

Minutes
Town of Otego Planning Board
May 21, 2019
PLANNING BOARD
Public Hearing
and
Regular Meeting

APPROVED

Board Members Present: Vice Chairman Roberto Romano, Elizabeth Callahan, Mark Dye, Lois Chernin, and Katie Higgins- serving as a voting member.

Board Member Excused: Chairwoman Kate Lawrence

In Attendance Tonight:

Town Attorney Beth Westfall, Codes Officer Dan Wilber, Planning Board Recording Secretary Teresa DeSantis

In the Audience:

Bob Birch, Attorney
Will Green, Attorney
Thomas Barrett
Lynn Gillingham
Sandra Fiaschi
Dave Sheldon
Robert Dickson
Dale Brown

PUBLIC HEARING: Chaired by Lois Chernin:

Jordan- Cella Minor Subdivision- represented by Bob Birch #318.00-1-62.01:

MOTION to Open the Public Hearing of Jordan and Cella Business Associates Inc.- Minor Subdivision.

Motion by Mark Dye and seconded by Roberto Romano.

Voice Vote: YES 5 NO 0

Five in favor, none opposed. Motion carried.

The Public Hearing officially opened at 6:38 PM.

Attorney Bob Birch was present representing both the Jordans and Cella Business Associates Inc. In the February Planning Board meeting, the sketch map for the above subdivision was approved. Mr. Birch described the proposed action and presented a survey map produced by Jenee Rasmussen LLS, for the minor subdivision.

(Survey Map: Jenee Rasmussen: Map Date: 4-5-19, Map 18-914, WO 1991)

Lot C1 with an area of 4.9280 acres will be conveyed to Jordan and Lot C2 with an area of 11.3795 acres will be retained by Cella. The parent parcel is 16.3075 acres total.

The Planning Board noted that the required confirmation-receipt mail noticing had been completed by Mr. Birch to the neighbors within 500 feet of the proposed action. The Planning Board Recording Secretary stated that the notice of Public Hearing for the proposed action appeared in the Legal Notices section of the Daily Star, the Town's newspaper of record, on Wednesday, May 15, 2019.

There were no written comments received. There were no verbal public comments this evening as no members of the public wished to speak.

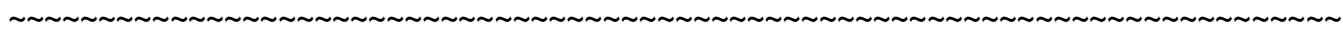
MOTION to Close the Public Hearing of Jordan and Cella Business Associates- Minor Subdivision.

Motion by Roberto Romano and seconded by Mark Dye.

Voice Vote: YES 5 NO 0

Five in favor, none opposed. Motion carried.

The Public Hearing officially closed at 6:40 PM.



Regular Planning Board Meeting: Chaired by Lois Chernin:

The Regular Planning Board Meeting officially opened at 6:41 PM.

ROLL CALL:

Board Members Present: Vice Chairman Roberto Romano, Elizabeth Callahan, Mark Dye, Lois Chernin, and Katie Higgins- serving as a voting member. Chairwoman Kate Lawrence arrived at 7:48 PM

In Attendance Tonight:

Town Attorney Beth Westfall, Codes Officer Dan Wilber, Planning Board Recording Secretary Teresa DeSantis

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REVIEW OF THE MEETING MINUTES FOR THE APRIL 16 TH REGULAR MEETING-

The unapproved meeting minutes for the April 16, 2019 Planning Board Regular Meeting were reviewed. A Motion was made by Mark Dye to accept the Minutes as corrected.

MOTION to accept the April 16, 2019 Planning Board Regular Meeting Minutes as corrected.

Motion by Elizabeth Callahan and seconded by Roberto Romano.

Voice Vote: YES 5 NO 0

Five in favor, none opposed. Motion carried.

OLD BUSINESS:

Jordan- Cella Business Associates Minor Subdivision- represented by Bob Birch #318.00-1-62.01:

The Planning Board declared the Jordan-Cella Business Associates Inc. Minor Subdivision application as complete in the April 16, 2019 Planning Board meeting. (Attorney Beth Westfall noted that the Planning Board does not need to declare itself lead agency, as it is the only agency involved in the action.)

The Planning Board went over the SEQRA Short EAF Part 1 for the Jordan-Cella Business

Associates Inc. Minor Subdivision. Then it completed the Short EAF Part 2 for the action, with all boxes checked "No or small impact." Then the Planning Board completed SEQRA Short Form EAF Part 3.

MOTION that we have determined, based on the questionnaire, that this Action will not result in any significant adverse enviromental impact.

Motion by Roberto Romano and seconded by Mark Dye.

Roll Call Vote:

Roberto Romano- Aye

Elizabeth Callahan- Aye

Mark Dye- Aye

Lois Chernin- Aye

Katie Higgins- Aye

Catherine Lawrence- Excused

Roll Call Vote: YES 5 NO 0

Five in favor, none opposed. Motion passed.

MOTION That the Planning Board, having determined that this application is in compliance with the Town's Zoning and Subdivision Law. approves the Minor Subdivision of Cella Business Associates Inc. for Parent Parcel #318.00-1-62.01 for a 4.9280 acre parcel and authorizes the Vice Chairman to sign the mapping.

Motion by Elizabeth Callahan and seconded by Roberto Romano.

Voice Vote: YES 5 NO 0

Five in favor, none opposed. Motion passed.

Vice Chairman Roberto Romano signed the mylar survey map.

NEW BUSINESS:

Lynn Gillingham- 3575 State Highway 7- Simple Lot Split - # 318.00-1-15.01:

Mr Gillingham and his daughter Sandra Fiaschi were both present at the meeting tonight. Mr Gillingham wants to subdivide his large parcel. He would retain 2.011 acres containing

his house along Route 7. The remainder of the parcel (aproximately 32.31 +/- acres) would be deeded to his daughter and combined with her existing parcel # 318.00-1-15.03. The land to be split contains the only cell tower in the Town. Mr. Gillingham desires to retain the rights to a spring with his split-out parcel.

At the last meeting, the Planning Board reviewed a copy of Mr. Gillingham's survey map (1983) by William Rasmussen LLS. This meeting, Mr. Gillingham presented a new survey map by Lawson Surveying and Mapping. (Survey Map: Lawson Surveying and Mapping: Map Date 5-8-19, Map No M 24-1075, WO- 6461.) The new survey map shows Parcel A, containing Mr. Gillingham's house: 2.011 acres, which has 412.27 feet of road frontage, and is 203 feet deep. (Note that only the Parcel A- 2.011 acres was recently surveyed.) The remainder of the parcel will be conveyed to Sandra Fiaschi after the lot split.

The Planning Board noted that although the parcel was previously subdivided, it was done prior to the adoption of the Town's Zoning Ordinance. Because of this, the application can proceed as a Simple Lot Split instead of being classified as a Minor Subdivision. Code Officer Dan Wilber noted that the lot line erasure between #318.00-1-15.01 and Sandra Fiaschi's #318.00-1-15.03 parcel had not yet taken place, as it is done at the County level. Town Attorney Beth Westfall noted that a Simple Lot Split allows for an abbreviated review, with the mylar survey map not required, because it is not a subdivision.

MOTION to declare the application of Joan and Lynn Gillingham as complete.

Motion by Roberto Romano and seconded by Mark Dye.

Voice Vote: YES 5 NO 0

Five in favor, none opposed. Motion carried.

MOTION that the Simple Lot Split and Lot Line Adjustment of the Lot #318.00-1-15.01 be approved.

Motion by Roberto Romano and seconded by Mark Dye.

Roll Call Vote:

Roberto Romano- Aye

Elizabeth Callahan- Aye

Mark Dye- Aye

Lois Chernin- Aye

Katie Higgins- Aye

Catherine Lawrence- Excused

Roll Call Vote: YES 5 NO 0

Five in favor, none opposed. Motion passed.

Vice Chairman Roberto Romano signed the mylar survey map.

OLD BUSINESS:

Thomas Barrett-Minor Subdivision- # 325.00-1-5.03- split out 15.07 acres from a 39.47 acre parcel. (Note this parcel was originally split out from the parent parcel in 1988.)

Attorney Will Green representing Mr. Thomas Barrett, and Mr. Barrett were both present at the meeting tonight. Attorney Will Green has been in contact with Town attorney Beth Westfall about the application.

Mr. Barrett wants to split out 15.07 acres with the house from a 39.47 acre parent parcel. 24.4 +/- vacant acres would be remaining after this split. The property is a pre-existing, non-conforming lot. He presented a sketch map drawn on top of an aerial photo. In our Zoning Ordinance lots are to conform to a minimum ratio of 1:4 for frontage to depth, and the existing lot does not meet those requirements. Therefore, the concern is that any new lots created would also not meet the required lot size ratios mentioned in the Zoning Ordinance. Normally, this would require going to the Zoning Board of Appeals for an area variance.

Town Attorney Beth Westfall asked the Planning Board how it has treated applications like this in the past. Attorney Will Green referred to Section 509 of the Town's Zoning Ordinance regarding lot size averaging on a single parcel, which states:

If a parcel is legally existing as of the time of adopting this ordinance, it can be divided without a variance, if it meets certain conditions:

A. That the average size of all lots created by that division will not be less than 2 acres in R1 and R2 and not less than 3 acres in R3.

B. No lot will be created with an area less than one acre and not more than 20% of the total number of parcels shall be undersized.

C. Minimum road frontages and building setbacks shall be in accordance with respective district regulations.

D. No lots shall be created that are less than the minimum lot area. Beth Westfall noted that this does not apply.

E. All divisions will be classified and reviewed as either a minor or major subdivision, and that no further division of any lot created by such division shall be

allowable if it would result in an average size of less than 2 or 3 acres, depending on what zone.

Town Attorney Beth Westfall stated that section 509- E would apply. Ms. Westfall said that the choices were:

1. To apply the lot depth ratio strictly and not look at Section 509, in which case the Planning Board would require the applicant to get an area variance from the ZBA,
2. Planning Board can look at Section 509 and if it thinks it is applicable, treat this as a minor subdivision, instead of a lot split.

A discussion followed. Codes Officer Dan Wilber thought it was fine to proceed. Member Elizabeth Callahan questioned the Planning Board, asking if we would be creating two "flag lots." Planning Board member Mark Dye countered that we were not creating flag lots, as they both had adequate road frontage, the smallest having a frontage of 175 feet. Dan Wilber stated that the principle is that pre-existing non-conforming lots don't create further undersized lots according to the Ordinance. Also, the proposed action will be subject to a public hearing when the application is considered complete.

More discussion followed. Elizabeth Callahan mentioned Section 804 (C) "Non Conforming Structures and Lots." She read from the ordinance, "A non-conforming lot may be subdivided, if every part of such lot is purchased by owners of adjoining properties to increase the dimensions of such adjoining properties. Otherwise the dimensions of a non-conforming lot may not be reduced." Beth Westfall said that Section 509 is talking about a parcel which is already legally existing at the time the Zoning Ordinance took effect, and has not been subdivided since.

Town Attorney Beth Westfall said that there is a provision in the Ordinance that the Codes Officer has the ability to provide the final interpretation of the Ordinance and recommend a course of action to the Planning Board. Dan Wilber said if you don't allow this split, you can't do anything with the parcel. He stated that there appeared to be a conflict between two sections of our Zoning Ordinance. Mr. Wilber said that Mr. Barrett and Attorney Will Green had presented a reasonable section of our zoning- section 509- that would apply to this property. Code Officer Dan Wilber also stated he would consider the 1:4 lot size ratio as a less reasonable criterion. Dan Wilber said that Section 509 gives a provision to deal with this situation-and that it must still go before the public for a public hearing. The Code Officer also stated that when the Planning Board works on the revision of the Zoning Ordinance, it should look at the 1:4 lot size ratio.

MOTION to proceed with section 509 as recommended by our Code Enforcement Officer and it will be treated as a minor subdivision.

Motion by Roberto Romano and seconded by Elizabeth Callahan.

Roll Call Vote:

Roberto Romano- Aye

Elizabeth Callahan- Aye

Mark Dye- Aye

Lois Chernin- Aye

Katie Higgins- Aye

Catherine Lawrence- Excused

Roll Call Vote: YES 5 NO 0

Attorney Will Green stated that they will continue to work on a completed application and survey map for presentation to the Planning Board.

PRIVILEGE OF THE FLOOR:

New Draft Town Maps:

The Planning Board asked Otsego County Planning to produce new maps of the Town. Beth Westfall will talk with Erik Scrivner at Otsego County Planning to get large maps for the Planning Board room.

Chairwoman Kate Lawrence arrived at 7:48 PM.

COMMUNICATIONS:

Codes Officer Dan Wilber said that Mr. Brown on Flax Island Road had a manufactured home that burned down and he wished to replace it with another manufactured home. Mr. Wilber issued him a building permit for the replacement of the home.

Mr. Wilber then stated that David Clapper had a similar situation on his 24 acre parcel on County Route 8. The parcel contains two dilapidated manufactured homes and one stick-built home on a pre-existing, non-conforming lot. Mr. Clapper wishes to replace the two manufactured homes with two stick-built homes, for a total of three homes on one lot. Mr. Wilber's question is- does the lot need to be split?

A discussion followed. Section 805 A of the Zoning Ordinance states that:

"Non conforming structures may be enlarged or altered, provided such construction will not result in the increase of any non-conformities in height, setback, land coverage, or other dimension." The Codes Officer said this would apply to this case. Mr. Clapper will be

moving the footprint of the new stick built homes back from the front of the road from where the manufactured homes were. Roberto Romano asked if the land was suitable for subdivision. The Codes Officer responded yes. Town Attorney Beth Westfall then referred to Section 806 B: "The Zoning Board of Appeals may grant a special use permit to allow a legally existing, non-conforming manufactured home to be replaced by a newer one." She considers replacing a manufactured home with a stick built as an upgrade. Dan Wilber will do more research.

TRAINING REPORTS: 1 Hour Training Session with Beth Westfall tonight, following this meeting.

MOTION to adjourn.

Motion by Roberto Romano and Seconded by Mark Dye.

Voice Vote: YES 5 NO 0

Five in favor, none opposed. Motion carried.

Meeting was adjourned at 8:00 PM.

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The Workshop Training Session with Beth Westfall started at 8:01 PM.

The Planning Board discussed with Beth Westfall a possible approach to revising and updating the Zoning Ordinance. The goal is to make the Zoning Ordinance consistent with the Town's Site Plan, the Town's Comprehensive Plan, and with current State regulations.

The Workshop Training Session with Beth Westfall ended at 9:10 PM.

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Respectfully Submitted- Teresa DeSantis- Town of Otego PB Recording Secretary