

**TOWN OF ULYSSES
PLANNING BOARD
MINUTES
October 6, 2015**

Approved: 10/20/15

Present: Chairman John Wertis; Pete Angie, David Blake, David Diaz, Rebecca Schneider; **Environmental Planner** Darby Kiley, and **Town Board Liaison** Richard Goldman.

Members of the Public Present: Lisa Anderson (board alternate candidate)

Call to order: 7:02 p.m.

Agenda Review: Minutes Review (09/01/2015):

Mr. Wertis said Ms. Anderson's position as a board alternate has yet to be formally approved by the Town Board, though it is likely the Town Board will do so at its meeting next Tuesday.

Mr. Blake MADE the MOTION to approve the September 1, 2015 meeting minutes, and Mr. Angie SECONDED the MOTION. The minutes were unanimously approved.

Open Development Area Discussion

Mr. Wertis provided an overview of the Board's most recent handling of Open Development Area (ODA) proposals, including the challenges posed by vagaries of section 280a of New York State Town law regarding ODAs and permits for buildings not on approved mapped streets. He said special processes must be considered for developable properties off of unmapped roads: either the property owner can seek a variance request through the municipal Board of Zoning Appeals or seek an Open Development Area. With the most recent Kearn development proposal, the applicant chose to proceed with an ODA. A previous ODA request went through smoothly, Mr. Wertis said, because the unmapped access road to the development was wide enough and had appropriate turnarounds to accommodate emergency response vehicles. The Kearn proposal, however, raised concerns over road access and loadability, and considerable time was spent weighing just how much authority the Board had in legislating health and safety. State regulations – specifically section 280a – and fire code did not provide adequate guidance on the matter, he said. The Board sought guidance from Fire Chief Jason Fulton, who endorsed the access road's width and condition and felt confident emergency vehicles could enter and exit. Mr. Blake researched how other towns have handled ODAs and discovered the Town of Aurora's law could be used as a template, with a few modifications to make the law Ulysses-specific. Mr. Wertis said the option to utilize the Aurora law, customize it, and seek the Town Board's approve of it is still on the table.

There are currently no ODA proposals before the Board, Mr. Wertis said. Ms. Schneider said she likes the Aurora law. Its stipulations about grades and slopes are of particular interest, considering Town ODAs are originating from the Lakeshore District. She asked whether or not

the Town pays for improvements on access roads, to which Mr. Goldman responded that, in the case of the Kearl development, it is the property owner's responsibility since the road is considered private.

Still to be discussed is whether the access road in question is recognized on official Town maps, Mr. Wertis said. Ms. Kiley discovered that a 1959 Town map is referred to in past minutes. She also found a town map dated 1972, with a revision made in 1980. Bizarrely, meeting minutes from 1985 indicate uncertainty among Board members to the existence of an official map, Ms. Kiley said.

Complicating the matter, not all roads that appear on the Town map are recognized as approved roads, Mr. Wertis said. Ms. Schneider said every driveway could be included on the map, but that does not make them official Town roads. Furthermore, as more residences have been added to the Lakeshore District, what once was a single driveway may have become a shared driveway and access road for multiple residences, Mr. Wertis added. Ms. Kiley said the 1980 map included many lakeshore driveways, raising questions as to whether Town leaders at that time considered driveways as roads suitable for future development. Mr. Blake felt the inclusion of lakeshore driveways on the Town map does not make them acceptable roads, especially when considering 280a and its charge for addressing health and safety. He feels the Planning Board will be stuck with considering future ODAs, since the Town Board is unlikely to accept lakeshore driveways as approved roads and thus incur the expenses associated with maintaining them.

Mr. Wertis disagreed, saying the Town could have something in writing about road conditions. Though, he suspects ODAs might work best for the Town and the Planning Board. A challenge with the Kearl ODA was the fact that Board members had doubts about the condition of the roadway yet the applicants did not perceive any issue concerning the road, Mr. Wertis said. There was no easy way for the applicants to sign off on road conditions and accessibility. The Planning Board could ask neighboring residents to provide a written plan for maintenance, though it would be an inconvenience to them. It was pointed out that the Town's legal counsel had previously advised the Planning Board to refrain from such an approach and instead focus on State Law, as written.

Mr. Goldman said the roads in question are private roads, and property owners are aware that they are responsible for maintaining them. However, as Mr. Wertis pointed out, when it comes to new construction, the applicant may or may not know about a previous road maintenance agreement among neighbors or even have any interaction with neighbors. Ms. Kiley said she examined deeds of neighboring properties in the Kearl ODA and discovered a road maintenance agreement. However, in talking with neighbors, they had no idea such an agreement existed. That is one reason to support the Aurora law, Mr. Blake said, since written notice is given to neighboring properties near the ODA. It was clear with the Kearl ODA that not all neighbors knew about it, he added.

Ms. Schneider said she was ultimately concerned about Town liability. What if a fire truck can not access a house in the event of a fire? she asked. Ms. Kiley said it is the code enforcer who issues a building permit, and that a permit should not be issued if the applicant can not meet the standard for ingress and egress. In reading the fire code, Ms. Kiley said the code enforcer should

not issue a building permit without road access to the property in question. In the past two instances of ODAs, Mr. Wertis said, the Planning Board received documentation from Town fire and emergency responders saying they were capable of accessing properties via existing access roads. Mr. Diaz noted that considerable time was taken up in trying to get specific information from the Fire Chief about the road. Mr. Blake said the Planning Board failed to realize the kind of information it would need to make a decision. Using the Aurora law as a starting point, the Planning Board could specify the kind of information it needs from applicants when considering ODAs, he said.

Mr. Blake presented his changes to section 79-2 of the Town of Aurora's ODA law as follows:

A. Application procedure. The applicant shall file with the Town's Planning/Zoning Official the following documents:

1. A current property survey of the open development area. The survey shall be prepared in accordance with the most current minimum standard detail requirements for ALTA/ACSM Land Title surveys as adopted by American Land Title Association and National Society of professional Surveyors.
 - a. Single-lot applications: a minimum of 5 copies.
 - b. Multiple-lot applications: a minimum of 5 copies.
2. A copy of the recorded deed describing the subject premises, which must include all existing deed restrictions and covenants relating to the property.
3. The applicant shall also provide proof of any unrecorded agreements regarding the property particularly as respects repair and maintenance agreements for the common drive, including any maintenance agreement by and between all of the property owners affected by the proposed Open Development Area.
4. A minimum of 15 copies of a development plan (minimum of 5 copies for a one-lot application), at a scale of not less than one inch equals 20 feet, that, at a minimum, shall include:
 - a. The name and address of the owner(s) of the land to be developed; the name of the developer(s) if not the owner.
 - b. All pertinent features, such as existing structures, streets, utilities, USGA topography, identified UNA and any other information that may influence the design of the plans.
 - c. The location and grade of all proposed access roadways.
 - d. The width of the access roadway(s) is at least 20 feet.
 - e. The location, dimensions and areas of all proposed or existing lots, drainage plans, public utilities and sewage disposal.
 - f. The names of all property owners of record within 500-foot radius of all property lines of the proposed open development area, to include all of the owners of properties within the proposed ODA.
 - g. The acreage of the tract to be developed to the nearest 1/10 of an acre.
 - h. National Wetland Inventory and New York State Department of Environmental Conservation mapped wetlands.
 - i. The location and approximate watershed size of all drainage ways.
 - j. Any other information deemed important or appropriate or otherwise requested by the Planning Board and/or the Town Board.

5. Narrative Description of the planned private right of way including:
 - a. Specifications for the private right of way.
 - b. Ownership of the right of way
 - c. Documentation of the agreement or maintenance plan for the right of way with endorsed approval from all affected property owners.
 - d. A notarized or certified letter/report from a licensed engineer, licensed architect or Fire Marshall/Chief regarding the ability of the private access road/right of way to adequately provide safe ingress and egress to the affected ODA properties for fire, ambulance and EMS vehicles and personnel. This document and supportive information shall then be reviewed and approved by the Town Engineer before any Planning Board approval/disapproval of the application may occur.
6. A statement as to any planned intentions for the future development, development options and the like as respects the subject property that may arise as a result of an approval of the ODA.
7. A statement as to the proposed water supply and similar service capabilities.
8. A fee payable to the Town of Ulysses, as determined by a fee schedule established by the Town Board, for each proposed lot within the ODA.

Mr. Diaz suggested the Planning Board expand section 4H to include areas of sensitivity approved in regard to solar regulations (included below for the record) as well as wildlife listed as Federal endangered species.

- 1) Areas of Potential Sensitivity shall be shown on site plans and shall be given special consideration by the Planning Board at site plan review, those areas include the following:
 - a. One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA Flood Maps.
 - b. Historic and/or culturally significant resources in an historic district or historic district transition zone.
 - c. Within 100 feet landward of a freshwater wetland.
 - d. Adjacent to, or within, the control zone of any airport.
 - e. State owned lands.
 - f. Unique Natural Areas.
 - g. Properties with Conservation Easements or owned by land conservation organizations.
 - h. Public trails, including the Black Diamond Trail.
 - i. Prime Soils and Soils of Statewide Importance.

The Board reached a consensus to include Mr. Diaz's suggestion.

Board members briefly discussed the Town Counsel's recommendation to not follow fire code during deliberations regarding the Kearl ODA. It was agreed the Board would address a formal resolution in two weeks.

Town Board Liaison Report

Mr. Goldman said the Town Board will hold its first major budget meeting this week.

Ms. Kiley reminded the Board a SEQR training is planned from 6 to 8 p.m. October 29, at the Tompkins County Public Library. A member of the Board of Directors for the New York State Federation of Lake Associations, Ms. Schneider said the Association will hold a three-day conference in November regarding watersheds, pollution and much more.

Mr. Wertis said an information session on an eight-year review of Town Ag District 2 will be held prior to the Planning Board's next meeting at 6:30 p.m. October 20. Sponsored by the Town and Cornell Cooperative Extension, the hearing has been publicized among property owners with significant agricultural lands. Ms. Kiley added that the review provides residents with eligible Ag operations the opportunity to be included within the Ag District.

Mr. Blake MADE the MOTION to adjourn the meeting, and Mr. Diaz SECONDED the MOTION. The motion was unanimously approved.

Meeting adjourned at 8:06 p.m.

Respectfully submitted by Louis A. DiPietro on October 9, 2015.