

**TOWN OF ULYSSES
PLANNING BOARD
MINUTES
June 2, 2015**

Approved: June 16, 2015

Present: Chairman John Wertis, **Board Members:** Sarah Adams, David Diaz, Craig Salino, and David Blake; Environmental Planner Darby Kiley; Town Attorney Mariette Geldenhuys; alternate Town Board Liaison Nancy Zahler, and MRB Engineer Lance Brabant

Members of the Public Present: Diane Hillman, Carl Lupo, Rod Kearl, and Ken Kearl

Call to Order at: 7:00 p.m.

Mr. Wertis said he received word that Andy Rice has resigned from the Planning Board. Board alternate, Mr. Salino, was appointed as a voting member for the meeting.

Agenda Review; Minutes Review (5/19/2015): No changes to the agenda were made.

Mr. Blake MADE the MOTION to approve the 5/19/2015 meeting minutes with a minor change, and Mr. Diaz SECONDED the MOTION. The vote was unanimously approved.

Consider resolution to re-approve Hillman Subdivision for 1878 Trumansburg Rd, Tax Parcel Number 25.-6-8, where the applicant did not file the subdivision in the required 62 days.

Mr. Blake MADE the MOTION and Ms. Adams SECONDED the MOTION as follows:

Whereas, according to Town Law §276 (11), “the owner shall file in the office of the county clerk or register such approved final plat . . . within sixty-two days from the date of final approval or such approval shall expire;” and

Whereas, the owner did not file the subdivision that was approved at the October 15, 2013 Planning Board meeting; and

Whereas, according to the applicant, no changes have been made to the subdivision plat that was approved on October 15, 2013;

Now therefore be it:

Resolved, that the Town of Ulysses Planning Board reaffirms the two-lot subdivision approval for 1878 Trumansburg Rd, Tax Parcel Number 25.-6-8, H1-Hamlet District, and authorizes the Planning Board Chairperson to sign and date the subdivision plat.

The vote was as follows:

Mr. Wertis AYE
Ms. Adams AYE
Mr. Salino AYE
Mr. Diaz AYE
Mr. Blake AYE

Result: Hillman subdivision approved.

Sketch Plat: Cold Springs Rd. Development Project for a five-lot subdivision of Tax Parcel Number 25.-1-1.1, H1-Hamlet District. Carl Lupo and Leon Newhart Jr, Owners/Applicants.

Mr. Lupo owns the property on Cold Springs Road and State Route 96 and has plans for five residential lots. Located in the Hamlet of Jacksonville and behind existing homes on Route 96, the parcel would be better suited for residential rather than larger development, he said. Mr. Lupo also stated there will be no trailer or modular homes on the planned residential lots. Each lot would have its own driveway – two via Cold Springs Road and three via Route 96.

In response to a question from Ms. Adams about minimizing the impact on wooded areas and nearby homes, Mr. Lupo said the plan is to retain the natural environment as much as possible and to only clear away trees that impede construction of driveways. Homes would be built successively as each lot is purchased. This summer, driveways will be constructed and the lots flagged off.

Mr. Diaz noted the proposed development is in the Hamlet District, an area in which the Town hopes to concentrate housing development. Mr. Wertis added that the Town Comprehensive Plan states as much. Depending on how many trees remain on the north side of the parcel after development, passersby would hardly notice that homes were even located there, Mr. Wertis said.

Ms. Adams requested Ms. Kiley include last names of property owners on future maps of the sketch plat.

After a discussion, the Planning Board reached a consensus to further discuss the sketch plat at its next meeting on June 16. Mr. Wertis said board members could use the time to formulate specific questions about the development project.

Mr. Blake MADE the MOTION to consider the sketch plat at the June 16 meeting, and Mr. Wertis SECONDED the MOTION.

Ms. Adams said she would be willing to allot a limited amount of time at the June 16 meeting, which is scheduled as a work session, to discuss the development. Mr. Diaz agreed.

The vote was unanimously approved.

Mr. Diaz stated he does have concerns with a nearby, Class C stream in the vicinity. It was agreed that the issue would be discussed later in the review process.

Proposed Open Development Area – Town Law 280-a referral from Town Board
Discussion continued from 4/21, 5/5, 5/19

Ken Kearl told the Planning Board he purchased his lakefront property some time ago and went through the Board of Zoning Appeals to combine the two lots. At the time, the property had Site Plan approval from the Code Enforcement Officer. Now, years later, he is interested in building on the site, but Town Zoning Laws within the Lakeshore District have changed since then.

Mr. Wertis circulated a working, draft document that attempts to present the Planning Board's recommendation in narrative form rather than a resolution to the Town Board. He said there are specific issues related to the ODA that Planning Board members felt should be addressed through a board vote. The narrative approach would give the Town Board an idea of where the Planning Board is coming from.

Mr. Blake noted that Town Supervisor Liz Thomas and Town Councilman Rich Goldman had previously stated to the Planning Board that the Town Board would prefer a resolution. Mr. Wertis said he has been unable to find anything in Town Law that mandates that the Planning Board's response has to be via a resolution.

Ms. Geldenhuys said the Planning Board acts by resolution, even if it is a simple, one-line document. When any government body consisting of different members acts in its official capacity, it does so by resolution. In this case, the Planning Board's resolution could simply state the board's intention to forward along a report on the ODA.

Ms. Zahler echoed what Ms. Thomas and Mr. Goldman have expressed previously – that an actual resolution voted on by the Planning Board would aid the Town Board. The Planning Board is clearly spending more time on the ODA than the Town Board has to give.

The Planning Board reached a consensus to work through Mr. Wertis's document and take an informal vote on six stated issues.

The first vote states: "We are satisfied with the level of information we have obtained on emergency vehicle access at this time (yes or no)"

Mr. Salino said he still has concerns with trusting the Trumansburg Fire Chief Jason Fulton's opinion that emergency vehicles could access the driveway leading down to the proposed ODA. He said he would be voting no.

Mr. Wertis explained to the applicants that the Planning Board had requested additional information from Mr. Fulton, including a document listing the fire department's truck fleet and each truck's length and maximum weight. The Planning Board has yet to receive that information, though Ms. Kiley said Mr. Fulton would provide the necessary documents the following day.

Mr. Diaz noted contradictory information received from the Fire Chief that raised doubts about the road's suitability for emergency-vehicle access. The Chief's initial statement indicated that the road in question was sufficient for emergency-vehicle access, yet he later stated a need for a proper turnaround and tree pruning and questioned the road's width.

Mr. Wertis said the road became a concern after the Planning Board reviewed New York State Fire Code, which raised questions concerning truck tonnage and loadability.

Having reviewed Town Law Section 280-a, Ms. Geldenhuys called the section frustrating due to its lack of criteria. It does, however, address suitability for access to vehicles. It is her thought that Section 280-a does not require that the road to the ODA meet fire code.

If the road is not in compliance with State Fire Code yet meets conditions of 280-a, then where does that leave the Town of Ulysses in terms of liability, Mr. Blake asked. Ms. Geldenhuys said negligence is at the center of any question of liability. She noted there are many private driveways that fail to meet fire code. The use of the term "suitable" suggests flexibility within the Law.

Ms. Adams stressed precedence and noted the ODA proposal is the second such request and unlikely to be the last. The Town needs set standards that can be used to evaluate such requests. She is uncomfortable with recommending approval of the ODA without standards. Mr. Diaz asked why the Planning Board would choose not to use Fire Code as a guide for determining if the road is or is not suitable for emergency vehicles. Fire Code was specifically written to address these kinds of issues.

Mr. Brabant said New York State Fire Code parameters are considered minimum requirements. The Town may choose to adopt more stringent parameters.

Responding to Mr. Wertis, who asked why the Planning Board would choose not to accept Mr. Fulton's assessment when residents there appear comfortable with it, Mr. Blake said times change. Fire trucks do not weigh what they did years ago.

Ms. Adams addressed another concern: if the road were reconstructed to meet fire code, the reinforced roadway would have a negative impact on sensitive lakeshore property.

Mr. Diaz requested additional information on turnaround requirements, because that will partly define suitability of the road.

The Planning Board took a vote on the question of whether or not they had the appropriate information in regard to emergency vehicle access. All five board members voted no.

Ms. Kiley asked about loadability numbers and which party would be responsible for getting them. Asked by Ms. Kiley if they had an engineer who could verify loadability and road capacity, Rod Kearl said he and his brother would have to find out. Ken Kearl was unsure how much time that would take. Ms. Geldenhuys said the general rule is the applicant provides expert data, and then the Town engineer reviews that data. Ken Kearl said there is nothing specific in Town Law

or otherwise where that is stated. Also, the road is laid gravel over stone, making an accurate determination of loadability difficult. Mr. Brabant said loadability is determined by a soil survey and a review of the road width. A geo-tech engineer can provide the soil survey.

It was agreed among board members that they would wait to hear from the Fire Chief before proceeding. Mr. Wertis told the applicants not to proceed with any soil tests at the present time. It was discussed whether or not Mr. Fulton should attend a future Planning Board meeting. Ms. Adams and Mr. Diaz welcomed the idea, so long as Mr. Fulton provided additional materials to support his assessment. The Planning Board would not have done its due diligence if it were to act solely on Mr. Fulton's opinion, Mr. Diaz said.

Ken Kearl said homeowners have a long history on the road in question. LP gas trucks frequent it regularly. He said homeowners there have a road maintenance agreement in which road repair costs are split.

Turning their attention back to Mr. Wertis's document, Planning Board members addressed another vote:

P.B. Vote #4: If only the minor road improvements recommended are made there will be no appreciable damage to the ecology of the ODA area.

In response to a question from Mr. Blake concerning the potential to disturb the Unique Natural Area with possible roadway upgrades, Ms. Geldenhuys said 280-a only relates to suitable access to homes and emergency vehicles. Expanding the law to include the UNA is veering outside the scope of 280-a. Concerns with the possible disturbance of the UNA is a matter to discuss during Site Plan Review.

Ms. Adams said it would be the Planning Board's responsibility to note in its recommendation to the Town Board the possibility of UNA disturbance if the road is altered to comply with 280-a.

It was asked whether or not road access is part of Site Plan Review. Ms. Kiley said it is, if the land is disturbed. Making the matter more complicated, land disturbance could result in changes to the easement. That is the complicated issue of fire code. Ms. Geldenhuys noted that homeowners have a legal document outlining the right of way agreement. Addressing a question from Ms. Adams, Ms. Geldenhuys said it would seem prudent to include nearby property owners on the ODA conversation.

Mr. Wertis said the creation of an official town map is an alternative solution to the issue in question. The Town of Ulysses does not have an official map, though a Highway Map was created by LaBella Associates but never formally adopted by the Town. Ms. Geldenhuys had previously looked into a town map but was advised by the Town Supervisor that it was not the right time to proceed.

The ODA discussion concluded. Ken Kearl said he hoped the Planning Board could develop a process that spurs town activity.

Solar Regulations (Where allowed, approval process, and standards for review)

Ms. Kiley said she has a lot of information on regulations related to small-scale solar projects, but little is available on larger-sized projects. Not even NYSEERDA outlines its parameters for size differentiation. She asked the Planning Board about its interest in the Town of Geneva's Design Standards and whether or not additional parameters were needed. If board members are okay with the Town of Geneva's law, Ms. Kiley suggested copying the language into the Town's own Zoning. Ms. Adams requested the Board thoroughly review the Town of Geneva's solar regulations and return with comments. Ms. Kiley asked for board members to provide feedback on where solar projects should be prohibited. There was a brief discussion on solar-project sizes and questions concerning the most efficient way to measure them. Mr. Blake said the Planning Board may want to work on a percentage basis to determine whether a project is permitted. For instance, no solar system could be larger than 10 percent of the total lot size.

Mr. Wertis noted the conflicting goals of crafting solar project regulations within Town Zoning while also promoting the use of solar power.

Mr. Diaz said areas of potential sensitivity – Unique Natural Areas, water courses, and streams – are a main concern for him in future discussions on solar. He also has questions concerning setbacks, sizes, and decommissioning.

Town Liaison Report

Ms. Zahler gave an overview of the Village of Trumansburg's plans to bring a second water source online. Village representatives and their lead engineer recently met with the Town Board to explain the project scope, since the new transmission line will run through the Town right-of-way on Falls Road. Village officials hope to begin construction this fall, pending funding and state approval. In their discussions, Village and Town representatives agreed to include the Town Supervisor on pre-construction meetings. Town officials want to ensure that residents along Falls Road are kept up to speed on the process. Plans are underway to hold a summer public information session with Falls Road property owners and gauge their interest in possibly connecting to the future transmission line. A water district will need to be formed first, Ms. Zahler noted. However, it remains unclear just when Falls Road resident would have access to the line.

Mr. Blake MADE the MOTION to adjourn the meeting, and Ms. Adams SECONDED the MOTION. The vote was unanimously approved.

Meeting adjourned at 8:41 p.m.

Respectfully submitted by Louis A. DiPietro on June 4, 2015.