

**Dryden Planning Board
February 23, 2017**

Members Present: Craig Anderson, David Weinstein, Hilary Lambert (Alternate), Marty Hatch, Marty Moseley (Chair), Joe Wilson, Tom Hatfield and John Kiefer

Guests: Ormsby Dolph, Caleb Dolph, Chet Feldman and Daniel Walker (Distributed Sun), Joe and Sarah Osmeloski (2180 Dryden Road), Mark and Ann Stanley (8 Hartwood Road), and Alan Hedge (1617 Ellis Hollow Road)

Town Staff: Ray Burger (Planning Director) and Deborah Cippolla-Dennis (Town Board liaison)

The meeting was called to order at 7:02pm.

Public Comments: none

Public Hearing for the Preliminary Plat review for a 5-lot Conservation Subdivision located at 1624 Ellis Hollow Road:

The public hearing was open at 7:05pm.

Ann Stanley attended the meeting to find out what is being proposed. She lives on Hartwood Road and her property will border the proposed lot one.

Alan Hedge also attended the meeting to learn about the project.

M. Moseley asked the developer, Mr. Dolph, to give the public a quick overview of the project.

- At this time, the plan is to donate the back lot (#5) to Cornell University to preserve as a natural area.
- Ms. Stanley was concerned about what will be cleared. Mr. Dolph indicated the pines between the houses on Hartwood and the new houses will remain. He will only be taking out dead trees on the property and will leave it up to the new owners to put in trees or privacy between the house and the road.
- The largest house will only be 1400 sq ft. Lot two is sold and will have a 700 sq ft house.
- The neighbors expressed concern about potential solar panels. Mr. Dolph indicated that he does not intend to install solar on that property.
- D. Weinstein – Based on the fact that Cornell owns property on Ellis Hollow Creek road which is adjacent to Mr. Dolph’s property, D. Weinstein recommended that access to the wetlands be from the Ellis Hollow Creek road. John Fitzpatrick from Cornell has contracted Mr. Dolph and expressed interest in owning it.
- D. Weinstein suggested the resolution from last month be amended so the public access be from the Ellis Hollow Creek road.
- M. Moseley asked if Mr. Dolph has talked to the fire department to confirm the driveway access is acceptable. He has not yet but will before the final plat.

There being no further comments the public hearing was closed at 7:22PM.

Resolution #8: Preliminary plat approval

1624 Ellis Hollow Road

J. Wilson offered the following resolution:

Whereas, the applicants have presented a preliminary plat design for a subdivision at 1624 Ellis Hollow Road; and

Whereas, the Planning Board has determined the proposed subdivision and site plan to be consistent with the Town of Dryden zoning, design guidelines and the Town 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 Planning Board has reviewed the application;

Therefore, be it resolved, the Dryden Planning Board approves the preliminary plat design with standard conditions and with clarification as stated below:

- Condition #1 of Resolution #5, dated January 26, 2017 has been amended to read: the conservation easement, deed restriction and/or plat note must identify and protect the open space.

The motion was seconded by T. Hatfield and unanimously approved.

Sketch Plan review for a 7-lot Conservation Subdivision located at 430

Lake Road: proposed subdivision of a 57-acre parcel into 7 parcels.

Review of SEQR:

- C2 (a) should be yes to include the Town's comprehensive plan.
- D1(b) indicates the total acreage to be disturbed is one (1) acre. The plat notes that if they exceed more than one acre, then they will generate a Storm Water Pollution Prevention Plan (SWPPP)
- B (e) county agencies – should be marked no since the 239 review is not required for approval.
- D2 (f) - fuel combustion - gas or propane - not part of subdivision which is what the SEQR is assessing. The Board can only evaluate what is before them, not what the anticipated use will be.
- D. Weinstein asked if the Planning Department will review the SEQR when they do the building review. M. Moseley indicated that they do not look SEQR but rather at the energy code, efficiency, insulation values, etc.
- The Board spent some time in a debate about whether the review is for the subdivision or the proposed future project.
- D2 (f) -the answer should be yes which means there are more questions to answer; applicant needs to answer based on anticipated development.
- D2 (h) – again, the applicant was asked to provide more information.
- D2 (n) – regarding outdoor lighting, D. Weinstein indicated that should indicate that the lighting will be downward facing.
- D2 (p) – if there are houses, each house would use about 500 gallon tanks. What is the total amount of total amount of fossil fuel storage?

- E1 (b) The Board recommended the numbers be changed to add to the correct total.
- E1 (c) – should be changed to yes since it is still a public site.
- E3 (a) - answered yes. The applicant needs to provide the district name and number
- E3 (b) – needs to be answered.
- E3 (f) - site is adjacent designated sensitive area. The Board is waiting for a response from SHPO (NYS Historic Preservation Office).
- E3 (h) – should be yes - Dryden Lake

The Board asked the applicant to resubmit the revised SEQR next month.

- J. Kiefer asked what the nature of the conservation easement will be. R. Burger responded it will be a plat note and those areas will be easements to the town. D. Weinstein asked for the language of the easement.

Public Hearing to Consider: Preliminary Plat review for a 6-lot subdivision located at 2150 Dryden Road: proposed subdivision of a 157-acre parcel into six (6) lots to be used for community solar development.

The public hearing was open at 7:45PM.

J. Osmeloski, 2180 Dryden Road

- His land abuts the proposed site. About a year ago he got a card in the mail (notification of public hearing) informing him of the plan to install a cell tower on the land behind his house. He fought the cell tower. Now it seems like they want to surround his property and turn the Willow Glen area into an industrial zone. The law limits it to 2 mw per acre, correct? (the law has been changed to reflect the Public Service Commission's recommendation of 5 mw per acre). This is a 12 megawatt plot. It is not a 2 mw plot. There is a cemetery and this is a beautiful area.

He pointed out the location of Virgil Creek. His opinion is to forget it, reject the project - we are turning a beautiful, rural, ag area into an industrial zone.

M. Moseley reminded the Board and guests that although the plat shows solar panels as the future plan, the only thing being discussed is the actual subdivision.

J. Osmeloski pointed out that much of this area is wooded and will be cleared.

J. Wilson stated this is technically about a subdivision and technically the development plans are not certain yet but the only reason they are asking to subdivide is to do just what J. Osmeloski described, from his perspective.

S. Osmeloski, 2180 Dryden Road

- this may be a subdivision but the map provided shows solar panels which indicates to her that they are intending to put solar panels on those plots. She questioned whether the lots are even big enough for what they want to put in because the Town has setback requirements. She is asking that the law be followed but it isn't always as with the cell tower which is 30 feet taller than the law provides.

She is curious about the compatibility of the cell tower and the solar panels because of the electromagnetic radiation from the cell tower. The panels will

increase the heat of the land and reflect; the reflection and their high voltage how will that affect the electromagnetic signal of the cell tower. All of that needs to be considered before this goes forward.

She thinks the cart is before the horse in subdividing something that may never go forward.

J. Wilson stated that he was not disagreeing with the Osmeloskis but stating that the Board is in the same position as with the previous subdivision; if this gets subdivided then the rest of it is going to go forward. So his question is, how many more opportunities will the Planning Board and/or the public have to comment on the project.

R. Burger stated that the next step will be for the project to go before the Town Board for a special use permit. There is a mandatory public hearing associated with the SUP. The SEQR process on the SUP will be more detailed because ultimately, that is the larger impact.

T. Hatfield agreed with R. Burger and J. Wilson. Each board has a function and we have to act on what is before us. There is a legal process the Board has to follow.

S. Osmeloski asked why they were sent an invitation to come tonight if they are not allowed to actually comment on anything other than the subdivision. She is against what she sees on the map.

O. Dolph - the panels are ultimately going to be around someone's house; at some point, it is going to happen. Are we going to continue to burn fossil fuels or are we going to try an alternative? It is like the cell towers; we all carry cell phones and the towers need to be somewhere.

S. Osmeloski stated that it doesn't need to be so obvious, there are more discrete places that they could be built.

O. Dolph stated that he wouldn't be happy to have the panels around his house either but he would accept them because we need to do something to help the planet.

D. Weinstein wanted to know why, exactly, the Osmeloskis are against the panels. It appears they are about 500 feet from the nearest panels, the panels don't emit much glare. Is it a visual issue? What is the specific point that you are making?

S. Osmeloski responded that they have to deal with the cell tower, the solar panels are ugly, they are both high voltage issues, they are both on the same parcel of land and they are both industrial industries. It is getting carried away.

J. Osmeloski stated that his major problem is the visual impact, the impact to the animals, and the impact to Virgil Creek. That is a beautiful view with the cemetery.

D. Weinstein agreed with the county which pointed out that it is silly to allow one of the subdivisions to be constructed in the flood plain; about half of parcel one is in a hundred year flood plain. The developer is looking for an alternate place so they are not in a flood plain.

D. Weinstein was questioned if the board would recommend the movement of any of the panels due to that situation.

J. Wilson asked what the negative us to having the panels installed in the flood plain.

D. Weinstein said that for the developer the panels will get damaged if there is a flood; if the flood is bad enough then the cost can come back on the Town. That can be avoided by not permitting construction in the flood plain. The other problem is that even though they allow water to come between the panels, the rain is still going to be concentrated which will create a greater impact with the water entering the creek directly. Natural vegetation in buffers of 100-200 feet along the creek would prevent much of the potential damage.

J. Wilson asked if the impact to the water will be addressed later in the process and would a buffer work to slow the water flow.

M. Hatch suggested requiring some acknowledgment on the plat to indicate their understanding of the county's concerns.

J. Kiefer suggested that if the subdivision is moved for approved, then in the Board's motion they can add a stipulation blocking construction in the flood plain. He then asked the developers how they feel about flood plain construction.

The Distributed Sun representatives stated that they are in agreement with the idea of not being in the flood plain although they do have sufficient insurance to cover any costs incurred by a 100 year flood.

R. Burger pointed out that there is a 50 foot buffer from the lot lines in the Solar Law.

Distributed Sun indicated that they have not completed the topographic survey but their intent is to provide at least a 50 foot buffer on each side of the creek.

M. Hatch asked if their intention was to stay out of the 100 year flood plain.

Distributed Sun said that they would certainly try to stay out of the flood plain since they don't want to be in the flood plain although their panels can be constructed to work in that area.

Distributed Sun representatives stated that the solar panels are 3 feet wide with gaps between them so there is not a real concentrated flow. The arrays are 13 feet wide with 13 feet between them and they will have vegetation under the panels so they are not increasing the amount of run-off from the site.

J. Kiefer restated his earlier statement that a condition to approval be no building in the 100 flood plain.

M. Moseley asked about the drainage ways on the lot. One stream runs in and out of this property and other properties and there are two other drainage ways on the property. Are they active or abandoned?

Distributed Sun representatives responded that there is an active drainage way on the far east part of the property called Owl Glen Creek which originates on the south side of Route 13. The access road that was built for another project that is outside of the solar panel area and is where the cell tower is proposed has a ditch that drains down. There is a swale area that drains from behind the cemetery creating a wetland area that they are staying out of. The other drainage down the center of the site is quite wide.

The Board and public gathered around a large map for a discussion on the drainage and access roads.

C. Anderson indicated that the roadway needs to be more defined with access points and road cuts.

The field survey will be done next week.

T. Hatfield stated that this is unique subdivision. We are creating four (4) flag lots and there is no way we can approve this for any other use than the one proposed. There will be a lot of debate. If we chose to go forward then we need to condition the subdivision approval on the project actually going forward - if the project doesn't go forward, then the subdivision becomes moot.

M. Hatch agreed with that idea and D. Weinstein added the potential condition that it only be used for the purpose of a solar panel project. It cannot stay subdivided after the removal of the solar panels.

J. Kiefer agreed that this project is an odd ball thing to which our guidelines don't apply; we have never seen it before. He agrees that the guidelines regarding the subdivision as mentioned above are good.

M. Moseley asked that the drainage ways be protected from development of the solar arrays.

M. Moseley suggested keeping the public hearing open until R. Burger has contacted the attorneys to verify the legality of the subdivision ideas. He also requested the attendance of the Town attorney at the next regularly scheduled meeting (March 23).

T. Hatfield suggested that the developer change the flag lot configuration; it might be beneficial to getting approved.

Sketch Plan review of **51 Hall Road** – Ormsby Dolph

- The property is owned by Nick Bellisario and was used as a pipe fitting machine shop. Mr. Dolph intends to use the property to construct tiny houses. If considered light industry (versus manufacturing) the change of use triggers a site plan review.
- Two buildings exist; one will hold product and one will house wood working equipment. Additionally, there will be a staging area to bring in timber for fabrication and to send out finished kits.
- He does not anticipate any changes except the interior that will house different machinery than is there now.
- He has no future plans to build additional buildings; he is going to use the two buildings that are there. He is debating whether to use tin to cover the wood materials or actually put up a pavilion type structure for protection. He is leaning toward simply covering the material rather than build anything.
- After discussion, the Board determined that, as long as there is no new construction, this is a continuing use and thus does not need site plan review.

Discussion of **minor subdivisions along Turkey Hill and Dodge roads**

- Although these subdivisions are administrative, R. Burger asked the Planning Board for feedback.
- D. Weinstein commented that since Turkey Hill has such a lovely view shed that maybe they can push the panels back allowing a greater set back.
- Distributed Sun representatives indicated that they are planting bushes which don't get as tall as trees which will block the view of the panels but will still provide a screen.
- J. Kiefer asked about the tie in with the transmission line. There are two circuits that go back to the East Hill substation.
- D. Weinstein suggested an easement for the trail will be maintained. The developers indicated they are not building onto the trail.

Review and Approval of the minutes from January 26, 2017:

D. Weinstein moved to approve the minutes as presented. J. Wilson seconded the motion which was unanimously approved.

Other Business:

M. Hatch – recently R. Burger and M. Hatch met with Walter Hang regarding pipelines. In the middle of a residential and conservation area, an industrial use exists in the Borger pump station. They were given a SUP years ago but there isn't a revisiting each time the site use and development changes.

- He is concerned about the “free ride” that businesses get if they have a SUP - do we have the right to bring the SUP back? Can we further question what they are doing? We should be able to revisit the permit each time they make a change.
- J. Wilson asked if the law can be changed to reflect that despite the permit, certain actions will trigger a review. Actions like the passage of time or change of conditions.
- C. Anderson asked whether the Town lawyers could attend a meeting and give the Planning Board some legal advice.
- M. Hatch wants to see the changes to SUP to prevent grandfathering those already granted. He is concerned about the public danger that might arise from not revisiting certain projects.
- T. Hatfield pointed out that the company may have invested millions of dollars based on the SUP and having a legal limit might delay or deny development.

C. Anderson asked R. Burger about the Book Auction business. R. Burger indicated that they are not staying in the current building so they will not be coming back to the Planning Board.

C. Anderson further asked about public comments on the solar law and comprehensive plan changes. There were not any negative public comments.

There being no further business, the meeting was adjourned at 9:05PM.

Respectfully Submitted,

Erin A. Bieber
Deputy Town Clerk