

Town of Otsego Planning Board

Minutes, June 7, 2022

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

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 7:30 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. All Board members ultimately were present: Huntsman, Elizabeth Horvath, May Leinhart, Chip Jennings, Sharon Kroker, Steve Talevi, and Antoinette Kuzminski (who arrived at 7:35, after the first vote). Alternate member Rosemary Brodersen was absent. Town Supervisor Ben Bauer and Zoning Enforcement Officer Wylie Phillips were also present.

The Board reviewed the minutes of May 3, 2022, e-mailed to the members. Leinhart clarified her reasoning during the Scarzafava application. Horvath moved to approve the minutes as written. Leinhart seconded the motion and it was approved, 6-0.

Correspondence included the Biological Field Station's 2021 annual report, passed around, and a letter from Campbell & Associates, regarding cell towers. Leinhart read aloud two e-mails:

- A June 7 e-mail from Attorney Bob Birch, regarding road access for the pending Kovatchitch subdivision.
- A misdirected April 30 e-mail from Michael Luzi & Kim Thibault, meant for the Scarzafava public hearing in May.

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

Huntsman asked if anyone from the public had a comment on a non-agenda item. Joseph & Maria Stabile spoke about the Scarzafava application the Board approved in May. They were disconcerted that their three-page letter with seven photos was not read aloud during the public hearing or discussed during the meeting. They wondered how much view of the Lake could be lost before the Board considers it an issue; Chairman Huntsman said it is a subjective issue. The Stables expressed concern about the 17 feet of fill which will be required for this project; Zoning Enforcement Officer Phillips said the Department of Environmental Conservation (DEC) had signed off on that.

The Board moved on to applications.

APPLICATIONS

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

May Leinhart read aloud from the May 3 minutes relevant to the Kovatchitch application. Representative Ed Hobbie said the project has been changed. He submitted a May 31 stamped survey, showing three (instead of four) new lots being removed from the 157.81-acre parcel. Hobbie said that made this a minor rather than a major subdivision. He submitted a \$525 check (delivered to the Town Clerk) for the application fee: three new lots at \$175 each.

Hobbie noted that there had been a previous lot split (24.7 acres going to Andrew Timmerman) on the parent lot, approved by him as Zoning Enforcement Officer in 2020. Chairman Huntsman read aloud the definitions of major and minor subdivisions, from the *Land Subdivision Regulations*. Huntsman said that five parcels from the original lot since 1986 makes this a major subdivision.

The three proposed new lots measure 13.20, 9.13, and 9.37 acres, respectively, each with at least 315 feet of road frontage on County Highway 28, although access to the lots will be from a 30-foot-wide “farm road” easement connected to the neighboring Timmerman lot. Hobbie said this would be addressed in the deeds, along with a covenant that the three new lots could not be subdivided further.

Antoinette Kuzminski expressed concern that large portions of the lots are unbuildable, due to the slopes. Chairman Huntsman said that was the concern of whoever buys the lots, not the Board.

Steve Talevi expressed concern about the road frontage on County Highway 28. Because of a steep slope, the lots cannot be practically accessed from that road. Chairman Huntsman said the law specifies 150 feet of road frontage, but it is not up to the Planning Board to determine whether that frontage is practical for access. Talevi also wondered whether the easement would be adequate for vehicle ingress and egress. Hobbie said it has to meet codes for emergency vehicle access.

Chairman Huntsman went through the major subdivision requirements in Section 5.3 of the *Land Subdivision Regulations*. The consensus of the Board was that all necessary documents had been submitted. Sharon Kroker moved to deem the application complete. Chip Jennings seconded the motion and it was approved, 7-0.

Hobbie asked that a public hearing be waived, as some neighbors have expressed no concern about the subdivision. Huntsman said that was not the Board’s practice for either minor or major subdivisions. Jennings moved to schedule a public hearing for July 5. Elizabeth Horvath seconded the motion and it was approved, 7-0.

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

Nobody appeared on behalf of this application. Clerk Bill Deane said the applicant had not yet submitted the signoff letter from the Army Corps and/or DEC, as requested during the May 3 meeting, which is why no public hearing was scheduled. Deane said if it were submitted by June 21, he would schedule a public hearing for July 5.

Joe Galati (Barb Monroe – Site plan review, expansion of existing residence within 100 feet of Otsego Lake in RA1 district – 6718 State Highway 80 (#69.68-1-14.00)

Clerk Bill Deane read aloud from the May 3 minutes relevant to the Galati application. Barb Monroe said she was representing applicant Joe Galati, but had no signed authorization letter (Galati confirmed her authorization via e-mail).

Monroe said the proposed addition would include no new bedrooms, and not be any higher than the existing house, which is within the 40-foot height limit.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said that the Board could waive the requirements for a survey (in lieu of a site map), engineering plans for the road, traffic, and landscaping.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(11). Chip Jennings seconded the motion and it was approved, 7-0.

Kroker moved to deem the application complete, waiving the survey, engineering plans for the road, traffic, and landscaping. Antoinette Kuzminski seconded the motion and it was approved, 7-0.

Monroe asked that a public hearing be waived. The consensus was that that was not defensible for a lakefront project. Jennings moved to schedule a public hearing for July 5. Kroker seconded the motion and it was approved, 7-0.

Mary Alyce Peterson (Barb Monroe) – Site plan review, demolition & 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. Representative Barb Monroe was present. She said that applicant Mary Alyce Peterson wants to demolish and rebuild a two-story house within 100 feet of Otsego Lake, with the new building being about six feet higher than State Highway 80. Because she wants to “square off” a 3x10’ open space in the southwest rear corner of the existing house, it would not be in the same footprint. Clerk Bill Deane read aloud from the April 19 and May 17 (not yet approved) Zoning Board of Appeals minutes relevant to the Peterson application. On that date, the ZBA held a public hearing with only positive comments, and the Board approved the variances sought.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(11). Chip Jennings seconded the motion and it was approved, 6-0.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said that the Board could waive the requirements for a survey and a public hearing (due to the ZBA hearing result), but would need sign-off from the DEC. Monroe was asked to return to the July 5 meeting with that.

Horvath returned to the meeting table.

Charlton Jones (Barb Monroe) – Site plan review, construction of porch within 100 feet of Otsego Lake in RA1 district – 6680 State Highway 80 (#69.76-1-11.00)

Barb Monroe said she was representing applicant Charlton Jones. The Planning Board approved a site plan for replacement of a camp in the lakeshore protection area for Jones in August, 2020; it was supposed to be a replacement-in-kind with no porch. Former Zoning Enforcement Officer Jess Lanza subsequently gave Jones permission to add a porch, then issued a “stop-work” order when he learned of his mistake. Jones now wants to complete the porch. Clerk Bill Deane read aloud from the April 19 and May 17 (not yet approved) ZBA minutes relevant to the Jones application. On that date, the ZBA held a public hearing with only positive comments, and the Board approved the variances sought, stipulating that gutters be installed on both sides and directed into dry-wells. Deane suggested that, if the Board approved the application, this stipulation be part of the approval motion.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said that the Board could waive requirements #1 (survey), 5 (preliminary engineering plans), and 6 (preliminary traffic circulation plans).

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, 7-0.

Antoinette Kuzminski moved to deem the application complete, waiving the survey, preliminary engineering plans, and preliminary traffic circulation plans. Horvath seconded the motion and it was approved, 7-0.

Kroker moved to waive the public hearing due to the ZBA hearing result. Kuzminski seconded the motion and it was approved, 7-0.

Kuzminski expressed concerns about the porch's appearance, large footprint, and potential runoff onto a steep slope. Others agreed. Chip Jennings said that Jones had lied in getting the porch okayed by Lanza.

Members wondered about the ZBA approval process. Deane read the ZBA minutes aloud again, and explained that it involves meeting five criteria listed in *Land Use Law* Section 9.03. He said that ZBA approval does not require the Planning Board to approve a project; however, he has never seen the Planning Board deny a ZBA-approved application in his 18 years working with both Boards.

Chairman Huntsman reviewed the Board's options: to approve the application, approve it with modifications, or deny it (with documented reasoning). The Board has 62 days to make a decision, or until August 8. Kuzminski made a tentative motion to deny the application. Steve Talevi suggested it would be best for someone to start with an approval motion and see where that led.

Talevi moved to approve the application as submitted. May Leinhart seconded the motion, then withdrew her second. With no second, the motion failed.

Chairman Huntsman said that he wanted to seek legal and/or Association of Towns counsel on the application, and table it to July 5. Monroe said that she would talk to the applicant in the meantime, encouraging him to make the application more acceptable to the Board.

Back Family Trust (Jeff & Kim Back) – Site plan review, raising of garage within 100 feet of Otsego Lake in RA1 district – 6820 State Highway 80 (#69.52-1-5.00)

Applicant Jeff Back explained that he owns a garage within 100 feet of Otsego Lake, and wants to lift it 40 inches higher. He would jack up the garage and add a block foundation underneath it, to help with erosion control. He would have to change the grade of the driveway as a consequence. Back has hired an architect and engineer for the proposed project.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said that the Board could waive the requirements for a survey, but would need sign-off from the DEC. Zoning Enforcement Officer Phillips said he would give Back contact information to pursue that.

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, 7-0.

Kroker moved to deem the application complete, waiving the survey, and contingent on DEC signoff being submitted to the ZEO by June 21. Antoinette Kuzminski seconded the motion and it was approved, 7-0.

Chip Jennings moved to schedule a public hearing for July 5, with the same contingency. Kroker seconded the motion and it was approved, 7-0.

OTHER BUSINESS

Zoning Enforcement Officer Phillips reported that he had issued two zoning permits and a violation notice in the past month. He said the Town had hired a consulting attorney, Tom Fucillo, for the Planning and Zoning Boards. Fucillo is based in Syracuse, and would not attend meetings, but bill for his services provided over the phone or by correspondence. Clerk Bill Deane reminded the Board that their By-Laws empower them to hire their own attorney, and that this has been on the agenda for discussion the past four months. Elizabeth Horvath and Chairman Huntsman said they would contact Jill Poulson about the Planning Board attorney position.

Elizabeth Horvath said she had attended the May 11 Town Board meeting as Planning Board liaison. She said that Board had discussed a proposed moving of Town of Otsego property into the Village of Cooperstown, the Fly Creek Hotel case, and updating the 2008 Comprehensive Plan. Chip Jennings is scheduled to serve as Planning Board liaison for the June 8 Town Board meeting.

Deane discussed the July 5, 2022 agenda. All six of tonight's applicants are expected to return, plus any new applications received in the next two weeks, with up to four public hearings. With no further business, at 10:04 PM Sharon Kroker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk