

MINUTES OF THE 453rd MEETING
OTSEGO COUNTY PLANNING BOARD

Meadows Office Building
Middlefield, NY

March 8, 2010
6:00 P.M.

1. Call to Order

The meeting was called to order by Chairman Ron Streek at 6:01 pm.

2. Introductions and roll call were taken.

The following members were recorded as present: Ron Streek, Jeff House, Scott Fickbohm, Tom Clarke, Flo Loomis, Phil Durkin, and Mark Babilonia.

Betty Anne Schwerd was absent.

Also present were Terry Bliss, Karen Sullivan – staff.

3. Privilege of the Floor: No one was present to request the privilege of the floor. R. Streek asked the guests to introduce themselves. Guests included: Sam Dubben and wife, Jim Simpson, Doug Greene of the Montgomery County Planning Department, Rob Panasci of Young Summer LLC, Rodney Jones from the Town of Oneonta, Mike Veraldi and Ralph Cuzzo from the Village of Unadilla.

4a. Minutes of February 8, 2010 meeting. R. Streek entertained a motion to waive the reading of the minutes. Upon a motion by J. House, seconded by F. Loomis, and approved (7-0 vote) the board agreed to waive the reading of the minutes and approve as presented.

5. Report of Communications

No communications were received.

6. Referrals

6.a. K. Sullivan presented referral # 21-10-01 from the Oneonta Town Zoning Board of Appeals for an application by Clark Stone Products, Inc. for a use variance to allow a gravel mine on NYS Route 205 one mile north of the hamlet of West Oneonta in a RA-40 Residential /Agricultural District. Robert Panasci from the law offices of Young, Sommer LLC, was present to represent the project applicant. R. Panasci explained the property had been previously mined but without a permit. In 2002, the property owner Larry Place obtained one mining permit to mine and sell the sand and gravel products and a second permit to remove of approximately 5000 cu. yds. of gravel. DEC completed a SEQRA review and issued a negative declaration on March 29, 2006. An application for a use variance was submitted to the Town ZBA earlier and was approved, but was challenged under an Article 78 filing by the adjoining property owner Rod Jones. The courts stated the applicant failed to file proper notice to adjoining land owners and therefore overruled the ZBA's decision for approval. The applicant has resubmitted an application for the use variance to the ZBA. A public hearing is scheduled for March 22, 2010. J. House stated he felt it was the ZBA's responsibility to review and consider the applicant's response to the four criteria established by the State for issuance of a use variance. The County planning board should ask whether or not there is a significant county wide or inter-community impact. M. Babilonia agrees with J. House, but does not feel there is enough information to go further to state there will not be any county or inter-community impact. R. Streek asked if a bond is required. R. Panasci said yes. R. Streek asked if there was any further discussion. R. Streek acknowledged Rod Jones in the audience. Rod explained he is an adjoining neighbor and served as a member of the Town of Oneonta planning board. He clarified the application for a use variance was originally approved the first time by the ZBA, but due to the Article 78 it was overruled by failure to provide proper notification to adjoining land owners. R. Jones felt the applicant did not meet the criteria for a use variance under State law. J. House reiterated that the County Planning Board's obligation is to determine if there is any county-wide or inter-community impact even though he felt the applicant will have a tough place to meet the criteria. Upon a motion by J. House, seconded by S. Fickbohm, following some discussion, the board agreed the project posed no county-wide or inter-community impacts and to remand back for local decision (6-0-1 vote- M. Babilonia abstaining).

6. b. K. Sullivan presented referral # 32-10-01 from the Village of Unadilla Zoning Board of Appeals for an application by Michael Veraldi for a use variance to allow development of residential uses at 95 & 99 Main Street. The property is currently in an Industrial District (ID) zone. Mr. Veraldi plans to renovate the structures for apartments. The existing old gasoline station is currently being occupied. Mr. Veraldi told the board the underground tanks have been removed but there are above ground oil tanks on the property. Mr. Veraldi explained to the board he does not currently own the property but is under contract for purchase. Upon a motion by F. Loomis, seconded by J. House, with no further discussion, the board agreed the project posed no county-wide or inter-community impacts and to remand back for local decision (7-0-0 vote).

6. c. There was follow up discussion on referral #28-10-01 from the Village of Richfield Springs Board of Trustees for a request of zone change by the Glimmerglass Opera Company for property located on NYS Route #20, E. Main Street. K. Sullivan reported there has not been any further communication since last month. A notice of action was sent to the Village after February's meeting stating the Board postponed definitely to the next regular meeting pending receipt of a full statement of the proposed action. Upon a motion by M. Babilonia, seconded by J. House, the board recommended disapproval of the project because of failure to receive a full statement from the Village (7-0-0 vote).

7. Report of Committees

7a. T. Bliss reminded the board the Board Chairman to appoint members to the committees during the month of March.

R. Streek asked if it might be easier to ask the current committee members if they were interested in remaining on the same committee. Following further discussion the committees for 2010 are as follows:

Nominating Committee: Tom Clarke and Phil Durkin

Regional Liaison Committee: Jeff House and Ron Streek

Legislative Liaison Committee: Flo Loomis and Scott Fickbohm

8. Old Business

8a. The Board discussed the status of Board bylaws with respect to NYS General Construction Law and Robert's Rules of Order. M. Babilonia promised to follow up on his memo of January 10th. M. Babilonia stated the practical impact of the decision the board can make under the GML 239 and the importance of clarity when the board constructs a decision; whether we approve, disapprove or report there is no county-wide impact, we have to give a reason and justify the reason, exactly what we have acted on.

Discussion continued with the question of what is considered a "majority" vote, that is to say whether the majority of those present or a majority of the entire board is required to take action. Under general construction law a majority is based on the entire membership. M. Babilonia moved that the Planning Department request a formal written opinion from the State to clarify what authority the board is acting on for voting as written in the by-laws. Until then, Mark proposed the board keep the procedure for voting as they are and amend at a later date.

(7:15 Scott Fickbohm excused himself from the meeting)

8b. Business brought by members – none.

9. New Business

9a. M. Babilonia submitted a resolution for consideration by the County Board requiring County Planning Board members to receive the annual 4 hours of training. After further discussion, J. House asked if the board could place this item on next month's agenda; all agreed. T. Bliss suggested this requirement could be an amendment to the by-laws as a policy. M. Babilonia pointed out section GML 239-c 2(g) states the by-laws must be approved by the County Board of Representatives. J. House asked Sam Dubben whether the County would consider paying for courses for member. Sam said it currently is not in the budget.

9b. T. Bliss mentioned there is currently one vacancy with a possible second vacancy if Betty Anne Schwerd steps down. Terry has received three names of interested people- Doug Greene, Planning Director from Montgomery County; Walter McLaughlin, former Milford zoning enforcement officer, member of the zoning board of appeals and planning

board and prior County employee, and Joan Perry from Edmeston. T. Bliss asked Doug Greene to introduce himself to the board and give a brief background of his experience. T. Bliss read from the by-laws which state the appointment is by the Chairman of the County Board of Representatives. There is no requirement in the by-laws stating one member must be a County Board Representative. R. Streek asked if we could invite the other two interested people to our next meeting. T. Bliss to contact the other two individuals and place the item on the April Agenda.

10. T. Bliss informed the board that the department workshops will be held three consecutive Wednesdays beginning April 21st, April 28 and May 5th. The topics will be in a timely nature and will be finalized this week. One workshop will be on the changes proposed to the Flood Insurance Rate Maps with the new Digitized Flood Insurance Rate Maps recently released in draft form. The topic of gas drilling and road preservation is also being considered. Terry and Sam met recently with Lou Allstadt and the county attorney to discuss a road preservation local law or voluntary agreement. Terry hopes to wrap this up and bring it to completion. The department will send notices to all officials and board members as soon as finalized. T. Bliss will be heading to Springfield next week to present a workshop on SEQRA.

On April 1st, Terry will be meeting with other local task forces in regards to gas drilling issues. F. Loomis asked if she could be notified of these meetings if they are open to other non-officials.

11. Meeting was adjourned at 7:50 pm.

Respectfully submitted,

Karen Sullivan, Sr. Planner

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