

# Town of Otsego Planning Board

Minutes – May 5, 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. Chairman Donna Borgstrom called the meeting to order at 7:32 and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. Members present were Borgstrom, Joe Potrikus (Vice-Chairman), Steve Purcell, Rosemary Craig, Scottie Baker, and Ed Hobbie. With Tom Huntsman absent, first alternate member John Phillips joined the meeting table. Also present were second alternate member Darryl Szarpa, Planning Board Attorney Jim Ferrari (who arrived at 7:55), and Zoning Enforcement Officer Tavis Austin (who arrived at 8:38). Third alternate member Trevor Fuller was absent.

Chairman Borgstrom reviewed correspondence received since the last meeting: an April 25 e-mail from former Planning Board chairman Paul Lord, regarding communication between the Town and Planning Boards; and the March/April 2015 issue (Volume 29, #2) of *Talk of the Towns & Topics*, copies of which were distributed.

Chairman Borgstrom asked if anyone on the Board had a conflict with any of tonight's applicants. She said that she would recuse herself from the applications of Heroux, who is a client of her law firm, and Hulse, who is her neighbor. Craig said she would as usual recuse herself from the Miller application.

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

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

## APPLICATIONS

### **LLIB, LLC (Bill Miller/Jon McManus) – Request to extend conditional approval of Upper West Side major subdivision to August 20, 2015 – County Highway 28, Pierstown (#84.00-1-15.62)**

Rosemary Craig recused herself and left the meeting table, with second alternate member Darryl Szarpa taking her place. Frank Novak, an employee of McManus Engineering, was present. He said applicant Bill Miller is again requesting a 90-day extension to his conditional approval for the Upper West Side major subdivision approved in 2011; the current expiration date is May 22, 2015. Novak said there were no changes.

Joe Potrikus moved to extend the approval for another 90 days, to August 20, 2015. John Phillips seconded the motion and it was approved, 7-0. Chairman Borgstrom said that Miller or an authorized representative should return at the August 4 meeting if he wants another extension. Craig returned to the meeting table.

**Richmond Hulse & Christine McBrearty-Hulse – Site plan review, special permitted use (bed & breakfast) – 5928 State Highway 28 (#114.00-1-14.52)**

Chairman Borgstrom recused herself and left the meeting table, leaving Vice-Chairman Joe Potrikus in charge. Second alternate member Darryl Szarpa remained at the meeting table.

Rick Hulse described his proposal to open a bed & breakfast at his 8.67-acre property in the RA2 district. He submitted a site map and aerial photo, which the Board reviewed. Hulse said the B&B would accommodate up to eight guests at a time, with no changes to the existing building or parking. There would be no exterior lighting or signs. The application was tabled, awaiting search for the application in the Zoning Enforcement Office.

Acting Chairman Potrikus cited the precedents set by similar applications in the past. Rosemary Craig read aloud the *Land Use Law* definition of “Bed and Breakfast.”

The Board went through the site plan requirements in Section 8.04 of the *Land Use Law*. The consensus of the Board was that most of the requirements either had been met or could be waived. John Phillips moved to waive all the listed requirements except #3 (list of neighbors) and #12 (environmental assessment form, or EAF). Ed Hobbie seconded the motion and it was approved, 7-0. The application was again tabled, allowing the applicant to complete document requirements.

Acting Chairman Potrikus moved to declare the Planning Board as lead agency. Hobbie seconded the motion and it was approved, 7-0.

Phillips read aloud the questions and applicants’ answers on the short EAF. With member input, he then completed the Planning Board section of the form. Phillips moved that, in consideration of State Environmental Quality Review, the Board declare a negative declaration and authorize the acting chairman to sign the EAF. Szarpa seconded the motion and it was approved, 7-0. Potrikus signed the form.

Steve Purcell moved to deem the application complete and schedule a public hearing for June 2. Rosemary Craig seconded the motion and it was approved, 7-0.

**Roger Heroux (Jon McManus) – Site plan review, special permitted use, self-storage units & gravel mine – County Highway 26, Fly Creek (#114.00-1-74.01)**

Chairman Borgstrom and Joe Potrikus recused themselves and left the meeting table, leaving John Phillips as acting chairman. Second alternate member Darryl Szarpa remained at the meeting table.

Frank Novak, an employee of McManus Engineering, was present. Bill Deane read aloud from the minutes of August 5, September 2, October 7, and December 2, 2014, relevant to the original (July 22, 2014) Roger Heroux application, which proposed four storage units. The application was never deemed complete or voted on. Heroux submitted a revised application for just one storage unit in January, 2015, and that was approved the following month. In a recent letter to the Board, representative Jon McManus contended that the 2014 application is still pending and thus is not subject to the subsequent *Land Use Law* revision.

Attorney Ferrari said that he thinks the application for four storage units is precluded by *Land Use Law* Section 3.04 (combined with the revised definition of “Service Trade Establishment”), which limits to “only one principal building per lot.”

Deane said he thinks there are two issues which have to be determined before the Board even gets to the *Land Use Law*; namely, (1) Is the July 22, 2014 application still valid? And (2) if so, is it grandfathered from the revised definition of “Service Trade Establishment”? Acting Chairman Phillips said that the second answer would appear to be “yes,” based on the Town Board’s statement about the pending Otsego Apple Growers application.

Zoning Enforcement Officer Austin said that he found no evidence that the 2014 Heroux application was ever formally withdrawn, or his application fee refunded. Attorney Ferrari said he could find no case law which addresses such a situation, but noted that the original application did not mention a service trade establishment. The Board wondered if applications remain technically active forever if they are never voted on or formally withdrawn? The consensus was to do more “homework” and discuss further next month.

Acting Chairman Phillips moved to table the discussion to the June 2 meeting. Ed Hobbie seconded the motion and it was approved, 6-0. Chairman Borgstrom returned to the meeting table.

**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 went to the applicants’ side of the meeting table. Second alternate member Darryl Szarpa remained at the meeting table.

Potrikus said that he had nothing new to present. He has been informed that he cannot do the proposed project until or unless the Town passes a new law allowing it. He asked to remain on the agenda until further notice.

Potrikus returned to the members' side of the table.

## **OTHER BUSINESS**

John Phillips discussed his draft proposal regarding notification about new laws, distributed the previous month. Board members made several suggested changes. Scottie Baker moved to submit the draft as amended to the Town Board for consideration. Rosemary Craig seconded the motion and it was approved, 7-0. Phillips said he would make the recommended changes to the draft and submit it to the Town Board.

Ed Hobbie said that Bond, Schoeneck & King offer to review local land use law language and make recommendations, for a fee of \$500-1,000. The consensus was that this would be a good investment by the Town.

Chairman Borgstrom moved that Joe Potrikus be appointed as Planning Board liaison for Town Board meetings, with John Phillips as alternate. Steve Purcell seconded the motion and it was approved, 6-0, with Potrikus abstaining. Chairman Borgstrom said she would relay this decision to the Town Board. Potrikus said that last month's Planning Board recommendations had not yet been relayed to the Town Board.

Chairman Borgstrom confirmed that June 2 will be her last Planning Board meeting. Potrikus noted that the Planning Board By-Laws, Section 4.1, allow the Planning Board to appoint its own chairman in such a situation. The consensus of the Board was to wait until July to address this.

Tavis Austin distributed copies of his May 5 Zoning Enforcement Officer report (filed), and discussed various cases and situations.

Bill Deane discussed the June 2, 2015 agenda. Hulse, Heroux, Potrikus, and Otsego Land Trust are expected to return. The Board briefly discussed the commercial aspect of the latter application.

With no further business, at 9:51, Baker moved to adjourn the meeting.

Respectfully submitted,  
Bill Deane, Planning Board Clerk