

Town of Otsego Planning Board

Minutes (unapproved), December 5, 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 7:02 PM and led the Pledge of Allegiance.

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

The Board reviewed the minutes of November 14, 2017, e-mailed to the members. Craig moved to approve the minutes as written. Feury seconded the motion and it was approved, 7-0.

The only correspondence received since the last meeting were e-mails from which Chairman Huntsman read aloud. One was from Joe Galati, the other from Lamont Engineers. Huntsman said these would be discussed further during "other business."

Chairman Huntsman asked if anyone had a conflict with any of tonight's applicants. Chip Jennings said he would again recuse himself from the Kimmerer application.

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

Marty & Annie Hansen – Site plan review, replacement of summer camp within 100 feet of Canadarago Lake – 2117 County Highway 22 (#38.20-1-22.00)

Clerk Bill Deane read aloud from the minutes of the Zoning Board of Appeals (ZBA) meetings of October 17 and November 21 (not yet approved) relevant to this application. Applicants Marty and Annie Hansen own a summer camp within 100 feet of the east side of Canadarago Lake. They want to raze and replace it, making it ten feet longer, with the extension toward County Highway 22. The existing building is already within the side-yard setbacks, and the extension would increase the non-conformity. Marty said he wants to enlarge the building to accommodate family visits. He said he would also be removing a garage and shed and not replacing them. At the November meeting, a public hearing was held with no negative comment, and the ZBA granted the requested variances, allowing construction in the Lakeshore Protection area.

Chairman Huntsman went through the site plan requirements in Section 8.04 of the *Land Use Law*. Zoning Enforcement Officer Hobbie gave input, and said the Hansens had paid the necessary fees. The consensus of the Board was that the application was complete.

The Board discussed State Environmental Quality Review (SEQR). Chairman Huntsman opined that the Planning Board could claim lead agency status. After discussion, Ted Feury moved to declare this a Type II action per SEQR Section 617.5(c)(9). Chip Jennings seconded the motion and it was approved, 7-0.

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

Rosemary Craig moved to waive the public hearing due to the result of the ZBA hearing. Darryl Szarpa seconded the motion and it was approved, 7-0.

Baker moved to approve the site plan with the conditions that the shed and garage be removed and not replaced (without further site plan review), and that any lighting be down-lighting appropriate for a residential neighborhood. Craig seconded the motion and it was approved, 7-0. Chairman Huntsman stamped the site plan "approved" and signed it. Deane advised the applicant that the Planning Board minutes would document the conditions of the approval.

Matthew & Linda Lionetti – Minor subdivision in RA-2/HR Districts – 768 County Highway 26 (#114.00-1-46.01)

Clerk Bill Deane read aloud from the minutes of the ZBA meetings of October 17 and November 21 (not yet approved) relevant to the Lionetti application. Applicants Matthew and Linda Lionetti propose to split (subdivide) 3.2 acres from their 7+-acre lot. Part of the property is in the hamlet residential district (which requires one acre and 75 feet of road frontage), and part is in the RA-2 district (which requires three acres and 150 feet of road frontage, per *Land Use Law* Section 2.03). The proposed split shows 75 feet of frontage on the new lot, and well over 150 feet on the remaining one; both lots meet acreage requirements regardless of district. ZBA Chairman Crowell said he had checked with Town Attorney Michelle Kennedy, who advised that the more-restrictive road frontage minimum would apply in a case like this; i.e., each lot would have to have at least 150 feet of frontage. Thus, the Lionettis needed a 75-foot variance on the new lot. At the November meeting, a public hearing was held with no negative comment, and the ZBA granted the requested variance, allowing the creation of a lot with only 75 feet of road frontage.

Chairman Huntsman went through Sections 3.2 and 5.1 of the *Land Subdivision Regulations*. The consensus of the Board was that the application was complete.

The Board discussed SEQR. Walter Dusenbery made and withdrew a motion. After further discussion, Rosemary Craig moved to declare lead agency status for the Planning Board and, per SEQR Section 617.5(b), adopt local action 617.5(c)(38), covering “Subdivision of land with no substantial change in the character of the land.” Chip Jennings seconded the motion and it was approved, 7-0. Ted Feury then moved to declare this a Type II action per SEQR Section 617.5(c)(38). Darryl Szarpa seconded the motion and it was approved, 7-0.

Jennings moved to waive the public hearing due to the result of the ZBA hearing. Scottie Baker seconded the motion and it was approved, 7-0. Chairman Huntsman said only one public hearing was required for a minor subdivision.

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

Jennings moved to approve the minor subdivision as submitted. Dusenbery seconded the motion and it was approved, 7-0. Chairman Huntsman stamped the site plan “approved” and signed it. Deane advised the applicant to file it with the County within 30 days.

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 recused himself and left the meeting table. Representative Jon McManus said that applicant Joe Vezza was reconsidering his project, and withdrawing the application at this time. McManus said that Vezza would be expanding the kitchen within the existing footprint. Miosek returned to the meeting table.

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

Chip Jennings recused himself and left the meeting table. Scottie Baker read aloud from the minutes of November 14 relevant to the Kimmerer application.

Applicant Donabeth Kimmerer and representative Jon McManus were present. McManus submitted a site plan for “The Purple Star Boutique,” dated “October 24, 2017, revision 1.” He also submitted a check for \$25 (delivered to Town Clerk Pam Deane) for the site plan application fee. McManus said there would be no septic system, and that he would be providing entrance plans to a New York State Department of Transportation (DOT) representative. He asked that the survey requirement be waived.

The Board discussed SEQR. Baker moved to declare lead agency status for the Planning Board, and to deem this a Type II action per SEQR Section 617.5(c)(2). Rosemary Craig seconded the motion and it was approved, 6-0.

Chairman Huntsman said that the DOT requirements were not relevant to the Planning board’s deeming the application complete. Baker moved to waive the survey requirement and deem the application complete. Craig seconded the motion and it was approved, 6-0.

Baker moved to schedule a public hearing for January 2, 2018. Walter Dusenbery seconded the motion and it was approved, 6-0.

Jennings returned to the meeting table.

Tashi Rabten (Bruce Phillips) – Site plan review, special permitted use (yoga hall/temple) in RA-2 district – 533 Cook Road (#112.00-1-20.02, -.04, -.05 & -.06)

Scottie Baker read aloud from the minutes of November 14 relevant to the Rabten application. Representative Bruce Phillips submitted a letter of authorization, and a February 27, 1990 survey.

Chairman Huntsman went through the site plan and special permit requirements in Sections 7.03 and 8.04 of the *Land Use Law*. The consensus of the Board was that this project meets the criteria for a special permitted use.

Chairman Huntsman advised Phillips that he would need to provide three copies of a map to scale, with preliminary building, landscaping, lighting, and driveway plans. He will return to the January 2, 2018 meeting.

Marty Pattin (Ed Gozigian) – Sketch plan conference, construction within 100 feet of Otsego Lake – 6512 State Highway 80 (#84.12-1-14.00)

This case was added to the agenda at the direction of Zoning Enforcement Officer Hobbie. Hobbie had issued a November 28 “stop-work” order, after a neighbor complained about Pattin’s tree-cutting activities within 100 feet of Otsego Lake. Attorney Ed Gozigian was present, along with construction foreman Rick Amo and County Codes Officer Tony Gentile.

Gozigian said they had removed five trees before the order. He said Pattin was unaware that he had to notify anyone before he did this. Chairman Huntsman said the *Land Use Law* section 4.04 requires permission to remove trees. Gozigian said that he did not see that any violation had occurred. Attorney Miosek agreed, but said that Pattin could not do any further site work without permission.

Amo said there had been 73 trees on the property, 62 of them measuring at least six inches at breast height, so the five trees represent far less than the 30% permitted. He said they planned to replace the removed trees with spruce and birch trees measuring 14-16 feet high.

Pattin also plans to put in a new fireplace. Huntsman cited *Land Use Law* sections 4.04 and 8.04, and said that would require a ZBA variance and then site plan review for new construction within 100 feet of Otsego Lake. Clerk Bill Deane explained that today was the deadline for the ZBA’s meeting agenda. Amo said he would work with Zoning Enforcement Officer Hobbie in preparing a ZBA application in time for the January meeting deadline.

OTHER BUSINESS

Zoning Enforcement Officer Hobbie had no formal report, but asked the Board for guidance regarding demolition permits; specifically, in encouraging the Town Board to adopt the policy that they discussed a year ago. Attorney Miosek, upon learning that a particular case involved a client of his, recused himself and left the table for the balance of the discussion. Rosemary Craig asked who is available to the Board for legal advice when Miosek recuses himself. Chairman Huntsman said that Town Attorney Michelle Kennedy would fill that role.

Carina Franck gave a status update on potential *Land Use Law* changes.

Chairman Huntsman asked for a volunteer to serve as liaison at the December 13 Town Board meeting. With no takers, he agreed to do it himself.

The Board discussed the Planning Board Engineer position, being vacated by Wayne Bunn’s retirement. Mike Harrington of Lamont Engineers had e-mailed Chairman Huntsman, offering his (or other Lamont engineers’) services in that role. Chairman Huntsman said he had discussed the situation with Town Supervisor Kiernan, and they thought it could be done on a case-by-case basis. Clerk Bill Deane said that the Engineer had been called upon only a few times in his 14 years with the Board. The consensus was that there was no urgency in filling the position at this time.

The Board discussed 2018 personnel. Chip Jennings moved to reappoint Ryan Miosek as Planning Board Attorney. Darryl Szarpa seconded the motion and it was approved, 7-0.

Szarpa moved to reappoint Bill Deane as Planning Board Clerk. Scottie Baker seconded the motion and it was approved, 7-0.

Baker moved to recommend that the Town Board reappoint Tom Huntsman as Planning Board Chairman. Jennings seconded the motion and it was approved, 6-0, with Huntsman abstaining. Huntsman suggested that alternate member Walter Dusenbery could take the 2018-24 Board position, replacing Rosemary Craig, who is not seeking reappointment. Dusenbery said he would be willing.

The Board discussed an e-mail from Joe Galati, saying that Board members are required to leave the room in case of any application which they are recusing themselves, as he had to do in 2011. Chairman Huntsman said that Town law had been amended on March 6, 2012, and members no longer have to leave the room, just the table. Chip Jennings said Galati was "trying to make the Board look stupid, but the only stupid person is him."

Deane discussed the January 2, 2018 agenda. Only Kimmerer (public hearing) and Rabten are expected to return at this point.

With no further business, at 9:41 PM Scottie Baker moved to adjourn the meeting.

Respectfully submitted,
Bill Deane, Planning Board Clerk