, Steve Purcell, Joe Potrikus, and Rosemary Craig had attended the most recent Town Board meeting. He said the Town Board summarily dismissed the Planning Board's recommendation to remove references to "geothermal" in the proposed law. Phillips said he would attend the next Town Board meeting as Planning Board liaison.

Paul Lord began a plea to clarify his position on runoff mitigation in the lakeshore protection area. Joe Potrikus interrupted him to point out the shortcomings of the Biological Field Station's site. Potrikus said that if the BFS didn't have to adhere to extraordinary (or even ordinary) runoff protection measures, other applicants should not be so required, either. John Phillips and Jon McManus added input in support of Potrikus's sentiments.

Chairman Galati asked members to think about changing the starting time of Planning Board meetings. Bill Deane noted that the Town Board and ZBA both start their meetings at 7:00. Paul Lord said that the Planning Board had tried starting their meetings earlier in the past, with poor results.

Bill Deane discussed the June 7, 2011 agenda. The only applicants on at this time are Vision's Way and Lark Haven (public hearing).

With no further business, at 9:30, Joe Potrikus moved to adjourn the meeting.

Respectfully submitted,
Bill Deane
Planning Board Clerk