

# Town of Otsego Planning Board

Minutes, July 5, 2022

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

## **PUBLIC HEARINGS**

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

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

Kathryn Allen said she had received little notice about the hearing, and wondered what the project was about. Others chimed in with questions. Representative Ed Hobbie showed them the site plan and explained the project, setting off a disjointed conversation among Hobbie and the audience. After several minutes, Huntsman asked them to take the conversation outside the meeting room, so the Board could move on to the other scheduled hearings.

Clerk Bill Deane said that hearing notices were mailed to Allen and other neighbors on June 16, and the hearing was advertised in the *Daily Star*. Deane noted that hearing notices addressed to three neighbors were returned to sender: Howard Reiss (forwarding time expired), Molly Miosek (not deliverable as addressed), and Joseph Kovatchitch (no mail receptacle).

Hobbie and the neighbors finally returned to the meeting room after 13 minutes. Neighbors expressed no further questions or comments for the record. Antoinette Kuzminski wondered whether another hearing for Kovatchitch should be scheduled. Huntsman said that would be excessive.

Sharon Kroker moved to close the hearing. Kuzminski seconded the motion and it was approved, 6-0.

### **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)**

Chairman Huntsman opened the Galati public hearing at 7:35 PM and asked if anyone from the public had questions or comments about the project. No one responded.

Clerk Bill Deane read aloud a July 5 e-mail from Arthur Wallace, saying “I will not be able to attend the meeting for Joe Galati project, but I have no problems with his plans.” Deane also noted that a hearing notice addressed to neighbor Matthew Shea had been returned to sender due to no mail receptacle.

Sharon Kroker moved to close the hearing. Kuzminski seconded the motion and it was approved, 6-0.

### **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)**

Chairman Huntsman opened the Back public hearing at 7:36 PM and asked if anyone from the public had questions or comments about the project. No one responded. Antoinette Kuzminski moved to close the hearing. Sharon Kroker 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 7:48 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. Board members present were Huntsman, Elizabeth Horvath, Sharon Kroker, Steve Talevi, and Antoinette Kuzminski. With May Leinhart and Chip Jennings absent, alternate member Rosemary Brodersen joined the meeting table. Deane reminded the Board that four votes were required to pass any motion. Town Supervisor Ben Bauer and Zoning Enforcement Officer Wylie Phillips were also present.

The Board reviewed the minutes of June 7, 2022, e-mailed to the members. Horvath moved to approve them as written. Kuzminski seconded the motion and it was approved, 6-0.

Chairman Huntsman reviewed correspondence received since the last meeting:

- A July 5 e-mail from Joseph Stabile, clarifying that the Department of Environmental Conservation (DEC) did not approve the Scarzafava project, just said it was out of their jurisdiction. He concluded, “Accordingly, as an environmental biologist with over 30 years of experience, my serious concerns about the effects of over 17 feet of fill and changing water flow and damage to my property and the lake still remain.”
- A May 10 letter from the Laberge Group, regarding solar farm planning.
- A June 8 e-mail from the New York Planning Federation, regarding “tiny houses.”
- A letter from the Association of Towns, regarding training opportunities.

Chairman Huntsman asked if anyone had a conflict with any of tonight’s applicants. Horvath said she had conflicts with the Peterson and Marini applications.

Chairman Huntsman asked if anyone from the public had comments on a non-agenda item. Bruno Hofmann wondered about getting Keys Road paved. Huntsman referred him to Town Highway Superintendent Bill Hribar.

The Board moved on to applications.

## **APPLICATIONS**

### **James & Joan Marini (Sophia Gonzales/Redpoint Builders) – Site plan review, construction of retaining wall & stairs within 500 feet of Otsego Lake in RA1 district – 6616 State Highway 80 (#84.08-1-34.02)**

This application was moved up on the agenda at the representative’s request and Chairman’s agreement. Elizabeth Horvath recused herself and left the meeting table.

Sophia Gonzales of Redpoint Builders represented applicants James & Joan Marini. Gonzales said that the Marinis want to construct a retaining wall and stairs on their property near Otsego Lake. The wall would be about six feet above ground and four feet below ground, with construction 102 feet from Otsego Lake at its closest point. Clerk Bill Deane read aloud from the Zoning Board of Appeals’s June 21 minutes (not yet approved) relevant to the Marini application. The ZBA said that, since there was no proposed constrictions within 100 feet of the Lake, no variances would be required; however, site plan review is required due to its being within 500 feet of the Lake.

Gonzales submitted a 4/4/1990 survey, a 6/21/2022 site plan, and a \$75 check (delivered to the Town Clerk) for the site plan application fee. She reiterated that there would be no construction within 100 feet of the Lake (the application said otherwise), and said that there would be extensive landscaping. Chairman Huntsman said the survey made it unclear who owns the property.

Rosemary Brodersen noted that the proposed stairs would be within 100 feet of the Lake. Chairman Huntsman said that, as long as the stairs were no more than 42 inches wide, no ZBA variance would be needed.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said that the Board would need a corrected application, an updated and/or clarified survey, lighting plans, landscaping plans, and sign-off from the Department of Environmental Conservation (DEC). Gonzales was asked to return to the August 2 meeting with those items.

Horvath returned to the meeting table.

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

Clerk Bill Deane read aloud from the June 7 minutes relevant to the Kovatchitch application. Representative Ed Hobbie said there were no changes to the application. Chairman Huntsman reread a June 7 e-mail from Bob Birch, attorney for neighbor Andrew Timmerman.

Huntsman reviewed the Board's options. Sharon Kroker moved to approve the subdivision as submitted. Rosemary Brodersen seconded the motion and it was approved, 6-0. Huntsman stamped the site plan "approved" and signed it, with a copy made for the file. Deane advised Hobbie to file it with the County within 30 days. Hobbie said he would submit a copy of the County-approved Mylar when available.

Chairman Huntsman offered to discuss the application and decision with neighbor Kathryn Allen after the meeting.

**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 still not 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. Representative Chad Whitbeck had submitted a June 15 e-mail from the DEC, reading as follows:

"The project is located outside of any NYS Regulated Wetland Areas so that would not be required. The next thing to consider is Article 15 Protection of Waters jurisdiction (disturbance of lakes and streams) from the site plans alone our staff were unable to make a final decision. Our jurisdiction and whether our Department would require a permit is dependent upon the project location in relation to Mean High Water Mark (MHWM). If you would like our staff to come to the site to determine where the MHWM is we can schedule a site visit, but staff are booked out a couple of weeks with site visits. If you are comfortable making that determination and showing its location on the project plans staff would be able make a determination based on that. Please be aware if staff make a determination of no permit necessary based on your determination of MHWM location, but your determination of MHWM is not accurate and a permit should have been issued violations are possible."

Zoning Enforcement Officer Phillips determined this did not meet the Planning Board's requirements, and advised Whitbeck to schedule the site visit, and also seek sign-off from the Army Corps. Deane said if the proper sign-offs were submitted by July 19, he would schedule a public hearing for August 2.

**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 June 7 minutes relevant to the Galati application. Barb Monroe represented applicant Joe Galati.

Chairman Huntsman asked Monroe to explain the proposed plan. She submitted a picture, showing the proposed dormer. It would be in the 8' x 28'6" footprint of the existing building, and be about nine feet tall, with the roof raised by three feet.

Chairman Huntsman noted that *Land Use Law* Section 4.04 had been amended in 2020. Where it used to say construction should be limited to the existing "footprint," it now says "dimensions." Huntsman said he discussed this with former Town Board member Carina Franck and current ZBA Chairman Greg Crowell; both said they interpret that to mean three dimensions rather than two for the footprint. That would suggest that Galati would need another ZBA variance before site plan review, though Huntsman said the difference is not substantial and the project represents an improvement. Deane noted that Galati had gotten a variance for construction in the footprint in 2013. Antoinette Kuzminski said the law should be clarified; others agreed. Huntsman asked Monroe to amend the application to show cubic footage instead of square footage of the project.

Elizabeth Horvath moved to approve the site plan as submitted. Rosemary Brodersen seconded the motion and it was approved, 4-2, with Kuzminski and Steve Talevi opposed. Chairman Huntsman stamped the site plan "approved" and signed it.

**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)**

Clerk Bill Deane read aloud from the June 7 minutes relevant to the Jones application. Applicant Charlton Jones was present. Chairman Huntsman said the Town was at fault for this situation, not the applicant.

Jones said he planned to direct the gutter runoff into the septic system, instead of dry-wells. Deane noted that the ZBA variance specified dry-wells. Jones said there was permeable surface under the deck, and that erosion mats would not be practical due to the shale.

Antoinette Kuzminski asked about the strut holding up the porch. Jones said this was a temporary fix, to be replaced by vertical pillars upon the project's approval.

Elizabeth Horvath moved to approve the site plan as submitted, with the ZBA stipulation that gutters be installed on both sides and directed into dry-wells. Steve Talevi seconded the motion and it was approved, 6-0. Chairman Huntsman stamped the site plan "approved" and signed it.

**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. Clerk Bill Deane read aloud from the June 7 minutes relevant to the Peterson application. Representative Barb Monroe submitted a June 29 letter from the DEC, saying no permits were required from them for this project as submitted. This was the only item the Board had asked Monroe to submit.

Sharon Kroker moved to deem the application complete, waiving the survey and public hearing (due to the ZBA hearing result). Steve Talevi seconded the motion and it was approved, 5-0.

Kroker moved to approve the site plan as submitted. Rosemary Brodersen seconded the motion and it was approved, 4-0, with Antoinette Kuzminski abstaining because she did not remember the application. Chairman Huntsman stamped the site plan "approved" and signed it.

Horvath returned to the meeting table.

**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)**

Clerk Bill Deane read aloud from the June 7 minutes relevant to the Back application. Since then, applicant Jeff Back submitted a June 15 letter from the DEC, saying no permits were required by them, but recommending certain precautions for erosion control.

The Board briefly discussed the application. Antoinette Kuzminski moved to approve the site plan, with the erosion control precautions recommended by the DEC. Sharon Kroker seconded the motion and it was approved, 6-0. Chairman Huntsman stamped the site plan “approved” and signed it, with a copy made for the file. Zoning Enforcement Officer Phillips said he would forward a copy of the DEC letter to the County Codes office.

**Han & Kellogg Trust (Lauren Glynn/Schlather & Birch) – Minor subdivision in RA district – Keys Road (#53.00-1-14.01)**

Lauren Glynn of Schlather & Birch represented the Han & Kellogg Trust. She said the Trust is a 501(c)(3) charitable foundation which supports the local opera and arts.

Glynn said the Trust owns an 84-acre lot which straddles Keys Road, with one year-round house and one seasonal house on each side of the road. They want to split the lot along Keys Road and sell the smaller remaining parcel, measuring 16 acres. There had been a previous split of the parent lot in 2011, making this a minor subdivision. Glynn submitted a \$175 check (delivered to the Town Clerk) for the subdivision fee, and a 2012 deed, showing no deed restrictions.

Chairman Huntsman went through the minor subdivision requirements in Section 5.2 of the *Land Subdivision Regulations*. He said that, in view of the obvious boundary line, a full survey could be waived in lieu of proposed deed language. Huntsman said that the resultant lots would meet acreage and frontage requirements. Glynn asked that the Mylar be waived due to the expense.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(47). Antoinette Kuzminski seconded the motion and it was approved, 6-0.

Kuzminski moved to deem the application complete, waiving the survey and Mylar, contingent on proposed deed descriptions to be submitted to the Clerk by July 19. Rosemary Brodersen seconded the motion and it was approved, 6-0.

Brodersen moved to schedule a public hearing for August 2 with the same contingency. Kroker seconded the motion and it was approved, 6-0.

**Jason & Jeanine Harter – Minor subdivision in RA1 district – 428 Buck Road (#68.00-1-18.21)**

Applicant Jason Harter said he and his wife own a 58-plus-acre lot on Buck Road. They want to split off seven acres. There had been a previous split of the parent lot in 1994, making this a minor subdivision.

Harter submitted a 5/31/22 Mylar prepared by Kevin Yerdon, and a \$175 check (delivered to the Town Clerk) for the subdivision fee. He said that there were no deed covenants, and would be no changes to the existing well and septic system.

Chairman Huntsman went through the minor subdivision requirements in Section 5.2 of the *Land Subdivision Regulations*. Huntsman said that the resultant lots would meet acreage and frontage requirements, and the new lot would be rectangular, as preferred by the Board.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(47). Rosemary Brodersen seconded the motion and it was approved, 6-0.

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

Elizabeth Horvath moved to schedule a public hearing for August 2. Brodersen seconded the motion and it was approved, 6-0.

### **OTHER BUSINESS**

Zoning Enforcement Officer Wylie Phillips reported on various issues he is dealing with, including the Emily Stolarczyk application before the ZBA, and tent campsites built on decks on Thayer Road. Phillips said he learned of a deck on Canadarago Lake built without any Town approvals, and that it would probably come before the Board soon.

Chip Jennings served as Planning Board liaison for the June 8 Town Board meeting, and e-mailed a report. He advised the Town Board that the Planning Board's By-Laws empower it to hire its own attorney, and they are working on that. Tom Huntsman is assigned as Planning Board liaison for the July 13 Town Board meeting.

The Board discussed the Planning Board Attorney vacancy. Clerk Bill Deane related the ZBA's experience with the Town's contracted attorney, Tom Fucillo. ZBA Chairman Greg Crowell exchanged e-mails with Fucillo about a pending application, and Fucillo sent him an inconclusive two-page report. The Town was then billed nearly \$1,000 for Fucillo's services. Chairman Huntsman said that Ryan Miosek has indicated he wants his job back, and that he would groom Michael Rowley to replace him after Rowley passes his bar exam. Antoinette Kuzminski said that Miosek was disrespectful to Board members at times, and should modify his behavior. The consensus of the Board was that Miosek could be rehired as a stop-gap on a month-to-month basis. Huntsman said he would contact Miosek to discuss this.

Deane discussed the August 2 agenda. Marini, Leatherstocking, Han & Kellogg, and Harter are expected back, with public hearings for Harter and possibly Leatherstocking and Han & Kellogg. With no further business, at 9:57 PM Sharon Kroker moved to adjourn the meeting.

Respectfully submitted,  
Bill Deane, Planning Board Clerk