

# **Town of Otsego Planning Board**

## **Minutes, October 2, 2018**

### **PUBLIC HEARING**

#### **Phillips Living Trust – Site plan review, special permitted use (“Heirloom Barn”), woodworking & storage – 6761 State Highway 28 (#96.00-1-19.00)**

Acting Chairman Darryl Szarpa opened the Phillips public hearing at 7:00 PM, and asked if anyone from the public had comments or questions about the proposed project. No one responded. Clerk Bill Deane noted that two neighbor letters, addressed to Glen Allison and the Lavrinos Estate, had been returned to sender due to incorrect address. Scottie Baker moved to close the public hearing. Chip Jennings 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. Acting Chairman Darryl Szarpa called the meeting to order at 7:02 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. Board members present were Szarpa (vice-chairman), Scottie Baker, Ted Feury, Chip Jennings, Elizabeth Horvath, and Walter Dusenbery. With Tom Huntsman (Chairman) and alternate member Toby Wilcox absent, alternate member Sharon Kroker joined the meeting table. Also present were Zoning Enforcement Officer Ed Hobbie, Planning Board attorney Ryan Miosek, and Town Board member Carina Franck.

The Board reviewed the minutes of September 4, 2018, e-mailed to the members. Feury moved to approve the minutes as written. Baker seconded the motion and it was approved, 7-0.

Acting Chairman Szarpa read aloud an October 2 e-mail from Joe Galati. It claimed that the Susquehanna Animal Shelter application is invalid, and also questioned the Board’s absence of written determinations, particularly concerning the Aaron Hall application approved in June. The latter topic is to be discussed during “other business.” The only other correspondence received since the last meeting relates to the Cathedral Farms application, and will be discussed later in the meeting.

Acting Chairman Szarpa asked if anyone had a conflict with any of tonight’s applicants. Horvath said she would be recusing herself from the Stagliano application, as her husband is involved with the project. Miosek said that he would be recusing himself from any discussion specific to the Hall application.

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

### **APPLICATIONS**

#### **Susquehanna Animal Shelter – Site plan review, relocation of animal shelter & thrift shop to RA2 district – 5082 State Highway 28 (#146-2-5.00 & -6.00)**

Zoning Enforcement Ed Hobbie said that the Susquehanna Animal Shelter (SAS) had asked him to brief the Board on their application status. He said that their final drawings are not yet ready, and the land transactions are in progress. They plan to return before the Board in November.

Attorney Miosek noted that the Town Board had rescinded the “Heirloom Barn Law.” Hobbie said that the SAS application was received before this happened. Miosek said that it was up to the SAS to convince the Town Board that they had established “vested rights” (i.e., invested substantial money and/or work) in the project before the law was rescinded, allowing them to use it as a “grandfathered” status. Hobbie said he would convey this to the SAS.

**Phillips Living Trust – Site plan review, special permitted use (“Heirloom Barn”), woodworking & storage – 6761 State Highway 28 (#96.00-1-19.00)**

Scottie Baker read aloud from the September 4 minutes relevant to the Phillips application. Applicant John Phillips said there had been no modifications to the proposed project.

Chip Jennings said that Phillips should submit a second application, since he is seeking two separate special permitted uses. The consensus of the Board was that both uses could be applied for on the same application, but that Phillips would need to pay a second \$25 application fee. Phillips wrote a check for \$25 and handed it to Zoning Enforcement Officer Hobbie.

Ted Feury moved to approve the site plan and special permitted use for construction/woodworking (“service trade establishment”), with no conditions or expiration date. Scottie Baker seconded the motion and it was approved, 7-0. Clerk Bill Deane prepared a special permit which acting Chairman Szarpa signed and dated, with the original going to Phillips and a copy made for the file.

Feury went through the special permit requirements in Section 7.03 of the *Land Use Law*. He then moved to approve the site plan and special permitted use for storage (under the “Heirloom Barn Law,” and the special permitted uses in the GB1 district), with no conditions or expiration date. Chip Jennings seconded the motion and it was approved, 7-0. Deane prepared a special permit which Szarpa signed and dated, with the original going to Phillips and a copy made for the file.

Szarpa stamped the site plan “approved” and signed it, with one copy going to Phillips and the other in the file.

**Cathedral Farms, Inc. (Jon McManus) – Site plan review, construction within 100 feet of Otsego Lake – 6512 State Highway 80 (#84.12-1-14.00)**

Scottie Baker read aloud from the August 7 and September 4 minutes relevant to the Cathedral Farms application. Acting Chairman Szarpa read aloud an October 2 letter from Young-Sommer, regarding a survey dispute between Cathedral Farms applicant Marty Patton (whose work was done by Catskill Survey) and neighbor Julia Roy (done by Sprague). Hyde Clark of Young-Sommer expressed concern that the existing structure is in the disputed area, known as the gore. He said that they are trying to communicate with Catskill Survey to resolve this.

Cathedral Farms representative Jon McManus said that he based the site plan on the Catskill Survey and his own measurements. Attorney Miosek said that the project can’t really go forward due to this dispute. McManus said that they were not proposing any work in the gore area until the issue is resolved. However, he disagreed that the project should be put on “hold” until then, saying it sets a bad precedent if a neighbor can stop a project simply by disputing a survey. McManus asked the Board to continue with their site plan review.

McManus submitted a site plan labeled “9/25/18 rev. 0” and photos, explaining them. He said there would be no new signs or lighting, nor any other permits required. Attorney Miosek said that the site plan is incomplete, as it does not show the fence or trees measuring at least six inches at breast height. McManus disagreed, saying that the site plan is complete, missing only components. He also disagreed that the trees should be included, saying he understood that trees were not to be discussed any further in this case.

Joanne Darcy Crum asked and was given permission to speak. She said she was a surveyor and attorney, present for the Bissell application. She wanted the Board to know that there is another potential survey dispute involving Patton’s northern property boundary.

Acting Chairman Szarpa reviewed the site plan requirements in Section 8.04 of the *Land Use Law*. The consensus was that McManus would have to submit the following: a signed survey; a revised site plan, showing the fence and trees measuring at least six inches at breast height; and a variance from the Zoning Board of Appeals (ZBA), allowing construction within 100 feet of Otsego Lake. McManus asked to remain on the agenda for November, unless otherwise specified.

**Joseph Stagliano (Jon McManus) – Site plan review, replacement of deck with structure within 100 feet of Otsego Lake – 6723 State Highway 80 (#69.68-1-10.00)**

Elizabeth Horvath recused herself and left the meeting table. Scottie Baker read aloud from the September 4 minutes relevant to the Stagliano application.

Representative Jon McManus submitted a site plan labeled “6/19/18 rev. 2.” It showed a revised height of 16’8”. McManus noted that, contrary to the building drawings, he understands that the roof and soffit overhangs must be within the original footprint.

McManus asked that the survey requirement be waived. Attorney Miosek said that that was a reasonable request. Walter Dusenbery moved to waive the survey requirement, due to the construction being in the same footprint. Ted Feury seconded the motion and it was approved, 6-0.

The Board discussed State Environmental Quality Review (SEQR). Chip Jennings moved to declare lead agency status for the Planning Board. Sharon Kroker seconded the motion and it was approved, 6-0. Jennings moved to deem this a Type II action per SEQR Section 617.5(c)(7). Feury seconded the motion and it was approved, 6-0.

Feury moved to deem the application complete. Baker seconded the motion and it was approved, 6-0. Clerk Bill Deane read aloud from the minutes (not yet approved) of the ZBA’s August 21 meeting, during which a public hearing was held with no negative comment. Feury moved to waive the public hearing, due to the ZBA hearing result. Baker seconded the motion and it was approved, 6-0.

Baker moved to approve the site plan. Jennings seconded the motion and it was approved, 6-0. Acting Chairman Szarpa stamped the site plan “approved” and signed it, with one copy going to McManus and the other in the file. Horvath returned to the meeting table.

**Addison “Peter” Bissell & Boyd Bissell – Lot line adjustment – 6505 & 6515 State Highway 80 (#84.12-1-6.00 & -7.00)**

Attorney Joanne Darcy Crum submitted a letter of representation for applicants Addison “Peter” Bissell and his brother, Boyd Bissell; Peter was also present. She also submitted a September 4 sketch plan and a proposed warranty deed for a lot line adjustment. Peter Bissell wants to transfer .3 acres from his 5.60-acre lot to the adjoining .49-acre lot owned by Boyd. This would put the building known as the “art studio” on Boyd’s property with the required setbacks, allowing the Bissells to use it as a rental. She said this would resolve previous issues involving the two parcels, which are under the umbrella of Cobblestone on the Lake.

Clerk Bill Deane reminded the Board that he had prepared a Word document containing the history of Bissell applications and activities involving the Planning and Zoning Boards over the past decade. He said he would update it and send it to the members and to Crum.

Ted Feury reviewed the requirements of a lot line adjustment. The consensus was that the only missing items were a copy of Boyd’s deed and a signed formal survey. Deane suggested that the Board should also consider the acreage, frontage, and setbacks of the two revised lots. Crum said she would return in November.

**OTHER BUSINESS**

Ed Hobbie distributed copies of his Zoning Enforcement Officer report (filed), and discussed some situations of interest.

The Board discussed a Planning Board liaison for October 10 Town Board meeting. Scottie Baker nominated Tom Huntsman for the role.

Clerk Bill Deane discussed written statements of approval, brought up by Joe Galati (re: Hall, Kimmerer, et al). Section 8.05 (7) of the *Land Use Law* reads, “the Planning Board shall cause its approval to be endorsed on a copy of the site plan, and shall file it and a written statement of approval with the Planning Board Clerk. A copy of the written statement of approval shall be given to the applicant.” Deane said he had been the Clerk since 2004, and the Board had never prepared such written

statements during that time. He checked with Dora Cooke, who had been Clerk from 1986-2004, and she said that had never been done during her time, either. Deane asked for guidance from the Board and its attorney.

Attorney Miosek said that, as far as he is concerned, the chairman's stamping the site plan "approved" and signing it meets the requirement of a written, endorsed statement of approval. Ted Feury added that the law does not say anything about citing reasons for approval. Unless the Town Board directs otherwise, Miosek said the Planning Board can continue with its procedures of the past 30+ years, with no need to revisit previous applications. Scottie Baker noted that Galati had been Board Chairman for part of that time and had never mentioned written statements of approval. Acting Chairman Szarpa suggested the Board could create a standard approval form to be completed and signed when site plans are approved.

Deane discussed the November 13, 2018 agenda, noting the date change due to Election Day on the 6<sup>th</sup>. Expected to return are the SAS, Cathedral Farms, and Bissell.

With no further business, at 10:05 PM Baker moved to adjourn the meeting.

Respectfully submitted,  
Bill Deane, Planning Board Clerk