

Town of Otsego Planning Board

Minutes (unapproved), November 14, 2017

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 7:01 PM and led the Pledge of Allegiance.

Clerk Bill Deane took roll call. All Board members were present: Huntsman, Darryl Szarpa (Vice-Chairman), Scottie Baker, Rosemary Craig, Chip Jennings, Ted Feury, and Elizabeth Horvath. Also present were second alternate member Walter Dusenbery, Zoning Enforcement Officer Ed Hobbie, Planning Board attorney Ryan Miosek, and Town Board member Carina Franck. First alternate member Toby Wilcox was absent.

The Board reviewed the minutes of October 3, 2017, e-mailed to the members. Horvath said that she had noticed a minor typo, but was unable to relocate it. Craig moved to approve the minutes as written. Jennings seconded the motion and it was approved, 7-0.

The only correspondence received since the last meeting was an e-mail from Wayne Bunn, advising the Board that he would be retiring as its engineer at the end of the year. The Board will have to appoint a replacement.

Chairman Huntsman asked if anyone had a conflict with any of tonight's applicants. Chip Jennings said he would recuse himself from the Kimmerer application for personal reasons. Craig said she would recuse herself from the Miller application as usual.

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

APPLICATIONS

Brett Thompson – Site plan review, replacement of residence within 500 feet of Canadarago Lake in RA-2 district – 2207 County Highway 22 (#38.16-2-12.00)

Clerk Bill Deane read aloud from the minutes of September 5 and October 3 relevant to the Brett Thompson application. The Board had denied his previous application in October because Thompson was not present and had not submitted the requested documents; because of the "62-day clock," they had to make a decision that month or risk approval by default.

Chairman Huntsman noted that a new application had not been submitted, though the requested documents had been received. He suggested that the Board could waive its previous disapproval. Attorney Miosek said that would not be permissible.

Deane suggested that the Board move to treat the previous application as a new one; otherwise, they would have no application to deem complete or decide on. Scottie Baker moved to entertain the previous application as a new application. After discussion, Baker withdrew her motion.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. The consensus was that all either had been met or were not applicable, as there was no change to the previous application. Huntsman suggested the Board could waive the application fee and public hearing. Ted Feury asked if anyone from the public wanted to comment on the application now. No one responded.

Baker moved to deem the application complete, waiving the requirements for a new public hearing and application fee due to these requirements being met previously. Chip Jennings seconded the motion and it was approved, 7-0.

Feury asked whether the Board was certain the setback requirements would be met by the proposed project. Zoning Enforcement Officer Hobbie said they would.

Jennings moved to approve the site plan as submitted. Elizabeth Horvath seconded the motion and it was approved, 7-0. Chairman Huntsman stamped the site plan "approved" and signed it. Hobbie made a copy for the file and gave the original to Thompson.

Margaret McGown – Site plan review, 8x14' storage shed within 500 feet of Otsego Lake – 6050 State Highway 80 (#99.00-1-6.01)

Clerk Bill Deane read aloud from the minutes of October 3 relevant to the Margaret McGown application. McGown submitted a survey map, photos, and a list of neighbors. The Board examined the documents.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. The consensus was that most either had been met or were not applicable. Chip Jennings moved to waive the documentation requirements for a map drawn to scale, trees, and topographic contours as unnecessary. Ted Feury seconded the motion and it was approved, 7-0.

The Board discussed State Environmental Quality Review (SEQR). Feury moved to deem this a Type II Action per SEQR Section 617.5(c)(10). Scottie Baker seconded the motion and it was approved, 7-0.

Baker moved to waive the public hearing, due to the insignificance of the project. Jennings seconded the motion and it was approved, 5-2, with Feury and Darryl Szarpa opposed.

Baker moved to deem the application complete. Jennings seconded the motion and it was approved, 7-0.

Jennings moved to approve the site plan as submitted. Rosemary Craig seconded the motion and it was approved, 6-1, with Szarpa opposed. Chairman Huntsman advised McGown to bring in two copies of the site plan, which he then would stamp “approved” and sign.

Joe Vezza (Jon McManus) – Site plan review, expansion of Upstate Bar & Grill restaurant in GB-1 district – 5418 State Highway 28 (#131.00-1-3.00)

Attorney Miosek left the meeting table due to a conflict with the application. Jon McManus said that he is representing Joe Vezza, owner of the Upstate Bar & Grill at the site of the former Pepper Mill restaurant. McManus said Vezza wants to expand the kitchen (not before February), resulting in an increase in the building footprint.

Chairman Huntsman asked whether the property has a Special Use Permit. McManus said that he was not aware of one; the restaurant predates the *Land Use Law* and is grandfathered.

Clerk Bill Deane said that the restaurant is considered “pre-existing, non-conforming.” However, as per the Zoning Enforcement Officer’s decision on the Fly Creek Cider Mill in 2014, such enterprises cannot be expanded without a use variance. McManus said there would be no change in use or capacity.

Chairman Huntsman read aloud an e-mail from Town Attorney Michelle Kennedy, indicating that if no special permit had been issued in the past, they would need one before expanding. Huntsman cited Sections 2.06 and 7.03 of the *Land Use Law*. He said that, if the project were expansion of a conforming use, it would not require site plan review. Deane asked McManus if there was any reason they would not want to apply for a special permitted use, thus making it conforming. McManus said that if the application were denied, the restaurant would be shut down.

Chairman Huntsman suggested that the Board ponder the situation for a while and revisit it in December. Miosek returned to the meeting table.

Otsego County Planning & Solid Waste (Karen Sullivan) – First lot split or minor subdivision of former MOSA property – State Highway 28 (#114.00-1-19.00)

Representative Karen Sullivan explained about the 4.45-acre landfill that Otsego County acquired from MOSA in 2015. They want to divide it into two parcels to complete the liquidation of MOSA. Zoning Enforcement Officer Hobbie said that there had been a previous split of the property involving Verizon, but he was not sure if it was before or after 1987.

Chairman Huntsman said that the minimum lot size in the RA-1 district is three acres, so there is no way the property can be legally divided without a variance from the Zoning Board of Appeals (ZBA). Huntsman advised Sullivan to work with Zoning Enforcement Officer Hobbie in completing a ZBA application in time for their December 19 meeting.

Donabeth Kimmerer (Jon McManus) – Sketch plan conference, retail/home occupation (arts & crafts boutique in existing barn) in RA-2 district – 5995 State Highway 28 (#114.00-1-36.02)

Per his previously-cited conflict, Chip Jennings left the meeting table, and alternate member Walter Dusenbery joined it.

Representative Jon McManus said that applicant Donabeth Kimmerer wants to convert her existing barn (built c. 1900) in the RA-2 district into an arts & crafts boutique, opening about May 1, 2018. He submitted an October 24, 2017 site plan, which the Board examined.

Chairman Huntsman noted that a retail business is not a permitted use in the RA-2 district, and the project does not meet the definition of “home occupation.” He suggested that McManus apply under the “Heirloom Barn” law (*Land Use Law* 3.15). McManus agreed.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. He said the Board might waive the survey requirement, and listed items the Board would need, including preliminary building plans, traffic circulation and Department of Transportation permit details, and signage details. McManus said that he was clear on what he would need to provide, and would return in December.

Dusenbery left the meeting table, and Jennings returned.

LLIB, LLC (Bill Miller) – Sketch plan conference, modular home – County Highway 28, Pierstown (#84.00-1-15.62)

Clerk Bill Deane said that Bill Miller had advised him he would not be attending, following his discussion with Zoning Enforcement Officer Ed Hobbie. Chairman Huntsman said that modular homes were prohibited by the property's deed covenants.

Chokgyur Lingpa Foundation (Matthew Zalichin) – Site plan modification, special permitted use (addition of caretaker's cottage) in RA-2 district – 412 Glimmerglan Road (#98.00-1-67.01)

Representative Matthew Zalichin submitted a site plan, showing the proposed addition of a 750-square-foot caretaker's shed to the existing Chokgyur Lingpa facilities. Clerk Bill Deane noted that the Planning Board had approved the facilities as a special permitted use in 2009.

Chairman Huntsman said that he did not think the current project would not require site plan review, as it would represent a primary building, which is a permitted use. No member expressed disagreement.

Tashi Rabten (Bruce Phillips) – Sketch plan conference, special permitted use (yoga hall/temple) in RA-2 district – 533 Cook Road (#112.00-1-20.04, -.05 & -.06)

Bruce Phillips said he is representing applicant Tashi Rabten. Phillips said Rabten is currently building a home, and wants to add a 40x60' yoga hall. Phillips said they want to start construction in the spring, and that there would be no signs. He said the temple mentioned in the application is "not significant." Chairman Huntsman said that, if a place of worship is planned, further review would be necessary.

Chairman Huntsman said that this would be categorized as a recreational facility, requiring a special permit per *Land Use Law* Section 7.03. He gave Phillips a checklist of the items required for site plan review, and said the Board would also need a form giving Phillips permission to represent Rabten. Phillips said he would return in December.

OTHER BUSINESS

Carina Franck said the Town Board is working on potential *Land Use Law* revisions, and described the process. Chairman Huntsman read aloud Scottie Baker's proposed language for a first lot split, and also discussed the home occupation law. He suggested that a space for the date be added to the application.

Zoning Enforcement Officer Hobbie distributed copies of his latest report (filed). He said that there were a lot of applications in the wings and he expected more long agendas in the future. Hobbie suggested the Board consider going to two meetings a month. The Board and employees discussed this idea, and other suggestions, such as rearranging the order of applicants and putting time limits on meetings.

Rosemary Craig said she would not seek reappointment after her term expires next month. Scottie Baker said that she would serve one more year, though her term goes through 2019.

Chairman Huntsman gave an update on the Cobblestone situation.

Deane discussed the December 5, 2017 agenda. He said the deadline was just a week away, and only Vezza, Kimmerer, and Rabten are expected to return at this point. There will also be discussion of 2018 Board personnel.

With no further business, at 9:27 PM Scottie Baker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk