

Town of Otsego Planning Board

Minutes, July 11, 2023

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

PUBLIC HEARINGS

Thomas & Colleen Groom – Site plan review, replacement of deck within 100 feet of Canadarago Lake in RA2 district – 141 Marble Road (#52.11-1-10.00)

Chairman Tom Huntsman opened the Groom public hearing at 7:29 PM, and asked if anyone from the public had questions or comments about the proposed project. No one responded. Ted Feury moved to close the hearing. Sharon Kroker seconded the motion and it was approved, 5-0.

Dave Neil – Site plan review, prospective special permitted use (food truck) in RA2 district – 5995 State Highway 28 (#114.00-1-36.02)

Chairman Huntsman opened the Neil public hearing at 7:30 PM, and asked if anyone from the public had questions or comments about the proposed project. No one responded. Sharon Kroker moved to close the hearing. Elizabeth Horvath seconded the motion and it was approved, 5-0.

Chokgyur Lingpa Foundation (Tim Horvath, Redpoint Builders) – Site plan review, special permitted use expansion (place of worship) in RA1 district – 412 Glimmerglan Road (#98.00-1-67.01)

Chairman Huntsman opened the Chokgyur Lingpa public hearing at 7:31 PM, and asked if anyone from the public had questions or comments about the proposed project. No one responded. Sharon Kroker moved to close the hearing. Elizabeth Horvath seconded the motion and it was approved, 5-0.

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 7:31 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. Board members present were Huntsman, Ted Feury (Vice-Chairman), Sharon Kroker, and Elizabeth Horvath. With May Leinhart, Steve Talevi, and Antoinette Kuzminski absent, alternate member Ann Cannon joined the meeting table. Deane reminded the Board that four votes were required to pass any motion. Planning Board Attorney Jill Poulson (who arrived at 8:46, after the applications) and Zoning Enforcement Officer Wylie Phillips were also present.

The Board reviewed the minutes of June 6, e-mailed to the members. Feury said that the SEQR motion on the White application should have been based on Section 617.5(c)(16) instead of Section 617.5(c)(47). Deane said that may have been an error on the Board's motion, but was not an error

in the minutes. Feury moved to approve the minutes as amended. Cannon seconded the motion and it was approved, 5-0.

The only correspondence received since the last meeting was the Biological Field Station's *2022 Annual Report*, which was passed around.

Chairman Huntsman asked if anyone had a conflict with any of tonight's applicants. Horvath said she had conflicts with the Chokgyur Lingpa and Pyle applications.

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

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APPLICATIONS

Peter Kapsales (Tim Yerdon) – Site plan review, replacement of shed & deck within 100 feet of Otsego Lake in RA1 district – 6447 State Highway 80 (#84.00-1-17.02)

No one appeared on behalf of the Kapsales application. Clerk Bill Deane read aloud from the minutes of June 6 relevant to the application. The Board had deemed the application complete and waived the public hearing due to the ZBA hearing result, and needed only sign-off from the Department of Environmental Conservation to decide on the application. Phillips said that representative Tim Yerdon had not yet received anything from the DEC. Deane said the Board had until August 7 to decide on the application. Phillips said he would ask Yerdon to come to the August 1 meeting with DEC sign-off or, if not available, to agree to "stop the clock" on the 62-day process.

Thomas & Colleen Groom – Site plan review, replacement of deck within 100 feet of Canadarago Lake in RA2 district – 141 Marble Road (#52.11-1-10.00)

Representative Colleen Groom was present. Clerk Bill Deane read aloud from the minutes of June 6 relevant to the Groom application. The Board had deemed the application complete and scheduled a public hearing, and needed only sign-off from the Department of Environmental Conservation to decide on the application.

Chairman Huntsman read aloud a June 9 e-mail that Zoning Enforcement Officer Phillips received from William Buetow of the DEC, saying, "We have been trying to work with Dawn and Thomas Groom on the unauthorized deck they built in DEC regulated area without a permit at 141 Marble Rd. We have been unable to get them on the phone over the last few months. It sounds like they need our cooperation in order to get their building permit resolved for the deck. Please note that they have not resolved the DEC violation and are not cooperating with us to resolve this issue." Phillips said he had spoken to Buetow today, and was told the situation is still not resolved.

Groom said she had been trying to get something from the DEC, but they had not given her anything in writing. She submitted receipts (copied for the file) showing she had paid \$400 to the DEC months ago. Chairman Huntsman examined the receipts and said they appeared to show payment of DEC violation fine(s), not an application fee. The Board still needs DEC sign-off on this project.

Deane said that, having held the public hearing tonight, the Board had until September 11 to decide on the application. He said he would put Groom on the August 1 agenda unless he heard otherwise from her.

Dave Neil – Site plan review, prospective special permitted use (food truck) in RA2 district – 5995 State Highway 28 (#114.00-1-36.02)

Clerk Bill Deane read aloud from the Planning Board’s minutes of June 6 relevant to the Neil application. Chairman Huntsman said the Town Board since amended the *Land Use Law* to allow food trucks as a special permitted use in the RA2 district.

The Board had advised Neil that they would need sign-offs from the Departments of Health (DOH) and Transportation (DOT) before they could vote to approve the project. Neil submitted a 2018 DOT approval for the Purple Star boutique, permitting up to 100 vehicles per hour on the property. He also submitted a 4/21/23 DOH permit. Neil said he planned to have the truck open from May through October each year, no later than 11 PM daily. He will use propane tanks for cooking.

After discussion, Elizabeth Horvath moved to approve the special permitted use (food truck) as requested, with the condition that the truck be open no later than 11 PM daily, and with a permit expiration date of 12/31/24. Sharon Kroker seconded the motion and it was approved, 5-0. Deane prepared a special permit which Chairman Huntsman signed; Zoning Enforcement Officer Phillips made a copy for Neil. The Board advised Neil he would have to return before them in late 2024 if he wanted to extend or eliminate the expiration date.

Horvath moved to approve the site plan as submitted. Ann Cannon seconded the motion and it was approved, 5-0.

Chokgyur Lingpa Foundation (Tim Horvath, Redpoint Builders) – Site plan review, special permitted use expansion (place of worship) in RA1 district – 412 Glimmerglen Road (#98.00-1-67.01)

Elizabeth Horvath recused herself and left the meeting table. Representative Tim Horvath was present. Clerk Bill Deane read aloud from the Planning Board’s minutes of June 6 relevant to the application.

After brief discussion, Sharon Kroker moved to approve the site plan as submitted. Ann Cannon seconded the motion and it was approved, 4-0. Chairman Huntsman stamped the site plan “approved” and signed it, with Zoning Enforcement Officer Phillips making a copy for the representative. Huntsman said there was no change to the 2009 special permit for place of worship, so no need for a new permit.

Brian Pyle (Redpoint Builders) – Site plan review, replacement of home and addition of stairs within 100 feet of Otsego Lake in RA1 district – 6830 State Highway 80 (#69.44-1-36.00)

Elizabeth Horvath remained recused and away from the meeting table. Representatives Chris Hand and Tim Horvath of Redpoint Builders were present. They said applicant Brian Pyle had slightly changed his plans after the Planning Board approved his project in February. Clerk Bill Deane read aloud from the Zoning Board of Appeals’s minutes of May 16 and June 20 (not yet approved) relevant to the Pyle application. During the latter meeting, the ZBA had held a public hearing with no comments, and approved the variances sought: a 13-foot variance on the south side, a 22-foot variance on the east or

Lake side, and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake.

Chairman Huntsman went through the site plan requirements in Section 8.04 on the *Land Use Law*. Zoning Enforcement Officer Phillips said he had received verbal OK from the Watershed Supervisory Committee. The Board will need sign-offs from the DOT and DEC before deciding on the project. Horvath said they didn't need DOT approval before construction.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(2). Ann Cannon seconded the motion and it was approved, 4-0.

Ted Feury moved to deem the application complete. Kroker seconded the motion and it was approved, 4-0.

Kroker moved to waive the public hearing due to the ZBA hearing results. Cannon seconded the motion and it was approved, 4-0.

Kroker moved to approve the site plan, contingent on proof of DEC approval being submitted to the Zoning Enforcement Officer. Cannon seconded the motion and it was approved, 4-0. Chairman Huntsman stamped the site plan "approved" and signed it.

Elizabeth Horvath returned to the meeting table.

Mica Thorsland – Site plan review, replacement of collapsed deck within 100 feet of Canadarago Lake in RA2 district – 2119 County Highway 22 (#38.20-1-21.00)

This application was omitted from the posted agenda due to a clerical error. Applicant Mica Thorsland said he had a deck within 100 feet of Canadarago Lake, measuring about 330 square feet. It collapsed during the winter, and he wants to replace it. Thorsland submitted a 6/30/23 site plan, and before & after photos. The only proposed changes to the footprint are a slight move of the 40"-wide staircase and a corresponding alteration of the deck.

Chairman Huntsman said that, if there is any change to the footprint, Thorsland would need ZBA variances before the Planning Board could act. Clerk Bill Deane said, in that case, the earliest he could go before the ZBA is August 15, and the earliest he could return before the Planning Board would be October. Alternatively, Thorsland could revise his plan to the original footprint, and return to the August 1 Planning Board meeting, with potential approval as early as September.

Thorsland asked to be put on the August 1 Planning Board agenda.

Cooper 6711 LLC (Anthony & Debra Dianich) – Site plan review, construction of new home within 500 feet of Otsego Lake in RA1 district – 6711 State Highway 80 (#69.68-1-17.00)

This application was omitted from the posted agenda due to a clerical error. Applicant Debra Dianich received ZBA variances in 2017 for construction of a new home within 500 feet of Otsego Lake. Zoning Enforcement Officer Ed Hobbie then mistakenly gave her a land use permit without her going through the Planning Board. After some delays, Dianich started construction, building a foundation and septic system, before COVID grounded the project. Due to the skyrocketing costs of materials since then, she now proposes a smaller home: one story with walk-out basement instead of two stories. She submitted a 7/7/23 site plan.

Chairman Huntsman went through the site plan requirements in Section 8.04 on the *Land Use Law*. He said the survey requirement could be waived.

The Board discussed State Environmental Quality Review (SEQR). Sharon Kroker moved to deem this a Type II action per SEQR Section 617.5(c)(2). Ann Cannon seconded the motion and it was approved, 5-0.

Kroker moved to deem the application complete, waiving the survey. Ted Feury seconded the motion and it was approved, 5-0.

Elizabeth Horvath moved to waive the public hearing, due to the 2017 ZBA hearing result. Cannon seconded the motion and it was approved, 5-0.

Horvath moved to approve the site plan as submitted. Cannon seconded the motion and it was approved, 5-0. Chairman Huntsman stamped the site plan “approved” and signed it, with Zoning Enforcement Officer Phillips making a copy for the applicant.

OTHER BUSINESS

Zoning Enforcement Officer Wylie Phillips said that he had processed five applications since the last meeting. He noted that the Groom deck is higher than the one it replaced; since it was built (but before the current application was received), the *Land Use Law* was amended to consider changes in “dimensions” rather than just the footprint. That could require Groom to get a ZBA variance before Planning Board action. Attorney Poulson said she thought it was OK to “grandfather” the Groom project, requiring no variance.

Chairman Huntsman asked Attorney Poulson about the mistaken SEQR motions which were made in the White and Neal applications in June. In both cases, the Type II determinations should have been based on Section 617.5(c)(16) instead of Section 617.5(c)(47). Huntsman said the Board had amended the minutes to “fix” the White error. Poulson thought that, as long the corrected information was on the record, it should be OK.

Antoinette Kuzminski was not present, but e-mailed a brief report to Deane. She said she had attended the June 14 Town Board meeting as Planning Board liaison. The Town Board is seeking members of a Comprehensive Plan rewrite committee. Kuzminski will be attending the July 12 Town Board meeting as Planning Board liaison.

Deane discussed the August 1 agenda. Expected to return are Kapsales, Groom, and Thorsland. There is also new application from Otsego Land Trust.

Chairman Huntsman again proposed creating a new application form specific to Lakeshore projects, including a list of other agencies which applicants may need approval from. With no further business, at 9:32 PM Sharon Kroker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk