

## Town of Otsego Planning Board

Minutes – August 4, 2015

### PUBLIC HEARING

#### Otsego Land Trust – Site plan review, special permitted use (recreational facility): shed/composting toilet within 500 feet of Otsego Lake – Brookwood Point, 6000 St. Hwy. 80 (#99.00-1-32.01)

Chairman Joe Potrikus opened the Otsego Land Trust public hearing at 7:32, and invited the representatives to give a presentation for the benefit of the public. Executive Director Virginia Kennedy described the Land Trust's mission and the proposed project, showing a "Blueway" poster. Potrikus then asked if anyone from the public had questions or comments.

Bruno Televi, who shares a driveway with the Land Trust, wondered "how much more activity the area can withstand." He also asked if there could be signs directing people to his property. Kennedy said that, while there may be more activity on the property, there would be more infrastructure to handle it, in the way of safety improvements. There will be signs directing people to Brookwood Point, not to the neighboring properties.

Neighbor Vera Televi said that the nearby Sailing Club is also expanding, and between the two projects there may be increasing traffic problems. She asked about the location of the parking lot and hours of operation. Kennedy said that they couldn't control Sailing Club traffic, but said that the road would be widened, meeting Department of Transportation standards and helping with traffic. She described the parking and said the hours would be posted on signs.

Board member Rosemary Craig asked how many cars could be accommodated by the property, and wondered if setting hours would actually reduce traffic. Kennedy said they have had up to 150 vehicles there in the past, and could probably accommodate 50-75 more. She said they already have established hours of operation.

Neighbor Cameron Papai asked if the new building would be built by local people. He also asked about security and the location of trails and signs, and wondered how the Land Trust could afford the project. Kennedy said the building would be a pre-fabricated shed built by the Amish. She noted that there had been no security issues at other Otsego Land Trust sites, saying there is good community support in security.

With no further comments or questions, John Phillips moved to close the public hearing. Craig 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 Joe Potrikus called the meeting to order at 8:01 and led the Pledge of Allegiance. Clerk Bill Deane took roll call. Members present were Potrikus, Tom Huntsman, Rosemary Craig, Scottie Baker, and Ed Hobbie. With Donna Borgstrom not yet replaced and Steve Purcell absent, alternate members John Phillips and Darryl Szarpa joined the meeting table. Also present were Planning Board Attorney Jim Ferrari, Zoning Enforcement Officer Tavis Austin (who arrived at 8:30), and Town Board members Tom Hohensee and Carina Franck.

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

Correspondence received since the last meeting included:

- The July/August 2015 issue (Volume 29, #4) of *Talk of the Towns & Topics*, copies of which were distributed.
- The Summer 2015 issue of the New York Planning Federation's *Planning News*, passed around.
- The 2016 Town budget estimate, from Town Supervisor Anne Geddes-Atwell. Potrikus said he would discuss this later in the meeting.

- A package from attorney Bob Birch on the Alex Zoeller subdivision. Zoning Enforcement Officer Austin later reminded the Board that this had been deemed a first lot split, requiring no Planning Board intervention, and Birch is aware of that.

Chairman Potrikus asked if anyone on the Board had a conflict with any of tonight's applicants. Craig said she would again recuse herself from the Miller application, and Szarpa said he would again recuse himself from the Otsego Land Trust application.

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

## **APPLICATIONS**

### **Otsego Land Trust – Site plan review, special permitted use (recreational facility): shed/composting toilet within 500 feet of Otsego Lake – Brookwood Point, 6000 St. Hwy. 80 (#99.00-1-32.01)**

Darryl Szarpa recused himself and left the meeting table. Clerk Bill Deane read aloud from the minutes of July 7 relevant to the application.

Otsego Land Trust officials Virginia Kennedy (Executive Director), Marcy Foster, and Joe Homburger were present. The Board reviewed the application.

John Phillips asked how the vendor was selected for the construction, and whether he would be paid. Kennedy said the Land Trust chose the vendor, and they would be paid. Phillips noted that if the Land Trust's neighbors wanted to rent out kayaks, they could not do it under the *Land Use Law*. Attorney Ferrari again advised the Board not to get hung up on the commercial aspect of the project, saying they should be concentrating on the use of the property. He said all recreational facilities are commercial enterprises.

Rosemary Craig asked if there would be a gate. Kennedy said there would not.

Tom Huntsman asked about the Sailing Club's boat launch apparently being on Land Trust property. Kennedy said the Sailing Club has an easement, and there are some legal questions about it, but the Land Trust has chosen to "leave it alone."

Ed Hobbie asked whether the Cook property easements were for egress only, and was told they were.

Scottie Baker said she didn't think there would be a huge demand for canoe and kayak rentals.

Chairman Potrikus read aloud the *Land Use Law* definition of "recreational facility," previously applied to places like Cobblecote, Joe Galati, and the B&B Ranch. He wondered if this project will go beyond the others, and whether the Board should impose limitations. Potrikus asked how many parking spaces there would be. Kennedy said there would be 12 new spaces in addition to the space already in the field for approximately 100 vehicles.

Huntsman asked how many weddings are held on the property each year. Foster said six to eight. Kennedy said they don't solicit weddings, and accommodate them only to help pay their maintenance costs, so they can carry out their mission of public access. They are a non-profit organization with specific requirements and missions.

Huntsman agreed that the Land Trust has a different agenda than most applicants: to serve the public.

Craig said the Land Trust is a self-monitoring organization just trying to preserve itself. On the other hand, the Board has its own responsibilities and concerns, particularly setting precedents.

Phillips asked if he could bring his own kayak and use it on the Brookwood Point property. Kennedy said no, unless the Land Trust specifically granted him permission. The Sailing Club has the same rule.

Baker suggested the special permit specify a closing time of dusk. The Board noted that hours of 9-6 are already part of the application. Craig noted that if there were any changes to the project, the applicants should return before the Board.

The Board discussed State Environmental Quality Review (SEQR). Phillips said it would be a Type I action, due to the Historic District status. Huntsman read aloud from the long environmental assessment form (EAF) submitted by the applicants. With member input, Chairman Potrikus completed the Planning Board's section of the form.

Phillips, citing Section 617.4, paragraph 9, moved to declare a negative declaration and authorize the chairman to sign the form. Craig seconded the motion, it was approved, 6-0, and Potrikus signed the form.

Phillips moved to approve the application and special permitted use as submitted, with no restrictions. Hobbie seconded the motion and it was approved, 5-1, with Potrikus opposed. Deane prepared a special permit which Potrikus signed, giving the original to the applicants and making copies for the file. Szarpa returned to the meeting table.

**Robert McGovern & Matthew Collison (Ryan Miosek) – Site plan review, special permitted use, motor vehicle repair shop – 6670 State Highway 28 (#97.00-1-2.00)**

Applicants Robert McGovern and Matthew Collison, and representative Ryan Miosek, were present. They submitted a packet addressing the site plan requirements in the *Land Use Law*. The Board examined the packet. The applicants said they planned to be open Monday-Friday, 8-5, and Saturday, 8-12. There will be a concrete floor, asphalt parking lot, and no gas pumps. Chairman Potrikus suggested some shielded lighting options. Tom Huntsman asked what they would do with oil removed from vehicles. Collison said they would have a waste oil furnace. Rosemary Craig read aloud from section 3.13 of the *Land Use Law*, addressing the requirements of a service station. The consensus of the Board was that these were met by the submitted plan.

Huntsman went through the site plan requirements in Section 7.04 of the *Land Use Law*. Chairman Potrikus asked which requirements the Board could waive. The consensus was to waive the survey and traffic circulation plans. The Board discussed State Environmental Quality Review (SEQR). Huntsman moved to declare this a Type II action per SEQR section 617.5(c)(2). Rosemary Craig seconded the motion and it was approved, 7-0.

Zoning Enforcement Officer Austin suggested the Board consider waiving a public hearing. The consensus of the Board was not to do this. Austin said he would issue a land use permit in the meantime.

Huntsman moved to deem the application complete, waiving the requirements for a survey and traffic circulation plans, and schedule a public hearing for September 1. Ed Hobbie seconded the motion and it was approved, 7-0.

**LLIB, LLC (Bill Miller/Jon McManus) – Request to extend conditional approval of Upper West Side major subdivision to November 18, 2015 – County Highway 28, Pierstown (#84.00-1-15.62)**

Rosemary Craig recused herself and left the meeting table. Zoning Enforcement Officer Austin said that applicant Bill Miller had contacted him today, saying that neither he nor Jon McManus would be able to attend tonight's meeting, and asking Austin if he could represent Miller. Attorney Ferrari said he did not see any harm in Austin's doing that. Miller sent an e-mail (copy filed) authorizing Austin to represent him, requesting another 90-day extension to his conditional approval for the Upper West Side major subdivision approved in 2011, and saying that there had been no changes to the situation nor work performed on the property.

Clerk Bill Deane said that the current conditional approval runs through August 20, and a 90-day extension would bring it to November 18. Tom Huntsman moved to extend the approval for another 90 days, to November 18, 2015. Scottie Baker seconded the motion and it was approved, 6-0. Chairman Potrikus said that Miller or an authorized representative will be due back at the November meeting if he wants another extension. Craig returned to the meeting table.

**Edward Oeflein – Determination of “home occupation” appropriateness, auto repair shop – 2264 County Highway 22 (#39.00-2-1.01)**

Applicant Edward Oeflein wants to operate an auto repair business on his property in the RA2 district, on the border of the Town of Richfield Springs. He submitted a July 23 letter (filed), describing the enterprise, and formally requesting permission from the Planning Board to do this as a “home occupation.”

Zoning Enforcement Officer explained that *Land Use Law* section 6.03 lists 37 examples of permitted home occupations, and auto repair business is not one of them. However, it specifies that, “Any use not listed here shall submit information for a determination as to the applicability of home occupation status to the Planning Board. No public hearing or site plan is required; a simple description of the business to the Board is sufficient.”

Oeflein said that the property includes a house and detached garage, each about 1100 square feet. He has the required licenses, and has long worked on vehicles (mostly large ones used by small businesses) on the owners'

properties; now he would be doing the work in his own garage. He said there would be no parking lot or outside storage; there would be no advertising, with customers by appointment only; and there are no neighbors nearby.

Chairman Potrikus noted that *Land Use Law* section 6.02 (2) states that “A home occupation shall not use more than 25%, not to exceed 500 square feet, of the floor area of the residential unit.”

John Phillips asked Attorney Ferrari for input. Ferrari gave examples of what would or would not be appropriate, and said that, if the enterprise were not deemed a home occupation, it simply would not be permitted. He said he thought that Section 6.02 (2) applies only if the enterprise is part of the house.

After discussion, Tom Huntsman moved that, based on *Land Use Law* 6.03 and the applicant’s July 23, 2015 letter, this is deemed as a home occupation. Rosemary Craig seconded the motion and it was approved, 7-0.

Oeflein asked if he would get formal documentation of this decision, as he will need something for the Department of Motor Vehicles. Austin said he could write something for him. Clerk Bill Deane said it would be recorded in the meeting minutes, available on the Town web-site within two weeks, and that he would e-mail Oeflein a copy.

**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 said that he had nothing new to present, and asked to be removed from the agenda until further notice.

**OTHER BUSINESS**

Tavis Austin distributed copies of his August 4 Zoning Enforcement Officer report (filed), and discussed various cases and situations.

The Board discussed the vacant vice-chairmanship. John Phillips moved to appoint Tom Huntsman to the role. Huntsman said he had reservations about the role, as he sometimes misses or is late for meetings due to work obligations. Rosemary Craig seconded the motion and it was approved, 6-0, with Huntsman abstaining. Bill Deane read aloud from the July 7 minutes, where Phillips promised to write something up on the “Heroux Law.” Phillips said he didn’t recall that, and did not prepare anything.

Chairman Potrikus discussed the Town’s 2016 budget estimate, and asked the Board for input. Attorney Ferrari said that the 2015 budget allotted the Planning Board \$2,000 for training and zero for equipment. The consensus of the Board was to request the same amounts for 2016. Potrikus asked if someone could act as liaison for the next night’s Town Board meeting, and pass on this request. Ed Hobbie said he would do so.

Deane passed on some thoughts about tonight’s public hearing, which lasted 30 minutes, including a ten-minute presentation by the applicant. Deane said this was a good example of the Board’s frequent suggestion that applicants talk with their neighbors, as most of the questions could have been answered before the hearing. Deane also suggested that the chairman first ask if anyone from the public had questions or comments, before inviting the applicant to give a presentation, as it may not be necessary. Finally, Deane said he didn’t think Planning Board members should ask questions during the public hearing.

Deane discussed the September 1, 2015 agenda. McGovern & Collison (public hearing) are expected to return, and Barbara Polgar will be on if she gets her variances from the Zoning Board of Appeals.

Phillips and Hobbie asked about the status of replacements for Donna Borgstrom and alternate Trevor Fuller. Town Board members Tom Hohensee and Carina Franck said they would bring it up at tomorrow’s meeting.

Hobbie suggested an enclosed bulletin board be put up near the Town building entrance.

With no further business, at 10:32, Scottie Baker moved to adjourn the meeting.

Respectfully submitted,  
Bill Deane, Planning Board Clerk