

**Town of Dryden  
Planning Board  
June 26, 2014**

**Members present:** Joe Laquatra (Chair), Craig Anderson, John Kiefer, Heather Maniscalco, Tom Hatfield, Marty Hatch. David Weinstein was excused.

**Town Hall Staff:** Jane Nicholson, Planning Director and David Sprout, Code Enforcement Officer

**Town Board Member:** Joe Solomon

**Guests:** Nickolas Bellisario and Otis Phillips (5 Freese Road), Maria Ortiz (1477 Dryden Road), Jim Skaley, Joe Osmeloski (Ag Committee) and Ron Szymanski

Chairman Laquatra opened the meeting at 7PM.

**1. Approval of minutes from May 22, 2014:**

C. Anderson moved to approve the minutes, J. Kiefer seconded them and they were approved unanimously.

**2. 5 Freese Road Site Plan:**

Part one of the SEQR was previously reviewed and the applicant attended the April meeting to discuss it.

Part two of SEQR was read and completed.

J. Laquatra offered the following resolution and asked for its adoption:

**RESOLVED**, that the Dryden Planning Board issue a negative declaration based on the SEQR review for the Five Freese Road project. This is an unlisted action and the Dryden Planning Board is the lead agency in uncoordinated review. The Planning Board Chairman is authorized to sign the necessary documents.

Seconded by H. Maniscalco, unanimously approved.

The Board then reviewed the conditions/requirements the Planning Board had requested at the April meeting. See attached.

H. Maniscalco offered the following resolution:

**Whereas**, Nickolas Bellisario and Otis Phillips have proposed a residential development at Five Freese Road, and

**Whereas**, the Planning Board finds the project to be consistent with the zoning, design guidelines and comprehensive plan; and

**Whereas**, the Tompkins County Planning Department has provided a review pursuant to General Municipal Law § 239-l and § 239-m; and

**Whereas**, the Town of Dryden Planning Board and Planning Department have made recommendations for construction; and

**Whereas**, a public hearing was held on May 15, 2014 and concerns were addressed;

**Therefore, be it resolved** that the Town of Dryden Planning Board approved the site plan pursuant to the Site Plan Review checklist listed in Article XI, Section 1103 of the Town of Dryden Zoning Ordinance with the following conditions or modification of requirements: the applicants understand that they will be required to finish the sidewalk if the Town of Dryden is unable to secure a TIP (Transportation Improvement Program) grant in 2018, and the applicants will ensure the Route 366 sight line from Freese Road. Seconded by C. Anderson and unanimously approved.

### **3. 1477 Dryden Road Sketch Plan:** Rhodes End Design and Antiques

Ms. Ortiz wants to set up a small shop with high end house hold goods and antiques. She is planning on using a 24x24 2 story Amish building that will be decorated to appear rustic and appealing.

The Board reviewed part one of SEQR. See attached.

C.3.a was changed to mixed use.

D.1.e was changed to No. The project will be completed in one phase.

D.2.d was changed to a water usage of 100 to less than 50 gallons

E.1.b Impervious area Change (Acres +/-) was changed from .02 acres to zero.

E.1.b Meadows, grassland and brush land Change (Acres +/-) was changed from .5 acres to zero

The County has responded and said that the project does not have any negative intercommunity or county wide impacts.

#### **Part Two of SEQR:**

Part two of SEQR was read and completed. See attached.

H. Maniscalco offered the following resolution:

**RESOLVED**, that the Dryden Planning Board issue a negative declaration based on the SEQR review for the Rhodes End Design and Antiques project. This is an unlisted action and the Dryden Planning Board is the lead agency in uncoordinated review. The Planning Board Chairman is authorized to sign the necessary documents.

C. Anderson seconded, accepted unanimously

M. Hatch offered the following resolution:

**Whereas**, Rhodes End Design and Antiques has submitted a Sketch Plan Review application per Article XI of the Town of Dryden Zoning Ordinance, and

**Whereas**, the Planning Board finds the project to be consistent with the zoning, design guidelines and comprehensive plan; and

**Whereas**, the Tompkins County Planning Department has provided a review or not pursuant to General Municipal Law § 239-l and § 239-m; and

**Whereas**, the Planning Board has reviewed the Sketch Plan and approves said Sketch Plan as the Site Plan, and hereby waives further Site Plan Review, and

**Therefore, be it resolved** that the Town of Dryden Planning Board has reviewed the Sketch Plan and has recommended waiving further Site Plan Review for Rhodes End Design and Antiques.

H. Maniscalco seconded, unanimously passed.

**Open Space discussion:**

M. Hatch shared the Conservation Board's progress on the Open Space Plan. He read the revised definition from the Conservation Board. H. Maniscalco was able to provide the parts that had been edited via the Ag Committee's suggestion. She asked why the Ag Committee wanted to remove the parts about the air above, recharge areas and subterranean areas. M. Hatch said he doesn't know what their reasons were.

C. Anderson said he agreed with J. Laquatra (from a conversation a couple of months ago) in that until they know where the plan is going and what it is being used for, it is hard to make a decision. J. Laquatra said that he understands it is going to be used as part of the Comprehensive Plan revision.

J. Nicholson said another part of the plan is to come up with guidelines for land acquisition and donations.

C. Anderson said that the Conservation Board plans on rolling the CEAs into the Open Space Plan. M. Hatch said that he never heard that but Mr. Anderson insisted the conversation took place.

**Per resolution approving June minutes at the July 24<sup>th</sup> Planning Board meeting, the following conversation between Supervisor Sumner and Charlie Smith (Conservation Board Chair in 2013) has been added to the June minutes. The conversation took place at the October 29, 2013 Conservation Board meeting.**

MAS,

*"having the proposal on the table, having the map of at least what this Board is recommending as CEA's is an invaluable tool and thank heavens we have that until such time we're able to move ahead with them."*

CS,

*"Another approach is to incorporate them into the open space plan."*

MAS

*"Absolutely, Absolutely."*

CS,

*"It's not a dead issue, it's alive and not kicking."*

MAS,

*"and I'm not planning on letting it die."*

C. Anderson feels that the Boards are getting mixed signals between the CEAs, open space, and the Comprehensive plan. If the plan is only to help with land acquisitions, then he is fine with that. He reminded the Board that the farmers are concerned as well.

M. Hatch said that he asked the Conservation Board what the purpose of the definition was and what the next step is. The Conservation Board stated they have a charge from the Town Board to be the lead agency to develop an open space plan. He said it is up the Town Board to tell the Boards what it wants from the Open Space Plan.

H. Maniscalco said that if the goal is the protection of land then the sentence that was removed from the definition by the Ag Committee is pretty important and should be put back in. If it is about acquisitioning land, it is not that important. She would like to know what the reason was for taking out the sentence.

M. Hatch said that he was asked by the Conservation Board not to defend or explain the removal of the sentence, he only brought it (the revisions from the Ag Committee's suggestion) up because it was a consequence of it being presented to the Ag Committee. As far as he understands, the Conservation Board has accepted the revision of the definition. He is asking the Planning Board to respond to the definition the Conservation Board proposed.

J. Kiefer said it is impossible for the Board to comment on the quality of the open space definition because we don't know what the context is. He shared a definition he has found that not only defines the term but also explains the reasons why.

H. Maniscalco said that maybe the PB comment should be that we are lacking context and specificity.

M. Hatch said a lot of the discussion during the Conservation Board revolved around whether or not they should do a survey and the best way to present the creation of the plan. C. Schutt agreed with M. Hatch regarding the discussion that occurred.

J. Laquatra said that the Open Space plan should be presented as part of the Comprehensive Plan review. He then asked if we currently have a definition in place.

J. Nicholson said there was one in the zoning law.

M. Hatch said his point is that if we want to make a creative contribution, since the Comprehensive Plan review is the Planning Board's charge, we might suggest ways to make the intent of the definition clearer. One of the suggestions would be to have an alternative definition that has clearer intentions. The one J. Kiefer shared might be a good one.

H. Maniscalco suggested that the current definition states what open space is but we need to identify what it does as well. She thinks the definition should incorporate both.

J. Nicholson said that the first time the Open Space directive came was in 2007. This has been thought about for some time. It was worked on in 2009 by an intern and when J. Nicholson started in 2011, she reviewed the work. Since then, other projects have come up. She is asking the same questions as the Board.

J. Laquatra proposed that the Planning Board liaison convey to the Conservation Board that although they appreciate the proposed definition, it is lacking in intent. J. Kiefer will be emailing the definition he found to the rest of the Board.

J. Solomon said the charge was to get each Board's opinion on what their definition of Open Space is. The current Comprehensive Plan's definition is obsolete now. The goal

is to end up with definitions that won't be obsolete as quickly. He would love for all the Boards to agree but if each board sends their own definition, then the Town Board will pull from each definition.

J. Nicholson said that the bigger picture question still remains - by creating and implementing this plan, what are we hoping to accomplish? A lot of communities create these plans because they are already feeling significant development pressure. The Glenville plan was created during a period of rapid development.

C. Anderson asked J. Kiefer to email him a copy of the definition he had previously shared with the Planning Board. M. Hatch asked why he wanted a copy of it and then said he thinks there needs to be openness about the open space definitions and several different agendas at work during discussion does not lead to a smooth deliberative process. What are we trying to accomplish?

C. Schutt said the Conservation Board has had the same question pop up several times. They are stuck, not knowing where they are going.

J. Nicholson said that is where the Town Board comes in. She would like more specifics on the charge.

J. Laquatra said the bottom line is that it is going to be in the Comprehensive plan and we need to do a public hearing for that.

J. Nicholson asked if we can just work it into the Comprehensive Plan or do we have to do a pre-plan? That is what we are doing with the Farmland Protection Plan; it will be a stand-alone plan that will then be written into the Comprehensive Plan. There are a lot of approaches but we have to define our scope first.

H. Maniscalco pointed out that needs to be transparent as well.

M. Hatch said that the Conservation Board also wanted more information and they want the Town Board to take the lead.

J. Solomon will take this information to the Town Board.

C. Anderson, M. Hatch and J. Kiefer all wanted to discuss interaction with the Ag. Committee. C. Anderson said that the Ag Committee wants to meet with the Planning Board but he feels there should be some ground rules established. As the liaison, J. Kiefer reported that the Ag. Committee meeting was energized. He supports the suggestion of a meeting of the Boards for the purpose of understanding the Ag and Markets Laws. It should be a well planned meeting with an agenda that will allow folks to comment on the information. C. Anderson has suggested inviting someone from Ag and Markets to help us understand what the State law is and the court cases that challenged the law and how they ended up. He also believes it will be beneficial to have the response from Ag and Markets regarding the zoning changes that were suggested; that pushed the potential meeting to August allowing more time for the response.

M. Hatch said there were other issues we can start talking about while waiting for the response from Ag and Markets. One of the things he is impressed by is that there are different sectors of the Town that somehow get stirred up about different issues

without talking to each other. He would really like the idea of getting the Conservation Board and the Ag Committee together because just like the CEAs, the Open Space discussion should be collaborative. He is worried that if we are waiting for Ag and Markets to come through, we are not really getting people thinking together about what it is that this town is about. Unless you are trying to suggest that it is all in the law and the law can decide; and then Town members can sue Town members and that is the way it will be decided.

C. Anderson said he is concerned about the reaction people will have.....there were some angry people at the meeting a month ago.

M. Hatch responded that if they are angry, it makes sense to talk about it directly. He agreed that he has read the Ag and Markets laws. C. Anderson asked if he had changed his mind about things that he said last month. M. Hatch asked which things C. Anderson was referring to. M. Hatch recalls hearing that two things were said that were upsetting, one was that farming is dictatorial (which he did not say). He doesn't remember the other issue.

C. Anderson said he has talked to someone about coming to the Planning Board meeting but they would not come because they don't believe the PB will listen to them. That person is from Cooperative Extension and suggested that contacting Ag and Markets would be better; they were afraid that this Board would only listen if it came from Ag and Markets. If someone is afraid to come from Cooperative Extension who is an expert on Ag and Markets....

H. Maniscalco asked for a concrete example about what the Ag Committee is upset about. C. Anderson said they were upset about comments made last month then asked T. Hatfield if he could shed light on the situation.

T. Hatfield said that although he was not here at the last meeting, when he read the minutes, his first impression was "you got to be kidding me." Some of the comments reflect a lack of knowledge of the history of the law in Dryden. Farming is an absolute right in every piece of this Town. He touched on the fact that many of the members didn't even know there was a right to farm law and when one member interrupted to insist they knew about the law, he responded that comments were made that were at the very least inflammatory to the Ag sector. Those comments were inflammatory and it is on the record; that record is then put on the website, people are going to read it and you are going to have that reaction. He agreed with M. Hatch that we need to have a discussion. As he read the minutes, he considered whether it was time for him to resign because he doesn't understand where this Board going.

J. Osmeloski introduced himself (a member of the Ag Committee) and explained that the general feeling from the Ag Committee is that the Planning Board is anti-farming and anti-agriculture. That is very disconcerting when a Board that is in charge of the zoning in this Town is anti-agriculture and anti-farming. That was the general consensus.

H. Maniscalco said that is not how she feels. There was a miscommunication regarding the concerns that we had versus the overall perception that we are anti. Modification or change doesn't mean anti. There was a disconnect obviously between what they meant and what was relayed.

J. Osmeloski said it goes back to the Ag Committee's concern about the intent of Open Space; the farmers are still reeling from the CEAs and they see Open Space as a way to get back to the CEAs and more regulation of the farmers. The farmers are already regulated by federal, state and local laws and they are worried that more regulation will come from this Board either through the Open Space plan or even through the sentiment expressed in the minutes.

M. Hatch said there was no talk about Open Space at the last Planning Board meeting (the Conservation Board is talking about the Open Space Plan). He feels that is an overlay which could be clarified by saying that we weren't talking about open space. It is important to identify the things that you feel were overstated or incorrect. Getting specific about things makes more sense than to carry around a concern about things that were said which is then overlaid by a huge fear that wasn't in the discussion.

J. Osmeloski replied that he understands what M. Hatch is saying but then read from the May Planning Board minutes: "*H. Maniscalco doesn't deny it is in the constitution but that doesn't mean we can't regulate it.*" That was disconcerting to the farmers, it sounds like you want to add more regulations.

H. Maniscalco responded that the Supreme Court has said many times that the Constitution, every right, Bill of Rights and limit in the Constitution is subject to regulation. That is just a simple matter of Constitutional Law.

J. Osmeloski said that the farmers feel that they are subjected to incredible regulation, and to the Ag Committee, it seems this Board wants to put more regulation on us. That is the impression we are getting even if it is not what you are doing.

H. Maniscalco suggested going back to base line. She asked if the precept is that there should be zero regulation on farming? Absolutely none? Point being that just because it is in the Constitution doesn't mean we can't regulate it. That is a fact.

C. Anderson said there isn't much on the local level due to Ag and Markets. There is concern that you want to regulate it on the local level.

J. Laquatra said that we need to clarify this somehow.

C. Anderson said that is why we think someone from Ag and Markets should talk to us, so they can answer questions from both sides. He pointed to the conversation last month regarding junk farm equipment that simply went around and around.

H. Maniscalco clarified her position by saying that she is not against the junk equipment but there have to have parameters, maybe it needs to be visually blocked from residential areas. No one ever said there should be no junk.

J. Kiefer said his understanding of Ag and Markets is that one of the principle things they do is come into communities and adjudicate this issue between farmers and a community developed around the farmers and they have been there and done that. He thinks it will provide a good context for us and keep us from going in circles.

C. Anderson said it (a meeting with Ag and Markets) will be a valuable tool.

H. Maniscalco questioned why, if the Planning Board has no control over what farmers do, they are even discussing the zoning.

R. Szymanski answered that there is a perception that farming is an anchor industry in this town and the question is “why would this even be addressed because where is the problem?”. Are we questioning the techniques and practices of the agriculture in Dryden. The practices here are high level. We have organic farming, we have seasoned farmers, this is not where agriculture is coming in to establish itself. This is a mature industry in the Town of Dryden so people who hear statements that they consider derogatory, they have to question why anyone is questioning the anchor industry where the professionalism and conduct is at a high standard. That is where the bad feelings are because they want to know where the problem is.

H. Maniscalco thinks based on previous conversations, it is not the current farmers that are here, but if we are developing a comprehensive Plan we have to think more broadly and think about what might be moving in. Any regulatory things that were mentioned were primarily about big ag coming in and trumping small farmers. That is another big misperception. She is all for protecting what we have and the smaller farmers but she is not in favor of a Tyson chicken farm moving in; if you don't have some regulation around that, you will never prevent that. But if we can't do it anyway, why bother?

J. Osmeloski asked why they had the discussion then, if they can't regulate it?

H. Maniscalco said they were reviewing the Ag Committee's proposed zoning changes and it sounded like they were supposed to comment on it but maybe there is no point.

M. Hatch supported H. Maniscalco's point by reminding everyone about the revised zoning chart C. Anderson shared.

T. Hatfield agreed, the first part of the minutes contained the proposed changes and that made sense to me. It quickly deteriorated, from a reading prospective, without having the benefit of being here. He began to hear things from farmers he works with and after reading the Ag minutes, etc. he realized something happened here in May that he does not understand.

H. Maniscalco said she gathers from what she is hearing is that we should absolutely not regulate this. The Town of Dryden voted to outlaw fracking. The question is if farmers sacrosanct on their land can do whatever they want, can they right now frack in the Town of Dryden?

C. Anderson said anyone in the Town of Dryden can drill a well. H. Maniscalco said that is not fracking, no one does it on a small scale.

T. Hatfield pointed out that there is a state –wide moratorium on fracking. State law is going to govern just like Ag and Markets.

H. Maniscalco reiterated her question of whether agriculture is exempt from that.

T. Hatfield stated it is not exempt from state law which led H. Maniscalco to ask if it was allowed by the State but not by the Town, would agriculture be exempt? T.

Hatfield said that would be a nice fancy lawsuit if that is where it goes. That is a different issue. The issue in front of this Board, we have gone from planning and

zoning issue that this Board is charged with specifically (like we did earlier tonight) off into the esoteric, which may be a great academic exercise but it is going to upset a lot of the citizen of this community that don't understand why we are having the debate in the first place. He understands both sides of the equation pretty well. He appreciates the curiosity, it is a great discussion. The first review of the comprehensive plan did a survey and the main determination was preservation of the rural character of the community which means farming. Farming is farming, you cannot keep the small farms and keep the large farms out. Farming is farming. Small farms are disappearing. The economic forces (taxes, etc) are forcing them out.

M. Hatch said that small farms are increasing.

T. Hatfield disagreed saying that there might be more hobby farms, there may be more in number but not in volume. They are not going to drive the economic engine that puts eggs in the stores.

M. Hatch was just at Cooperative Extension where the agriculture person gave a talk in which she said small farms are increasing and the income from small farms is increasing as well.

T. Hatfield said that increase is not static, there is an ebb and flow to it and trying to regulate it on some basis instead of letting the market work, is not our job. It is not what we are here for. Public safety, proper land use, rural areas that should be maintained as farm land, encourage cluster housing; that is the objective of the Comprehensive Plan.

H. Maniscalco said that as we are going through the Comprehensive Plan are we supposed to question whether everything still in alignment with what we want to do? That is what we do in cycles so if we are having these discussion, now is the time to have them even if they are academic.

T. Hatfield agreed the discussions are fine but you don't do it by saying "*M. Hatch said that the benefit of being in an ag district is that you can do anything you blessed well please as long as you say it is agriculture. H. Maniscalco said it is not a right but a dictatorship.*" That sends a message that is pretty negative and I guarantee you it got heard.

H. Maniscalco asked if M. Hatch was wrong.

Yes was the general reply. The Ag districts are highly regulated by State Agriculture and Markets and there is a Federal overlay for all sorts of things.

H. Maniscalco said the main question is if State Ag and Markets trumps then why was there a push to modify zoning at a local level from a board when they don't have to adhere to any local laws and they adhere to State only laws. If they felt as though the State and Federal levels dictate what they can and cannot do, then why were they even bothering to submit a re-zoning request. Obviously there is a concern on the board (Ag Committee) that forced them to want to look at the zoning and if that is the case, then they are not just dictated by state and federal, they must have some adherence to local law which means we should be considering the zoning.

C. Schutt said all they wanted to do was get the zoning to match the law instead of having the Town of Dryden out of compliance.

T. Hatfield added without changing the zoning, at some point someone is going to end up with a significant legal bill. That is not the kind of message we want to send in this Town. He is concerned that folks will come to Dryden to farm and then end up in a lawsuit between Ag and Markets and the Town.

H. Maniscalco responded that no one has said that.

T. Hatfield replied that it doesn't matter that it hasn't been said, it is the message that has been sent. Sometimes it is not what you say but what you don't say or how you say it. We need to have that conversation and need to get people to the table. He felt that H. Maniscalco was very defensive at that point which he understood considering the discussion.

H. Maniscalco said she was up to the challenge. She said no one ever said that farming shouldn't happen and most of it was to actually protect a certain caliber of farmer. We were talking about the zoning changes they wanted and exemptions. What is confusing is the fact that State and Federal guidelines trump but we want to change the zoning regulations at the local level. Why bother to do it?

T. Hatfield asked why have local zoning that is not in compliance with the State law?

C. Anderson said that this was discussed at the past meeting. Being in compliance benefits the farmer and the landowner next to the farm.

H. Maniscalco said that one of the main things that was of concern was the junk yard of farm equipment – is it that big a deal to ask a farmer to put up a 10 foot fence if there is a school or a house across the street. Is it that big of a deal to ask that to happen?

J. Osmeloski said the farmer is going to say that now they want a fence but if you don't like that, then you will make me do this and then this... and where does it stop. Where does the regulation end? As it stands now they are Federal and State regulations and if the Town wants to regulate them, then where does it end?

J. Kiefer added that reading up on the internet links J. Nicholson sent, Ag and Markets has already considered this and said that local authorities may not ask a farmer to put up a fence to screen anything. It has been decided.

R. Szymanski asked again, where do we see a problem? It is turning into an academic discussion. The farmers are asking why this conversation taking place, the standards of farming in Dryden are at the highest level, mature and operated by skilled and professional operators.

H. Maniscalco agrees that is the case but asked why they can't be codified so new farmers coming in don't mess it up.

R. Szymanski answered that free market forces don't allow that. The standards that the municipal would set might not be the best for the industry in that community, particularly in Dryden. The best forces that play out, that force these high standards are the competitive forces. There used to be hundreds of farmers in Dryden, there are not that many now. The collaborative effort between farmers has helped the small farmers too.

H. Maniscalco said if that is true, then there is no reason for rules.

R. Szymanski replied that there are rules, there are Ag and Market rules that are the best for farming.

H. Maniscalco pointed out that when crafting laws, you have to plan ahead. When towns are growing, the population increases and emissions increase (for those of us who do believe in climate change). The Comprehensive Plan is not about tunnel visioning what you have right now but making a funnel, saying what are we going to have. How do we keep it on the right track? Taking a broader prospective as you move through the timeline.

J. Laquatra said we have addressed that in the Comprehensive Plan with nodes and cluster development. He suggested that the Board wind the conversation up with the hope that the Ag Committee understands it not our intent to make farming complicated.

H. Maniscalco said that the zoning changes were presented to the Planning Board and she assumed that meant they could comment on them. She is concerned about large farms here – Monsanto size.

The Board agreed that a meeting between the Ag Committee and the Planning Board was necessary.

M. Hatch recommended that at least the Chair of the Conservation Board be invited to the meeting since Open Space is not linked to the CEAs.

The meeting was adjourned at 9PM

Respectfully Submitted,

Erin A. Bieber  
Deputy Town Clerk