

Town of Otsego Planning Board

Minutes – October 4, 2016

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 John Phillips called the meeting to order at 7:01 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. All members present were Phillips, Vice-Chairman Tom Huntsman, Darryl Szarpa, Steve Purcell, Rosemary Craig, Scottie Baker, and Ed Hobbie. Also present were alternate member Chip Jennings, Planning Board Attorney Jim Ferrari, Zoning Enforcement Officer Barbara Monroe, and Town Board members Carina Franck and Tom Hohensee. Alternate member Paul Russo was absent.

The Board reviewed the minutes of September 6, 2016, e-mailed to the members. Craig moved to approve the minutes as written. Baker seconded the motion and it was approved, 7-0.

Chairman Phillips reviewed correspondence received since the last meeting including:

- A Blackbird Hollow public hearing notice (filed), addressed to Opera Lake House, LLC, and returned to sender.
- The September/October issue of *Talk of the Towns & Topics*, copies of which were distributed to the members.
- An August 26 letter (filed) from David & Lois Brenner of 6687 State Highway 80, supporting the Blackbird Hollow project.
- A September 9 letter from attorney Les Sittler, in which Sittler said (among other things) that Huntsman, Baker, and Jennings should recuse themselves from the Blackbird Hollow application due to conflicts of interest: Huntsman, because his wife Julie is on the board of directors for Otsego 2000, a vociferous opponent of the proposed project; Baker, because she is on the same board; and Jennings, because he is a client of Sittler's firm.
- A September 20 letter from Doug Hastings, regarding conflicts of interest vis a vis the Blackbird Hollow project.

Chairman Phillips asked if anyone had a conflict with tonight's applicants. No one reported any conflict.

Huntsman cited the aforementioned Sittler letter. Huntsman said that he has no conflict of interest because he has no financial incentive, and added that Julie has no influence on his vote. Baker read aloud her September 24 letter, saying that she has resigned from the Otsego 2000 board, and that she has not privately collaborated with Huntsman on this issue. Jennings denied that he has a conflict of interest. Chairman Phillips said that someone cannot be on two different boards if they are in conflict with each other, and sometimes the mere "appearance of impropriety" can create a conflict. He cited the Town's ethic law, and said he is concerned about protecting the Town from a lawsuit.

Chairman Phillips asked if anyone from the public had a comment on a non-agenda item, other than the Blackbird Hollow application, as he did not want to turn this into an unscheduled public hearing without the applicant's representatives present.

Nicole Dillingham, Board President of Otsego 2000, said that that board is consistent with the Town laws or comprehensive plan. She added that construction has started at the Blackbird Hollow site. Chairman Phillips said that County Codes had said that the construction was within the applicant's rights on his 2014 approval, and that Attorney Ferrari and Zoning Enforcement Officer Monroe had agreed. Attorney David Brennan, a Blackbird Hollow representative, objected to this discussion, since the application had been tabled until November. Phillips said he would not permit any further public discussion on this matter tonight.

Doug Hastings said that there should be a dedicated time where the Board discusses an application without interruption from the applicant.

The Board moved on to applications.

APPLICATIONS

Andrew Timmerman – First lot split – County Highway 28, Pierstown (#99.00-1-1.01)

Applicant Andrew Timmerman submitted a Mylar, showing his proposed split of a 7.468-acre lot into two lots of 4.237 and 3.231 acres, respectively. Zoning Enforcement Officer Monroe said she had checked the Town maps and determined that this qualifies as a first lot split.

The Board examined the Mylar, agreeing that the two lots would meet acreage and frontage requirements. Ed Hobbie moved to deem this a first lot split, authorizing the chairman to sign the Mylar. Darryl Szarpa seconded the motion and it was approved, 7-0. Chairman Phillips stamped the Mylar “approved” and signed it, advising Timmerman to file it with the County within 30 days.

Don Myers & Eileen Gardner (Jon McManus) – Site plan review, expansion of seasonal residence within 500 feet of Otsego Lake – 6819 State Highway 80 (#69.52-1-4.01)

Engineer Jon McManus submitted a letter signed by applicants Don Myers and Eileen Gardner, authorizing McManus to represent them in the application process. McManus also submitted photos and a site plan, showing the existing seasonal residence and the proposed addition.

The Board examined the documents. McManus said the addition would be approximately 300 square feet. All setbacks would be met, and the existing septic system would meet requirements. He said the driveway would be widened.

Chairman Phillips and Tom Huntsman asked whether the project, being within 500 feet of Otsego Lake, would require a Zoning Board of Appeals (ZBA) variance. Attorney Ferrari said that construction within 500 feet of, but more than 100 feet from, the Lake requires site plan review, but not a variance. (This also applies to the Blackbird Hollow application.)

The Board discussed State Environmental Quality Review (SEQR). Ed Hobbie moved to declare lead agency status. Steve Purcell seconded the motion and it was approved, 7-0. After discussion, Scottie Baker moved to deem this a Type II action, requiring no further review, per SEQR Section 617.5(c)(7). Purcell seconded the motion and it was approved, 7-0.

Huntsman read aloud from the site plan review requirements in Sections 7.03 and 8.05 of the *Land Use Law*. The Board agreed that most of the requirements had been met or were not applicable. Details on the following items would still be needed: external appearance, including elevation; drainage/erosion control; tree removal; lighting; and construction sequence.

Huntsman moved to deem the application complete, contingent on the aforementioned items to be received by the Zoning Enforcement Officer by October 18, and to schedule a public hearing for November 1. Hobbie seconded the motion and it was approved, 7-0.

OTHER BUSINESS

Zoning Enforcement Officer Barb Monroe distributed copies of her October 4 report. She said there was “not much new.”

Chairman Phillips asked for a volunteer to serve as Planning Board liaison for the October 12 Town Board meeting. Rosemary Craig volunteered.

Town Board member Carina Franck distributed handouts about the “Heirloom Barn Law,” and read it aloud. She had e-mailed these to the members, and asked for their input in revising the law, as she thinks it amounts to an “EZ pass” for people to violate the *Land Use Law*. She discussed the Town’s proposed formation of a new historic preservation committee, seeking alternatives to the demolition of historic buildings.

Craig cited the “minimum impact on neighbors” provision of the law. Tom Huntsman said the Board needs to apply the law as written. Chairman Phillips explained the rationale for the law when it was created in 2008, noting that it has been utilized only twice since. He said the law may have produced unintended consequences and may need tightening, but cautioned the Boards not to “throw out the baby with the bathwater.” Phillips asked the Planning Board members to think about it and discuss it further at the November 1 Planning Board meeting. Franck preferred that members get ideas to the Town Board before their October 12 meeting.

Huntsman distributed copies of the points he had made on the Blackbird Hollow application during the September meeting, calling their attention to some of them, and asking the members to review them before the November meeting.

Scottie Baker asked what the Board’s culpability is if they make a mistake. Chairman Phillips gave some input. Attorney Ferrari had left by this point.

Huntsman asked to call for an executive session to discuss a personnel matter, without the attorney present. Chairman Phillips did not think that was appropriate, and phoned attorney Ferrari to ask him; he did not think it was legal, but offered to return if asked. Franck texted Town Supervisor Meg Kiernan to ask her; Kiernan advised that it was legal. After discussion, at 8:59 Huntsman formally moved to go into executive session. Ed Hobbie seconded the motion and it was approved, 6-1, with Phillips opposed. Phillips asked the room to be cleared of everyone but the Board members and Clerk. He also ordered a camera removed; it had been left on a tripod by a member of the audience.

At 9:32, Craig moved to come out of executive session. Huntsman seconded the motion and it was approved, 7-0. After the public had returned to the room, Phillips said that an executive session had been held to discuss a personnel matter, and no votes had been taken, other than to open and close the session.

Chairman Phillips again reminded the members of their 2016 training requirements, saying that he had to report this information to the Town Board.

Chairman Phillips said that Attorney Ferrari said the Board had erred on the Cooperstown Country Club sketch plan conference, saying they should have advised the applicants that they would need a ZBA variance first. After the meeting, Clerk Bill Deane reminded Phillips that he had mentioned and recorded that during the September meeting.

Deane discussed the November 1, 2016 agenda. Blackbird Hollow and Myers/Gardner (possible public hearing) are due back. Bill Miller is also due back for extension of his conditional approval.

With no further business, at 9:37, Scottie Baker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk