

Town of Otsego Planning Board

Minutes – July 6, 2010

PUBLIC HEARINGS

LLIB, LLC (Jon McManus) – Upper West Side (Reiss) major subdivision – County Highway 28, Pierstown (#84.00-1-15.62)

Chairman Paul Lord opened the LLIB public hearing at 7:32 PM. Joe Galati recused himself from this application and left the meeting table, per his February 2 memo. Representative Jon McManus passed around a site plan to interested neighbors, and explained the project. He said that Department of Environmental Conservation (DEC) approval had been received on June 17. Lord opened the floor to questions.

Beth Westfall, attorney for neighbors Robert and Patricia Hanft of County Highway 28, asked for an explanation of the DEC approval. McManus read aloud the letter from the DEC.

Marilyn Bradshaw, of 6539 State Highway 80, asked whether there was an agreement covering future storm-water maintenance. McManus referred her to the Storm-Water Pollution Prevention Plan (SWPPP), which includes such an agreement to be transferred to a homeowners' association. Bradshaw also asked about approval of septic systems. McManus explained that systems would be engineered whenever someone built on the property, and would be subject to County approval.

Leon Kalmus, of 6515 State Highway 80, asked what is the maximum length of a cul-de-sac? Lord said he would check on this at a later time.

Ed Craig, of 153 Reiss Road, asked whether there would be a separate homeowners' association from the current development. McManus said there would. Craig also asked whether the road from this development could be physically linked with that from the Edward Walker project. McManus said it was theoretically possible, but would require a new application and variances.

With no further questions, Lord opened the floor to comments.

Howard Reiss, of County Highway 28, talked about the intent of the original 1989 subdivision. He said people bought lots from him in good faith under the five-acre-average law in effect at the time, with the understanding that they could not be subdivided further. Reiss feels betrayed and disgusted by William Miller's current proposal.

Beth Westfall said that the application should be denied, and cited the following concerns: (1) Restrictive deed covenants prohibit further subdivision, and the Planning Board should take that into consideration; (2) The Environmental Assessment Form (EAF) is deficient, not addressing the facts that the property may be in or adjacent to the Glimmerglass Historic District (making it a Type I Action) and in an agricultural district, nor listing the other involved agencies such as the State Historic Preservation Office (SHPO); (3) The proposed road is substandard; (4) The project should be referred to the County; (5) The Board should rely on the Town's *Land Subdivision Regulations*, including the statement of policy, the preservation of natural features, and the section on proposed streets, and should seek the counsel of an independent engineer.

Patricia Hanft said that Miller had already cut down 29 trees on her property in preparing for this project. She cited the deed restrictions, and said the project would set a dangerous precedent for the area.

Robert Hanft discussed potential issues involving water runoff and escrow funds for maintenance.

Jack Drumm said he was opposed to the project, citing the one-house-per-parcel intent of the original subdivision.

Marilyn Bradshaw said that the project would change the character of the area, threaten Otsego Lake, and set a bad precedent. She is particularly concerned about tree removal.

Carol Akin, of 6539 State Highway 80, said she was very concerned about the project and that it should be denied. She said various Lake-related organizations have recommended no further development in that area. She expressed concerns about aesthetics, tree removal, and maintenance of retention basins, especially in combination with the nearby Walker project.

Howard Reiss said that buying a lot from a subdivision is different than buying a single lot.

Lord read aloud a July 6 letter (filed) from Eric Miller, Executive Director of the Otsego County Conservation Association (OCCA), expressing concerns about development in the area.

With no further questions or comments, Donna Borgstrom moved to close the public hearing. Joe Potrikus seconded the motion and it was approved, 6-0. Galati returned to the meeting table.

Greg O'Neil – Site plan review, special permitted use, hair salon – 200 Cemetery Road (#114.05-1-51.00)

Chairman Paul Lord opened the O'Neil public hearing at 8:11 PM, and asked if anyone from the public had questions or comments. No one responded. Lord read aloud a letter (filed) from neighbors Sarah and Mark Wilcox, expressing support for the project. Donna Borgstrom moved to close the hearing. John Phillips seconded the motion and it was approved, 7-0.

Village of Cooperstown (Peter Loyola) – Site plan review, special permitted uses, Cooperstown Intermodal Transit Center Project – Linden Avenue

Chairman Paul Lord opened the Village of Cooperstown public hearing at 8:12 PM. Representative Peter Loyola displayed the plat on an easel and described the proposed project, with input from Sue Torelli of Creighton Manning Engineering. Lord opened the floor to questions.

Ellen Poulette, of 51 Linden Avenue, asked whether the Planning Board members were familiar with the unsafe traffic on Linden Avenue during school hours.

Celia Lamb said she has lived at 23 Linden Avenue for 50 years. She asked about preserving her two nut trees in the path of the proposed sidewalk, and asked who would maintain the sidewalk. Loyola said that preserving the Lamb's trees was part of the plan, and that he thought the Village of Cooperstown would be responsible for maintaining the sidewalk, but would have to check into that. Lamb asked for a timeline on the project, which Loyola gave her. Lamb also asked if a speed zone could be implemented.

Ellen Pope, Director of Otsego 2000, asked for clarification of how the project would improve traffic.

Margaret Buchanan, of 15 Linden Avenue, asked whether her septic system would be affected. Loyola said they were looking into extending the village sewer system to include her. Buchanan asked if the north end of Linden Avenue could be designated for no commercial traffic. Loyola said that could be looked into, but the project should improve the situation even without such a designation. Buchanan also asked whether there would be a traffic light at the intersection of Linden Avenue and State Highway 28; Loyola said there would be only a stop sign.

Brent Gray, of 49 Walnut Street, asked whether the intersection of Walnut and Linden would be widened. Loyola said it would not.

With no further questions, Lord opened the floor to comments.

Peg Toruella, of 12 Linden Avenue, said she was not in favor of the project due to traffic concerns.

Maurice Toruella, of 12 Linden Avenue, expressed concern about the sidewalk dead-ending at Walnut Street. He recalled that it was the Village who shut off the Linden Avenue extension in the first place and that, while the project sounds good, he doesn't believe anything the Village officials say.

Cooperstown Mayor Joe Booan thanked the neighbors for their input, and said the Village would work hard to address their concerns. He invited them to attend the next Village meeting on July 14.

Dave Poulette, of 51 Linden Avenue, said that CLA has done a terrific job of mitigating concerns, and that the project would be an improvement.

Village Trustee Jeff Katz said the project would benefit the community and school district. He explained some of the project's issues and delays.

Ellen Poulette said that the proposed extension of Linden Avenue to State Highway 28 would improve the traffic situation.

Lord noted that a letter to neighbor Nancy Francis, 49 Walnut Street, had been returned, "not deliverable as addressed."

With no further questions or comments, Donna Borgstrom moved to close the public hearing. Joe Galati seconded the motion and it was approved, 7-0.

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 Paul Lord called the meeting to order at 8:52 PM, and roll call was taken by Clerk Bill Deane. Members present were Lord, Donna Borgstrom (Vice-Chairman), John Phillips, Joe Galati, Wes Ciampo, Joe Potrikus, and alternate member Rosemary Craig, who joined the meeting table due to Steve Purcell's absence. Zoning Enforcement Officer Hank Schecher and Planning Board Attorney Jim Ferrari were also present.

The Board reviewed the minutes of June 1 and June 22, 2010, e-mailed to the members. Potrikus moved to approve both sets of minutes as written. Borgstrom seconded the motion and it was approved, 5-0 (Phillips and Ciampo had temporarily left the room).

Chairman Lord said that most of the correspondence received since the last meeting pertained to specific applications on the agenda, and would be addressed later. The only other items were letters (distributed) from Lorman Education Services, advertising a training video, "Administration and Enforcement of Wetlands in New

York.” The consensus of the Board was that this should be ordered. Phillips said he would make the necessary arrangements.

Zoning Enforcement Officer Schecher distributed copies of his July 6 report (filed). It itemized two land use permits issued, and five applications pending Planning or Zoning Board review.

Chairman Lord asked whether anyone from the public had comment on a non-agenda item. No one offered any comments.

The Board moved on to applications.

APPLICATIONS

Greg O’Neil – Site plan review, special permitted use, hair salon – 200 Cemetery Road (#114.05-1-51.00)

Donna Borgstrom read aloud from the minutes of June 1 and June 22 relevant to the application. Applicant Greg O’Neil said there were no changes to the application.

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

Phillips moved to approve the site plan as submitted and the special permitted use for a hair salon. Potrikus seconded the motion and it was approved, 7-0. Bill Deane prepared a special permit which Chairman Lord signed, to be mailed to the applicant.

Constantine Margaritis (Leon Kalmus) – Site plan review, rebuilding of supporting structure within 100 feet of Otsego Lake – 6515 State Highway 80 (#84.12-1-6.00)

Leon Kalmus explained his plan to extend the retaining wall the Board had approved last year. Donna Borgstrom read aloud from the minutes of October 6, 2009 relevant to that application. Kalmus said that approvals from the Army Corps of Engineers and DEC were “in the mail.” He was asked to deliver copies of these to the Board upon receipt.

John Phillips moved to approve the site plan, contingent on the Board’s receipt of the DEC approval letter. Joe Galati seconded the motion and it was approved, 7-0.

LLIB, LLC (Jon McManus) – Upper West Side (Reiss) major subdivision – County Highway 28, Pierstown (#84.00-1-15.62)

Joe Galati recused himself from this application and left the meeting table, per his February 2 memo. Rosemary Craig, who lives on Reiss Road, also recused herself and left the meeting table. Donna Borgstrom read aloud from the minutes of June 1 relevant to the application. Chairman Lord urged the members to review the SWPPP before the next meeting.

Representative Jon McManus responded to some of the issues raised during the public hearing. He said that the intent was to design the road to Donovan specifications, but this had been revised between the applicant and Board during the application process. He noted that Reiss Road does not meet Donovan specs.

McManus said that the DEC would have regular inspections throughout the construction process, and they have requirements for shutdown.

McManus said that the site plan and SWPPP address tree removal and runoff. Lord said that it is up to the Zoning Enforcement Officer to enforce tree-cutting

restrictions. McManus said he could add documentation of tree removal to the SWPPP.

McManus said that he has presented extraordinary water quality plans, and met all required planning and zoning rules and technical requirements. He said he would do a revised EAF, due to the property being in the agricultural district.

Borgstrom asked about the deed covenant prohibiting further subdivision. Owner William Miller said that his lot is exempt from that covenant. Borgstrom said the Board would need to see proof of that, and also consider the impact on the neighborhood. Lord said the Board would have to review the documents and minutes of the original Reiss subdivision applications in 1989 and 1994 or '95. Borgstrom said she would check the file documents; Joe Potrikus volunteered to check the minutes; and Zoning Enforcement Officer Schecher said he would check the County sources to help pin down dates. Lord asked attorney Beth Westfall to provide Planning Board Attorney Ferrari with documentation on the deed restrictions.

Bill Deane advised McManus that, due to the ag district requirements, he would need to provide a list of neighbors (and addresses) within 500 feet of the property. Lord said that the Board would need more information about a prospective homeowners' association. He said the Board's chief concerns are about the neighbors and the alleged covenants.

Joe Potrikus moved that Town Engineer Wayne Bunn review the SWPPP. Borgstrom seconded the motion and it was approved, 5-0. Lord said he would contact Bunn. Lord said he would also take care of a referral to the County. McManus will return for the August meeting.

Galati and Craig returned to the meeting table.

Village of Cooperstown (Peter Loyola) – Site plan review, special permitted uses, Cooperstown Intermodal Transit Center Project – Linden Avenue

Donna Borgstrom read aloud from the minutes of June 22 relevant to the application. Peter Loyola submitted a June 28 notice (filed) in which the Village of Cooperstown formally designated itself lead agency for SEQRA purposes.

Chairman Lord said he had asked engineer James O. Forbes about doing an engineering review of the CITC Project, and read aloud from a letter Forbes had written in response. Based on a cursory look, Forbes told Lord the project was not ready for engineering review (by definition, at least 65% complete), and should still be classified as a sketch plan conference. Forbes gave a cost estimate of 3-5% of the design fees associated with the project (cited as \$278,560 in a July 8 e-mail from Loyola, making the engineering fee as much as \$13,928). John Phillips questioned such a large bill being footed by the taxpayers.

Loyola challenged Forbes's assertion, saying he thinks the project is at least 65% ready now, and that he is willing to sign a statement to that effect. Loyola said the SWPPP would be 100% complete by July 9, and the rest of the engineering plans would be 75% complete by July 14; he will submit the documents, along with a statement about their completeness, to the Board on or about those dates.

Lord asked Loyola where the Linden Avenue septic systems are; Loyola said there are none close to the project. Loyola reported on the various land acquisitions and right-of-way certificates needed; he expects those to be completed by August 31.

Joe Galati and Lord said the Board would need the following items, in addition

to those already mentioned:

- An updated EAF, including the special permits requested.
- A full-sized set of drawings (requested previously).
- Clarification on the maintenance of the parking lot and sidewalks. Jeff Katz admitted that, under current ordinances, the homeowners would be responsible for sidewalk maintenance.
- Documentation on turnover of certain property from the Town of Otsego to the Village of Cooperstown. Loyola said that attorney Paul Elkan was working on this.
- Further information of the State Highway 28 intersection. Loyola said that the matter would be sent to the New York State Department of Transportation (DOT) for review on July 16.

Wes Ciampo again asked about accommodations for bus and RV parking. Loyola said he would look into that and give an answer at a later date.

It was noted that, having held the public hearing tonight, the Board had 62 days to make a decision, making their deadline September 6, one day before that month's scheduled meeting. The consensus was that, due to the long list of unresolved issues, the deadline would have to be extended at least that one day, if Loyola was agreeable. Loyola said he was. Joe Potrikus moved to extend the Board's deadline for decision to September 7. Rosemary Craig seconded the motion and it was approved, 7-0. Loyola will return in August.

OTHER BUSINESS

Due to the lateness of the hour, Chairman Lord again suggested that discussion of potential changes to the *Land Subdivision Regulations* be tabled.

Chairman Lord distributed updated sets of the *Land Use Law* to the members. These were provided by the Town Clerk at Lord's request.

Chairman Lord distributed copies of the Town's law regarding the alternate Planning Board member. It clarified that the alternate member may serve in the case of absence of a regular member, as well as in case of a conflict.

Chairman Lord noted that applicant William Miller was filming part of the public hearing with his phone, until an angry neighbor insisted he stop. Lord wondered whether the Board should make a formal policy not to allow video-taping of Board proceedings, except by the media. Rosemary Craig made a motion to that effect, and Joe Potrikus seconded it. Wes Ciampo said that the Board should look further into the matter first, since the meetings are public. Lord said he would look into the matter. Craig withdrew the motion.

Bill Deane discussed the August 3 agenda. The only returning applicants are the LLIB subdivision and the Cooperstown Intermodal Transit Center Project.

With no further business, at 11:17, Wes Ciampo moved to adjourn the meeting.

Respectfully submitted,
Bill Deane

Planning Board Clerk