

Town of Otsego Planning Board

Minutes, May 3, 2022

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

PUBLIC HEARINGS

N. Jean Scarzafava (Elizabeth Davidson) – Site plan review, replacement of cottage within 500 feet of Otsego Lake in RA1 district – 6771 State Highway 80 (#69.60-1-11.00)

Chairman Tom Huntsman opened the Scarzafava public hearing at 7:30 PM, and gave guidelines for hearing behavior. He asked if anyone from the public had comments or questions about the application.

Dale Bernier of Goose Street said a three-story building so close to the Lake was ridiculous, and would block people's views of the Lake. Representative Elizabeth Davidson said the building would be only two stories, and would only partially block the view.

Chairman Huntsman read aloud e-mails from the following people:

- Katherine Stabile and Jeorgia Valentin, expressing concerns about the building's height and compatibility with the neighborhood.
- Amanda Strickler (May 1), expressing concerns about the building's compatibility.
- David Creedon (May 1) of 6763 State Highway 80, expressing concerns about the building's compatibility.
- Debra Creedon (May 2) of 6763 State Highway 80, expressing concerns about the building's compatibility, and pointing out alleged errors on the application. She also submitted four photos of the area.
- Applicant N. Jean Scarzafava (May 3), defending the proposed project.

Chairman Huntsman noted a three-page letter from Joseph & Maria Stabile, with seven photos attached. He said the letter was consistent with the other e-mails, and that it would be discussed later during the meeting.

With no further comments, questions, or correspondence, Sharon Kroker moved to close the public hearing. Antoinette Kuzminski seconded the motion and it was approved, 6-0.

Otsego Apple Growers, LLC (Kevin Green) – Minor subdivision in hamlet residential/RA1 district – 288 Goose Street (#98.00-1-24.21)

Chairman Tom Huntsman opened the Otsego Apple Growers public hearing at 7:41 PM, and asked if anyone from the public had comments or questions about the application.

Bruce Guyot of 165 Goose Street asked to see the site plan. Representative Kevin Green showed it to him and other neighbors, explaining the project.

Lena Guyot of 165 Goose Street recalled the obnoxious noise and appearance of the sawmill formerly located on the property, expressing hopes that would not recur.

Goose Street residents Dale Bernier, Brenda Jaeger, and Emily Stolarczyk expressed concern about increased traffic on their street. Green said the traffic onto the property would come from State Highway 28, not Goose Street. Stolarczyk said she supports the project in that case.

Rob Bohm of 6180 State Highway 28 asked what Green planned to do with the additional land. Green said he would store materials for his landscaping business, and possibly build a house there someday.

With no further comments or questions, Antoinette Kuzminski moved to close the public hearing. Elizabeth Horvath 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 7:51 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. Board members present were Huntsman, Elizabeth Horvath, May Leinhart, Chip Jennings, Sharon Kroker, and Antoinette Kuzminski. Steve Talevi and alternate member Rosemary Brodersen were absent. Deane noted that, even with only six voting members, four votes were needed to pass any motion. Zoning Enforcement Officer Wylie Phillips was also present.

The Board reviewed the minutes of April 5, 2022, e-mailed to the members. Horvath noted that architect Rasmussen's first name is Jené, not Jennie. Kroker moved to approve the minutes as amended. Kuzminski seconded the motion and it was approved, 6-0.

Chairman Huntsman said there was no correspondence beyond that addressed during the Scarzafava public hearing.

Chairman Huntsman asked if anyone had a conflict with any of tonight's applicants. No one responded.

Huntsman asked if anyone from the public had a comment on a non-agenda item. Joe Potrikus discussed the Serenity Hill Event Center addition that the Board approved in 2021. He invited members to visit the site and see the new construction, and discuss possible future improvements.

The Board moved on to applications.

APPLICATIONS

N. Jean Scarzafava (Elizabeth Davidson) – Site plan review, replacement of cottage within 500 feet of Otsego Lake in RA1 district – 6771 State Highway 80 (#69.60-1-11.00)

Representative Elizabeth Davidson was present, and submitted a letter from the Department of Environmental Conservation (DEC). Clerk Bill Deane read aloud from the minutes of April 5 relevant to the Scarzafava application. Deane also summarized what happened at the Zoning Board of Appeals (ZBA) meetings of March 15 and April 19. The ZBA had advised Davidson that, if the new cottage will be in the same footprint (including overhangs and projections) as the old, no variances would be needed,

despite the increased height of the replacement building. Scarzafava had also wanted to add a garage, but the ZBA had denied that because “the benefit sought could be achieved with a lesser project; that an undesirable change will be produced in the character of the neighborhood, as there are no other garages nearby; that the requested variances are substantial; that the project will have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and that the alleged difficulty is self-created, as no garage existed on this property before.”

Chairman Huntsman wondered if the project would be consistent with the neighborhood. Antoinette Kuzminski said it would not, as it would be out of character, too tall, and too visible from the Lake; approving it would set a bad precedent. Davidson disputed this, citing other approved projects around the Lake.

Chairman Huntsman suggested that Davidson move the house back on the property, mitigating the effects. Deane pointed out that such a project would require a ZBA variance and site plan approval, and Huntsman could not guarantee approval by either Board. Deane said the Planning Board should consider the project before them, unless Davidson chooses to withdraw the application. Davidson asked for a decision on the current application.

May Leinhart asked what the square footage of the new cottage would be, compared with the old. Davidson said it would increase from approximately 750 square feet to 950, not including basement.

Chip Jennings cited Land Use Law Section 8.05 (2)(a & b), which discusses “Compatibility with the Comprehensive Plan and the orderly development of the district; Compatibility with the site and the neighborhood with respect to location, arrangement, size and design of structures...” Jennings said the excessive height makes the proposed project not compatible.

Attorney Ryan Miosek interjected with a suggestion. Jennings said that, unless Miosek were representing the applicant or the Board, he should keep quiet.

Chairman Huntsman reviewed the Board’s options: to approve the application, approve it with modifications, or deny it. Elizabeth Horvath moved to approve the application as submitted, saying that the applicant had jumped through all the necessary hoops. Leinhart seconded the motion, saying she didn’t feel qualified to judge whether something was compatible. Other members echoed the difficulty of that task.

Jennings said that, if the members could not make judgments on the compatibility of the project, the Board was a waste of time, and everything should be approved.

The motion was approved, 4-2, with Huntsman and Kuzminski opposed. Huntsman stamped the site plan “approved” and signed it.

Otsego Apple Growers, LLC (Kevin Green) – Minor subdivision in hamlet residential/RA1 district – 288 Goose Street (#98.00-1-24.21)

Clerk Bill Deane read aloud from the minutes of April 5 relevant to the Otsego Apple Growers application. He noted that the \$350 subdivision fee had not yet been paid. Chairman Huntsman reviewed the Board’s options.

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

At 8:40, Huntsman called for a five-minute recess. The meeting resumed at 8:45.

Steve & Laurie Kovatchitch (Ed Hobbie) – Major subdivision in RA1 district – 745 County Highway 28 (#69.00-1-18.01 & -18.02)

Representative Ed Hobbie said that applicants Steve & Laurie Kovatchitch have a 69-acre parcel on a steep slope. They want to divide it into five parcels of approximately 30, 10, 9, 9, and 11 acres, respectively. Hobbie said there had been one previous split of the property since 1986. He said they would build a private road to Donovan specifications to connect the new lots to the highway. Hobbie said this would be a minor subdivision.

Chairman Huntsman noted that, per *Land Subdivision Regulations*, Article 2, this would be a major subdivision: “subdivisions of five or more lots, or any size subdivision requiring any new streets...” He referred to the requirements listed in Section 5.1 of those regulations, saying Hobbie would need to provide five copies of a survey map, a list of neighbors (with addresses) within 200 feet of the property lines, and a \$700 subdivision fee, among other items. Huntsman advised Hobbie to return to the June 7 meeting with those items.

Leatherstocking Association Common Area/Vince Pyle (Chad Whitbeck) – Site plan review, stairway & deck within 100 feet of Otsego Lake in RA1 district – 162 Browdy Mountain Road (#84.08-1-29.00)

Clerk Bill Deane had e-mailed the members ZBA minutes relevant to the Leatherstocking Association application, but there was little indication they had read these. Deane read aloud from the ZBA minutes of December 15, 2020, January 19, 2021, and April 19, 2022 (not yet approved), and summarized the activity in between. In November, 2020, a land-owner e-mailed a complaint to Zoning Enforcement Officer Jess Lanza. The owner said that, in October, Vince Pyle – whose Danians Corporation was a member of the Leatherstocking Association Common Area – initiated construction of a stairway and deck on a 0.3-acre lot within 100 feet of Otsego Lake, evidently without approvals from the ZBA, Planning Board, or County Codes. Lanza confirmed this, took photos, and issued a “stop-work” order and notice of violation, advising the Association to submit a ZBA application. Pyle did so, presumably on behalf of the Association. Chad Whitbeck a contractor hired by Pyle, was authorized to represent him before the ZBA.

Neighbors objected to Pyle’s right to apply on their behalf. They noted that Danians Corporation owns only one of the Association’s 13 shares, or 7.7%, and the other shareholders are not in agreement about the project. The ZBA consulted with Town Attorney Miosek about this issue. Miosek wrote that, “The ZBA does not have the authority to determine how this Association is going to conduct its business. If there is not an operating agreement or some other document memorializing how the Association is to conduct itself and what members have the authority to speak on behalf of the Association, the ZBA can’t decide those questions for them. If the other Association members do not wish for Mr. Pyle to speak for them they should take the proper legal steps to enjoin Mr. Pyle from doing so. Failing that, if Mr. Pyle submits the documents and information that the ZBA requires, the ZBA must process his application and make a determination based on the documents and information before it.”

The ZBA continued with the application based on this. A 31-minute public hearing was held on April 20, 2021, with speakers in unanimous opposition to the project, some citing their disagreement with Pyle's authority to represent the Association. Whitbeck then withdrew the application, and said he would submit a revised one in the near future. He did so in July. Whitbeck said that Pyle had died in the interim, and his son Vince Pyle, Jr. was taking over the application.

Another public hearing was held on October 19, this one lasting 27 minutes and again producing unanimous opposition to the project. The ZBA denied the variances sought, "requiring the applicant to remove (at ground level) the four concrete pilings closest to the Lake immediately, and the remaining pilings by April 30, 2022, unless a new ZBA application is submitted by that date. Crowell said that the benefit sought could be achieved with a smaller deck further from the shoreline; that an undesirable change will be produced in the character of the neighborhood, as the deck is too imposing vertically, and closer to the water's edge than any nearby deck; that the requested variances are substantial; that the project will have an adverse effect or impact on the physical or environmental conditions of the neighborhood, with the steepness of the slope and the proximity to the Lake making runoff a concern, and with inadequate mitigation shown on the plan; and that the alleged difficulty is self-created, as no deck existed on this property before."

Whitbeck submitted a third application on March 15, 2022. The size of the project had been reduced considerably from the first two. Another public hearing was held on April 19, this one lasting 24 minutes and producing the same opposition. Nevertheless, the ZBA approved the variances sought: 15 feet on the west (State Highway 80) side; 20 feet on the east side; 21 feet on the north side; and a variance from *Land Use Law* 4.04, which prohibits construction within 100 feet of Otsego Lake; "with the conditions that any areas where vegetation is removed be revegetated; and that there be an erosion control mat underneath the deck."

The consensus of the Planning Board was that the ownership/standing issue was not within their purview. Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said the survey requirement could be waived, but that the Board would need a site map, and signoffs from any interested agencies, including (if applicable) the DEC, Army Corps of Engineers, and Watershed Supervisory Committee. Engineer Jon McManus, in attendance for other applications, said that he believed the Army Corps would be the only agency with jurisdiction.

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). Elizabeth Horvath seconded the motion and it was approved, 6-0.

Kroker moved to deem the application complete, contingent on a signoff letter from the Army Corps and/or DEC to be submitted to the Zoning Enforcement Officer by May 24. Chip Jennings seconded the motion and it was approved, 6-0. Kroker moved to schedule a public hearing for June 7 with the same contingency. Antoinette Kuzminski seconded the motion and it was approved, 6-0.

Otsego Consulting, LLC (Joe Galati/Jon McManus) – Site plan review, construction of sheds and deck within 100 feet of Otsego Lake – 101 Badger Lane (#69.44-1-24.00)

Representative Jon McManus was present. Clerk Bill Deane read aloud from the ZBA's minutes of March 15 and April 19 (not yet approved) relevant to the Otsego Consulting application.

Applicant Joe Galati wants to erect two 10x16' storage sheds on posts on "The Point," a landlocked area within 100 feet of Otsego Lake. These would be used by guests of Blackbird Hollow across the road. Galati's abutting neighbors agreed not to object to this project, as part of a legal settlement. A 30-minute public hearing was held on April 19, with some concerns voiced. The ZBA approved the variances sought: for Shed "A," 29'1" on the south side and 19'6" on the north side; for Shed "B," 29'7" on the south side and 11'11" on the north side; and for the deck, 29'8" on the south side and 24'11" on the east (rear) side; along with a variance from *Land Use Law* 4.04 for all three structures.

Antoinette Kuzminski suggested that Galati provide outlets for recharging electric boats. Chairman Huntsman went through the site plan requirements in Sections 4.04 and 8.04 of the *Land Use Law*.

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). Kuzminski seconded the motion and it was approved, 6-0.

Elizabeth Horvath moved to deem the application complete. Kroker seconded the motion and it was approved, 6-0.

Kroker moved to waive the public hearing, based on the ZBA's hearing result. Horvath seconded the motion and it was approved, 6-0.

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

Joe Galati (Jon McManus) – Site plan review, expansion of existing residence within 100 feet of Otsego Lake – 6718 State Highway 80 (#69.68-1-14.00)

Representative Jon McManus was present. He said that applicant Joe Galati wants to expand his residence within 100 feet of Otsego Lake. Galati had gotten variances from the ZBA in 2013, but then was distracted by other projects. He ultimately got site plan approval from the Planning Board on August 6, 2019, allowing him to turn his deck into living space, and add a six-foot-wide enclosed porch. Now, Galati wants to increase the height of the building by another story.

Chairman Huntsman noted the lateness of the hour. McManus agreed to table the application until June 7.

OTHER BUSINESS

Zoning Enforcement Officer Phillips reported that the Fly Creek Hotel application had been withdrawn and the Historic Preservation Advisory Commission public hearing had been cancelled. Phillips said he had issued one building permit in the past month.

Antoinette Kuzminski said she had attended the April 13 Town Board meeting as Planning Board liaison. She said that Board had discussed the Town zoning map, and a proposed moving of Town of Otsego property into the Village of Cooperstown. Elizabeth Horvath is scheduled to serve as Planning Board liaison for the May 11 Town Board meeting.

Zoning Enforcement Officer Phillips noted that Will Green had been hired as Town Attorney, but that he was not willing to also serve as Planning Board Attorney. Chairman Huntsman said he would talk to Town Supervisor Ben Bauer about the Planning Board position.

Clerk Bill Deane discussed the June 7, 2022 agenda. Kovatchitch, Leatherstocking Common Area (possible public hearing), and Galati are expected to return. There are also two potential Lakeshore applications pending ZBA approval.

With no further business, at 10:23 PM Sharon Kroker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk