

Town of Otsego Planning Board

Minutes – November 9, 2010

PUBLIC HEARING

Oberriter Development LLC – Minor subdivision – State Highway 28 (#114.00-1-7.03)

Chairman Paul Lord called the Oberriter public hearing to order at 7:32 PM, and asked if anyone from the public had questions or comments. Mary Winnie, the neighbor across the road, asked for details on the proposed subdivision, and applicant Don Oberriter showed her the plat and explained the plan. Winnie expressed concern about future commercial development on the site. Board members informed her about development restrictions and processes. With no further questions or comments, Donna Borgstrom moved to close the public hearing. John Phillips seconded the motion and it was approved, 6-0.

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 7:39 PM, and roll call was taken by Clerk Bill Deane. Members present were Lord, Donna Borgstrom (Vice-Chairman), Joe Galati, John Phillips, and Joe Potrikus. With Wes Ciampo and Steve Purcell absent, alternate member Rosemary Craig joined the meeting table. Planning Board Attorney Jim Ferrari and Zoning Enforcement Officer Hank Schecher were also present.

The Board discussed the minutes of October 5 and 26, e-mailed to the members. Galati asked that the latter minutes be amended to clarify that, regarding his interjections, he was speaking as a representative of applicant Bill Miller. Phillips moved to approve the October 5 minutes as written and the October 26 minutes as amended. Borgstrom seconded the motion and it was approved, 6-0.

Chairman Lord said that correspondence would be discussed during the relevant applications. He also reminded the members about their training requirements.

Copies of Zoning Enforcement Officer Schecher's November 9 report (filed) were distributed. It itemized seven land use permits issued and six applications pending Planning Board review.

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

The Board moved on to applications.

APPLICATIONS

Oberriter Development LLC – Minor subdivision – State Highway 28 (#114.00-1-7.03)

Donna Borgstrom read aloud from the minutes of October 5 relevant to the application. Chairman Lord asked whether there were any changes to the application, and applicants Don and Sharon Oberriter said there were not.

John Phillips moved to deem this an unlisted action per State Environmental Quality Review Act (SEQRA) regulations, paragraph 19. Borgstrom seconded the motion and it was approved, 6-0. Chairman Lord went through the short Environmental Assessment Form (EAF) provided by the applicants, asking them to make and initial some amendments. Lord then completed the Planning Board section of the form with member input. Phillips moved to declare a negative declaration and authorize the chairman to sign the EAF. Rosemary Craig seconded the motion, it was approved, 6-0, and Lord signed the form.

Phillips moved to approve the subdivision as submitted, noting that the special permitted uses for the original parcel are retained for the new 5.99-acre lot, but not the new 4.01-acre lot. Borgstrom seconded the motion and it was approved, 6-0. Chairman Lord stamped the Mylar "approved" and signed it, advising the applicants to file it with the County within 30 days.

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

Joe Galati and rosemary Craig recused themselves and left the meeting table. Applicant Bill Miller was accompanied by engineer Jon McManus and attorney Sonya del Peral. Donna Borgstrom read aloud from the minutes of October 5 and 26 relevant to the application.

Miller submitted revised drawings incorporating changes requested by the Board. He and the Board members discussed other revisions to be made.

McManus asked about the rules regarding a quorum and number of votes to pass a motion. Chairman Lord explained that four members constitute a quorum, but four votes are still necessary to pass any motion, thus that any vote tonight would have to be unanimous. Later in the meeting Attorney Ferrari said that, in examining Town laws and *Robert's Rules of Order*, he had found conflicting information regarding quorums. He said he would continue researching the matter.

Miller described problems in devising tree-cutting restrictions, saying that the 30% limit may work best after all. Lord made suggestions, asking Miller to make the restrictions part of the Storm-Water Pollution Protection Plan (SWPPP).

The Board discussed waivers which would be needed, and Lord asked John Phillips to be prepared to make a motion on waivers at the next meeting. McManus said that he would revise the road to conform with the *Land Subdivision Regulations* (20-foot-wide gravel road), thus obviating the need for a waiver on that regulation. Del Peral said she would update the applicant's waiver request and e-mail it to Phillips.

McManus said he would bring a preliminary plat to the next meeting on December 7. Lord asked Bill Deane to advertise, for that date, the resumption of the public hearing adjourned on September 7. Galati and Craig returned to the meeting table.

Robert Faller – Sketch plan conference, minor subdivision – Stone House Road (#98.00-1-44.01)

Robert Faller submitted a plat showing his proposed split of a 6.57-acre parcel into lots of 3.26 and 3.31 acres, respectively, which he hopes to complete by next year. Zoning Enforcement Officer Schecher and Board members examined the 1987 tax map, determining that this would create the third lot from the original parcel, making it a minor subdivision. Chairman Lord noted that the lots would satisfy the acreage and road frontage requirements in the *Land Subdivision Regulations*. He advised Faller to consult these regulations in preparing a formal application.

Faller said he would work on that and let Zoning Enforcement Officer Schecher know when he was ready to return before the Board.

Stephen & Susan Barron (Donald A. Davis Living Trust) – Site plan review, replacement of existing home within 100 feet of Otsego Lake – 104 Lake Shore Drive (#69.44-1-32.00)

Applicant Steve Barron was accompanied by engineer Jim Forbes. Barron wants to raze a deteriorating, existing home near the shore of Otsego Lake, and replace it with a larger, seasonal log cabin. Bill Deane read aloud from the minutes (not yet approved) of the October 19 Zoning Board of Appeals (ZBA) meeting, during which a public hearing was held with no attendance, and Barron's area variances were granted.

Barron submitted a site plan, including an erosion control plan. He said construction would take one year. Chairman Lord asked what Barron was doing to mitigate the increase of 458 square feet of impervious surface so close to the Lake. Barron cited the open deck and retaining wall. He also submitted a letter (copy filed), showing that his project had been approved by the Army Corps of Engineers. He said he was awaiting approval from the Department of Environmental Conservation (DEC).

The Board went through the site plan requirements in Section of 8.04 of the *Land Use Law*, agreeing that the application appeared to be complete, except for an EAF. Joe Galati moved to deem the application complete, contingent on the completion of a short EAF, and to waive the public

hearing in light of the ZBA hearing result. Joe Potrikus seconded the motion and it was approved, 5-1, with Lord opposed. The application was tabled, giving Barron a chance to complete the form.

After Barron returned with the EAF, John Phillips moved to deem this a Type II action per SEQRA regulation #617.5(c)(2). Galati seconded the motion and it was approved, 6-0.

Galati moved to approve the site plan contingent on DEC approval. Potrikus seconded the motion and it was approved, 6-0. Lord said he would arrange to stamp and sign the site plan after Barron submits proof of DEC approval to Zoning Enforcement Officer Schecher.

Jeff Haggerty – Sketch plan conference, expansion of Haggerty Ace Hardware – State Highway 28 (#131.00-1-7.00)

Applicant Jeff Haggerty was accompanied by John Stiles of Finger Lakes Construction. Haggerty wants to expand his Ace Hardware facility on State Highway 28, adding building space (including a 30x63' pavilion, a 24x27' shop, and a 40x60' non-retail building) to what is currently ground covered by blacktop, gravel, or concrete. Haggerty passed around a drawing, showing his proposed construction.

Bill Deane read aloud from the minutes (not yet approved) of the October 19 ZBA meeting, during which the situation was discussed. Zoning Enforcement Officer Schecher had noted that the property is already in violation of the 70% "maximum coverage" provision of *Land Use Law* Section 2.06; however, the definition of "coverage" includes "parts of a lot that (are) covered by buildings, pavement, gravel, sand, concrete or some other unnatural surface or coverage." There would be no increase in this area, thus it would not be an expansion of a non-conformity. The consensus of the ZBA was that this would not require their intervention.

To mitigate the potential increase in impervious surface, Joe Potrikus suggested that Haggerty replace part of the parking lot with pervious surface. Potrikus said he would like to see an engineering opinion on the runoff situation. Joe Galati suggested that Haggerty prepare an overlay over a current survey, to better illustrate the current and proposed set-ups.

Haggerty asked to be put on the December 7 agenda for site plan review, saying he would let Schecher know if he would not be ready by that date.

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

Donna Borgstrom read aloud from the minutes of October 5 relevant to the application. Zoning Enforcement Officer Schecher noted that he had still not received a site plan modification application.

At 10:04, John Phillips moved to go into executive session to discuss an October 27 letter from Village Attorney Martin Tillapaugh, concerning possible litigation against the Town on this application. Joe Galati seconded the motion and it was approved, 6-0. Chairman Lord cleared the room of everyone except the Board members, attorney, and clerk.

At 10:30, Phillips moved to come out of executive session. Galati seconded the motion and it was approved, 6-0. Attendees were invited back into the meeting room. Chairman Lord said that, while in executive session, the Board discussed options in response to the letter, but no votes were taken.

Chairman Lord asked Tillapaugh to clarify the Village's position on this matter. Tillapaugh said that the Board had exceeded 62-day limit between the public hearing and site plan decision (Lord later refuted this by mailing Tillapaugh the minutes of the July 7 meeting, during which the deadline was extended by mutual agreement of the Board and representative Peter Loyola). Tillapaugh said that the Board should not have made approval contingent on Cooperstown Youth Baseball (CYB) approval, since CYB is only a leaseholder or tenant of Village of Cooperstown, not a property owner, and therefore has no standing.

Lord advised Tillapaugh that the Village had two options: to execute the approved June 22 site plan which was approved by the Board, or to submit a site plan modification application encompassing the changes itemized on the subsequent July 20 and September 1 site plans.

OTHER BUSINESS

Chairman Lord said he had shared the Board's *Land Subdivision Regulations* discussion, particularly the concept of buildable and non-buildable lots, with Town Supervisor Meg Kiernan. She suggested that assessor Marie Walters be involved in this discussion. Walters will get back to Lord, and the Board will continue the discussion in 2011. Lord said that the Board should plan to schedule a workshop in January.

John Phillips brought up an incident which happened during the September 7 meeting. Architect Susan Snell said she was representing an applicant, but had no letter of authorization. Because of that, Chairman Lord had not permitted her to advance beyond the sketch plan conference stage, even though the site plan application was otherwise complete. This delayed the application a month. Phillips suggested that, in future situations like this, the Board could deem the application complete contingent on the letter of authorization.

Zoning Enforcement Officer Schecher asked about concurrent review between the ZBA and Planning Board, saving applicants time. Attorney Ferrari said that this could not be done.

Chairman Lord said that recommendations to the Town Board regarding the Planning Board's Chairman and new member, replacing Wes Ciampo (whose term ends December 31 and who is not seeking renomination), could wait until the December meeting. Also during that meeting, the Board should appoint its Vice-Chairman, clerk, and experts for 2011.

Bill Deane discussed the December 7 agenda. Returning will be LLIB (public hearing), and possibly Haggerty and Village of Cooperstown. Zoning Enforcement Officer Schecher said that he expected a subdivision application for the Barrett Clarke property.

With no further business, at 11:00, John Phillips moved to adjourn the meeting.

Respectfully submitted,

Bill Deane
Planning Board Clerk