

PLANNING BOARD MEETING
MARCH 9, 2016

PRESENT: Roxanne Pecora
Fred Zimmer
Mark Anderson
Robert Brakman
Margaret Yost
Darin Dekoskie
Dan Michaud

ALSO PRESENT: Myles Putman, Consultant

Chairperson Pecora called the meeting of the Town of Esopus Planning Board to order at 7:35P.M. beginning with the Pledge of Allegiance to the Flag. Roxanne advised the public of the building's fire exits and roll call was taken.

MINUTES: Chairperson Pecora asked if the Board read the minutes from the February 10, 2016 meeting and if there were any changes or corrections. There were no changes.

ROBERT MADE A MOTION TO APPROVE THE FEBRUARY 10, 2016 MINUTES SECONDED BY DAN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0.

VOUCHERS:

M.L. Putman Consulting (February, 2016).....\$2,000.00
Daily Freeman P.H. Fee - Pittner).....\$ 12.15
April Oneto (secretarial services).....58 1/2 hours

MARGARET MADE A MOTION TO APPROVE THE VOUCHERS AS READ SECONDED BY MARK. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0.

OLD BUSINESS:

**ALEO – Case 2014-06 – Special Use Permit/Site Plan – Hasbrouck Ave.,
Port Ewen; SBL: 56.059 Block 4**

Mr. Aleo requested the majority of his letter of credit be refunded to him via written correspondence to the Board. At the last meeting the Board determined what they would require to consider this. We sent Mr. Aleo a letter dated 2/17/16 which was read to the Board. The Planning Board received a letter from Michael Cafaldo, Highway Superintendent, stating that he is satisfied with the work completed. A letter was received from Don Kiernan, Water/ Sewer Superintendent stating that he is satisfied with the work completed. An email was received from Timothy Keefe, Building Inspector, and a phone call to the Chairperson stating that he is satisfied. Mr. Aleo was unable to obtain the letter from his engineer certifying the work and he himself has yet to submit a letter stating his wishes. The Board briefly discussed the situation and will not consider refunding part of the letter of credit without the letter from the engineer and the letter from Mr. Aleo. Planning Board secretary will inform him of the Boards' decision.

DARIN MADE A MOTION THAT ALEO, CASE #2014-06 NEEDS TO SUBMIT PROPER CERTIFICATION FROM HIS ENGINEER AS WELL AS A LETTER FROM HIMSELF REQUESTING A PORTION OF THE LETTER OF CREDIT BE RETURNED BEFORE THE BOARD WILL ACT UPON THIS REQUEST. MOTION SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0. VOTE WAS AS FOLLOWS:

- Mark.....yes
- Fred.....yes
- Margaret.....yes
- Darin.....yes
- Dan.....yes
- Robert.....yes
- Roxanne.....yes

Margaret recused herself from the Board at 7:42 p.m.

PUBLIC HEARING:

PITTNER: Case #2016-01- Minor Re-subdivision and Lot Line Adjustment – 58 Pokonie Rd., St. Fremy; SBL: 63.006-4-9

DAN MADE A MOTION TO OPEN THE PUBLIC HEARING FOR PITTNER, CASE #2016-01, MINOR RE-SUBDIVISION AND LOT LINE ADJUSTMENT, SECONDED BY ROBERT. ALL MEMBERS WERE IN FAVOR. MOTION WAS PASSED WITH A VOTE OF 6-0.

Chairperson Pecora read the Public Hearing notification placed in the Daily Freeman. Copy placed in the file.

Applicant Mr. Pittner was present.

Letter received from Dr. Elizabeth TenDyke dated 3/9/16 asking that the attached letter

be read into the record. Letter dated 3/7/16 read by Chairperson Pecora requesting that the Board defer decision on this application until next month when she will be able to attend the meeting and have time to review the file and do some research. All Board members received a copy of this letter and the original was placed into the file.

Chairperson Pecora asked if there was anyone in the audience who wished to speak regarding this application.

Peter Rooney- 47 Union Center Road, Ulster Park – His property abuts this property. He has over 200 acres. He stated that looking at development on Pokonoie Road he notices that it is coming out very nicely, it is clean and he feels that it is a great build out. It is not squeezed in and he is sure that Mr. Pittner could have made the lots much smaller. He thinks it is a good idea and more than fine to approve this. He thinks the Board should give consideration to the fact that he is doing a good job. He said that we do have some areas of this Town where development takes place that the people don't care about how things look and what the neighbors are concerned about. His site is clean and there is no garbage. He feels that Mr. Pittner is doing a fabulous job and approves of what he is doing and how he is doing it. He says that some of the phone calls that he has received people have just carried on. He feels that a lot of people who have been requested to sign the letter submitted have just fallen in line and he does not think that they have even looked at it.

No one else was present to speak regarding this application.

Chairperson Pecora stated that the minutes were sent to the Web master and we do not know why they were not on the web. When Dr. Ten Dyke contacted Ms. Oneto the minutes for both January and February were scanned in and sent to her. We only put Final Minutes on the site. We do not put draft and the final cannot be put on the site until they are approved at the next month's meeting.

DAN MADE A MOTION TO CLOSE THE PUBLIC HEARING SECONDED BY MARK. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0.

OLD BUSINESS:

PITTNER: Case #2016-01 – Minor re-subdivision and Lot Line Adjustment – 58 Pokonie Rd., Saint Remy; SBL: 63.006-4-9

Applicant Hank Pittner was present.

Myles reviewed M.L. Putman Consulting Report dated 3/8/16. Copy of report given to Mr. Pittner and copy placed in the file.

Fred asked if anyone on the Board saw a reason why we should not vote on this application tonight. Dan stated that he does not see any real justification to hold this application up. Fred agrees with him. Mark stated that all of the issues in the letter that was read are things that have been carefully considered by the Planning Board Consultant and this Board. Applicant has Health Department approval and the lots are twice the size that is required in our town code. It was felt that a total of three additional houses would not cause any significant increase in traffic. Applicant has submitted an erosion and sediment control plan. The Board stated that they appreciate the neighbors concerns but they feel that the Board has done their due diligence and see no reason to hold up the applicant.

DAN MADE A MOTION TO DECLARE A DETERMINATION OF NON-SIGNIFICANTCE (NEGATIVE DECLARATION) PURSUANT TO SEQR FOR PITTNER, CASE #2016-01, MINOR RE-SUBDIVISON AND LOT LINE ADJUSTMENT, SECONDED BY FRED. ALL BOARD MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Mark.....yes
Fred.....yes
Darin.....yes
Dan.....yes
Robert.....yes
Roxanne.....yes

ROBERT MADE A MOTION TO GRANT CONDITIONAL FINAL PLAT APPROVAL FOR PITTNER, CASE #2016-0, MINOR RE-SUBDIVISION/LOT LINE APPROVAL CONDITIONED UPON NOTE ON THE PLAT REGARDING TIME LIMITS ON WOODLAND DISTURBANCE AND CLEARING, PREPARATION OF DRAFT DEED FOR THE PROPOSED HIGHWAY CONVEYANCE BY THE APPLICANT TO BE FORWARDED FROM THE PLANNING BOARD TO THE TOWN BOARD FOR REVIEW BY THEM AND THE TOWN BOARD’S CONSULTING ATTORNEY, A REVISED DEED DESCRIPTION FOR THE ROONEY PROPERTY TO ENSURE THAT THE CONVEYANCE PARCEL IS NOT INADVERTENTLY FILED AS A SEPARATE PARCEL, RECEIPT OF RECREATION FEE IN THE AMOUNT OF \$4,000.00 AND RECEIPT OF 6 PAPER MAPS AND 1 MYLAR, SECONDED BY DARIN.

PLANNING BOARD NEEDS TO ADVISE THE TOWN BOARD OF MR. PITTNER’S INTENT TO CONVEY A PORTION OF POKONOIE ROAD TO THE TOWN AND THE PAPERWORK WILL NEED TO BE REVIEWED BY THE TOWN ATTORNEY.

MOTION PASSED WITH A VOTE OF 6-0. THE VOTE WAS AS FOLLOWS:

Mark.....yes

Fred.....yes
Darin.....yes
Robert.....yes
Dan.....yes
Roxanne.....yes

Margaret returned to the Board at 8:05 p.m.

**SCHNEIDER: Case #2016-05 – Minor subdivision – 115 Poppletown Road,
West Esopus; SBL: 71.002-2-32.1**

Bert Winne was present for this application.

Roxanne stated that she and Fred researched this and found out that a new deed was filed with the County Clerk’s office. They spoke to Dennis Doyle, Ulster County Planning Board and they spoke with Thomas Jackson, Ulster County Real Property. Fred spoke with Joanna Mignone, Town Assessor.

Fred stated that it started out that he agreed with Myles that we had two pieces of property because he had two separate deeds but one tax number and this was done by the Assessor by request of the property owner. About two days after Fred’s research with the Assessor a single deed came into her office that was filed and placed into a trust that this was one parcel. Fred stated that after speaking with Thomas Jackson, Real Property that he agrees that the Assessor has the right to combine lots for tax purposes. Joanna Mignone, Assessor and Fred reached an agreement that when new lots are going to be combined for tax purposes that they are going to be placed in a new single deed. The two lots have to be contiguous. Agreement is that if someone does this they will provide a new deed.

Myles stated that the Town subdivision code is pretty explicit about any alteration of an existing plat has to be approved by this Planning Board. Myles stated that combining two lots onto one plat and letting the Assessor do it without the Planning Board being aware of this is creating a problem. Fred agrees with Myles but from what he was told from Real Property and Ulster County they have the right to do that. Discussion took place regarding the confusion that can be caused by allowing this to occur. Fred stated that it is his opinion that the lots were linked before, they had a single tax number before. To him that pretty much puts them together in one lot.

Bert submitted a lawyer’s opinion from James G. Yastion, Esq. dated 3/9/16. Copy given to Board members and copy placed in the file. Bert stated that it has never been the intent of the applicant to have one parcel. He stated that the applicants, without his knowledge, combined the same two deeds and all you have is the same existing parcels in one deed.

Fred stated that they want two lots now and it is whether we do it under a lot line adjustment or a subdivision. What happens is they come in ask to have their lots

combined and instead of having been taxed as two building lots they get taxed as one building lot and acreage which is a substantial difference in the taxes.

Darin stated that he was taught that if there are two lots then there are two separate deeds.

Bert said that he might have the option of going back and filing a correction deed because it was never the intention to combine these lots. Bert said that the Board is trying to go back and correct something that was done years ago. Bert stated that part of the issue is the cost and this is creating a real hardship for somebody when this was not their intention to ever combine these lots back together. Bert stated that he has an attorney, the title company and none of them are agreeing with the Board. They are saying that they should remain separate parcels.

Roxanne read a document she received from the County and read part of Page 6, Fundamentals of Tax Mapping provided by Tom Jackson. (See attached.) After reading this section for the Board, Chairperson Pecora stated that it is really up to the Assessor. Roxanne said that it is for assessment purposes. It does not eliminate the role of the Planning Board. Roxanne referred to Page 12 of the paperwork given us by the County. (See attached.)

Bert stated that this was done for assessment purposes only. It does not say anything about combining them under the subdivision law.

Margaret said that we cannot penalize them because the Assessor put them together for tax purposes. If they separate the lots, then it means they will have to have two different deeds and two different tax numbers. They will be paying taxes on both properties. Bert stated that they want to put the vacant parcel on the market to obtain finances and in order to do that they need two different tax numbers so that they can sell the one parcel. Bert said that there will be a new deed created as soon as the vacant parcel is sold.

Fred stated that they need to get this out of the irrevocable trust. Bert stated that he did not realize that this was done until after he started the Planning Board process. Discussion continued regarding the issue of the irrevocable trust. Myles felt that we could maybe treat this as a lot line adjustment and file a new map since he feels that you had two lots to begin with and you still have two lots. Fred suggested that the Board table this and let applicant decide if they want to put some money in an escrow account to pursue this with the Planning Board attorney. Bert said that in the trust it says that there are two separate parcels. Fred says that it says two separate parcels but they are combined in the deed. Bert stated that he respectfully disagrees. Roxanne stated that we should have a motion to establish an escrow and wait for Bert to get back to us because we are not going to go to an attorney without an escrow.

DARIN MADE A MOTION TO ESTABLISH AN ESCROW ACCOUNT FOR SCHNEIDER, CASE #2016-05, MINOR RESUBDIVISION FOR \$1,500.00 SECONDED BY FRED. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0. VOTE WAS AS FOLLOWS:

Mark.....yes
Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Robert.....yes
Roxanne.....yes

Clarification: Bert will go to their attorney first and after he submits an opinion to the Board from his attorney about the Irrevocable Trust they will need to set up the Escrow Account so that the Board can send it to the Planning Board attorney for his opinion so the Board knows how to proceed.

NEW BUSINESS:

**KENNEDY: Case #2016-05 – Minor subdivision – 639 Third Avenue,
Sleightsburgh; SBL: 56.004-2-24**

Michael Vetere, Surveyor, was present for this application.
Myles reviewed M.L. Putman Consulting Report dated 3/4/16. Copy was given to applicant and copy placed in file.

Myles said that the big question is this a minor subdivision or a lot line adjustment? Myles stated that there is some clearing and grading going on and since this Board has not made a determination under SEQR the site owner needs to be reminded that SEQR determination prohibits him from doing any physical site alterations, disturbance or anything else on that property other than repairs to the house or taking a tree down that may be threatening the building. If he is out there clearing or grading, he needs to stop. This is a code enforcement issue.

We need lot numbers on the lots so that we can figure out what is going on and they need to provide disturbance calculations. They need to make the house lot a little more conforming. They will need to write a letter to DEC about endangered species and this Board needs to write a letter to SHPO because we are in the culturally sensitive area.

Fred said that the overlying question here is a subdivision application or lot line adjustment. Fred questioned if this was sold as a “quick claim deed”. Myles says that he does not know if you would call this a deed as it just says tax lot, street address and town. There is no description of the property whatsoever. It is Myles understanding that you are not supposed to use a tax map as basis of conveyance. Mike stated that he has surveyed the entire block. He had to do the survey from the outside in. Mike stated that the lot across the street is in the name of Isaac Slate which is not filed in the county building so you can not even tell where these lots fall. This goes back to the 1800’s.

Discussion continued regarding how this should be treated. Fred and Robert feel that it is

a subdivision and the Board agreed.

FRED MADE A MOTION TO MEMORIALIZE KENNEDY, CASE #2016-05, AS A SUBDIVISION, SECONDED BY ROBERT. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0. VOTE WAS AS FOLLOWS:

Mark.....yes
Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Robert.....yes
Roxanne.....yes

Myles stated that the lot across the street needs to be surveyed since it is being separated out so it needs to be counted as a lot. The lot across the street should be labeled as Lot #4. Mike was told that the Board wants to see topography, contours, road grades, driveways and an erosion control and sediment control plan. The lot across the street needs to show the same. The client needs to decide what they want to do with the lot across the street.

DAN MADE A MOTION TO CLASSIFY KENNEDY, CASE #2016-05, SUBDIVISION AS AN UNLISTED ACTION PURSUANT TO SEQR, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0. VOTE WAS AS FOLLOWS:

Darin.....yes
Dan.....yes
Robert.....yes
Mark.....yes
Fred.....yes
Margaret.....yes
Roxanne.....yes

ZBA REFERRALS: None

PLANNING BOARD LIAISON TO BUILDING DEPARTMENT:

Fred has nothing to report this month.

MISCELLANEOUS:

Margaret will not be present at the June Planning Board Meeting.

DAN MADE A MOTION TO ADJOURN SECONDED BY ROBERT. ALL

MEMBERS WERE IN FAVOR. MEETING ADJOURNED AT 9:00 PM.

NEXT PLANNING BOARD MEETING: APRIL 13, 2016

DEADLINE DATE: MARCH 30, 2016

PRE-SUBMISSION MEETING: APRIL 20, 2016

Respectfully submitted:

April Oneto,
Planning Board Clerk