

Town of Dryden  
Planning Board  
June 22, 2017

**Members Present:** Marty Moseley (Chair), David Weinstein, Joe Wilson, Tom Hatfield, Craig Anderson, John Keifer, Hilary Lambert (alternate)

**Excused:** Marty Hatch

**Liaisons Present:** Deborah Cipolla-Dennis, Town Board

The meeting was called to order 7:00 p.m. M Moseley noted that due to the absence of Marty Hatch, Hilary Lambert would be a voting member of the board tonight.

### **PUBLIC COMMENT**

**Sarah Osmeloski** said there is yet another revised solar application from Distributed Sun. As the applications keep piling up the carbon footprint of this project gets bigger and bigger. If the developers had had the foresight to put more time and effort into proper site selection, we would be happily planting solar panels now instead of reviewing yet again another proposal. The problem with this whole project is location. These are good projects and deserve to be installed, but they are not in the proper location. In their current locations they would be acceptable if their size was reduced so they could fit without become intrusive. The problem with our solar law is that it's a vague statement of 2 MW per parcel with no definition of parcel size. As it is written, she could put 2 MW of panels on her six acres of property by stacking them up in tiers and it would be fine. Soon the Planning Board will have to determine what size the subdivisions of this property must be in order to accommodate 2 MW of panels. It appears to her by the number of arrays mapped out in the application that Distributed Sun is attempting to stuff a size 11 foot into a size 9 shoe. In prior projects that have come before the Planning Board you have had no qualms in telling developers to reduce the number of units they are proposing in a project. In fact lately a number of housing projects in Varna come to mind as perfect examples; too many units for the amount of land and space. When it is time to make a decision on the proposed subdivision of the solar project, she requests that the board tell Distributed Sun to reduce the number of panels per subdivision or increase the size of the subdivision. Keep in mind that 2 MW worth of panels can be stuffed onto a small parcel and create an eyesore. Or the same number of panels can be placed on a larger parcel and be much less intrusive on our landscape and community. In her opinion size and density does matter when comes to keeping Dryden beautiful.

**Joe Osmeloski** said he abhors the fact that some people try to make the solar debate a competition. Some people talk about a score. It's not about that. It's about people expressing their views about how they feel about these projects. He also abhors statements that are agenda driven and patently false. We all have agendas, but back up that agenda with facts. But he does want to address the issue of score. Marty Hatch of the Planning Board made a statement that he had gone on the website and read either the comments made at Neptune or the all the letters received by the town. J Osmeloski analyzed both, every single comment and letter. He has two results. Another pet peeve of his is out-of-towners. Out-of-towners will come to our meetings and speak, but really they don't have a stake in this. He doesn't go to other municipalities and tell them what to do. But he did include them in his analysis. At Neptune when the out-of-towners were not included it was 52.6% in favor of the solar

projects and 47.4% against. When out-of-towners were included it was 55% against and 44% for. If M Hatch was referring to the letters to the town his numbers were correct – 60%/40%. What he got wrong was that he had it backwards. If you don't include the out-of-towners, it was 38.3% in favor and 61.7% against. Out-of-towners included it was 38.8% in favor and 61.2% against. If M Hatch was talking about the letters to the town, his statement was patently false. If he was talking about Neptune, he just exaggerated. Either way, he was wrong. He doesn't want it to be a competition. He just wants everyone to express their views, but use facts.

With respect to facts, a member of the Planning Board that went to the Conservation Board used patently false statements when referring to a moratorium resolution that you passed. Luckily, Tom was able to remedy that and tell us what really went on with that resolution. We all have an agenda and it might be agenda driven. Those things happen. But if you read his statement from the 5-18 Town Board meeting he states "the Planning Board recommendation which many people have talked about is not a valid recommendation. It will have to be rescinded at the next meeting because it was never placed on the agenda for that meeting which was a special meeting specifically put together for one item and that was review of SEQR." That statement is patently false. This board has addressed that and he knows that they came to the conclusion that that statement was patently false. For a person to be making patently false statements to back his agenda is a very dangerous precedent.

J Osmeloski asked the Planning Board to ask that person to resign from the Planning Board. If they are not willing to do that, he asks that this board go to the Town Board and address the issue of him being removed from the Planning Board. This board has very, very important decisions coming up concerning the solar projects. For a person that is now starting to show a pattern of not backing up statements with facts is a very danger precedent. His recommendation is for that person to step down and be replaced by Hilary Lambert on a permanent basis. He worked with H Lambert during the fracking issue and no one is more professional. No one is more prepared or impartial when looking at the issues than Hilary. Even during the fracking issue, she looked at both sides. Never was her impartiality better displayed than when she took a stand and voted for the moratorium on this board. We know Hilary is very much pro solar, pro renewables, but she put the town and people of Dryden first by voting for the moratorium. His recommendation is that Hilary Lambert should be a permanent member and he would be honored to come before this board monthly with Hilary Lambert as a permanent member.

Hilary Lambert stated that she had nothing to do with that statement.

D Weinstein said that was a personal attack on him and asked to respond. According to J Osmeloski, D Weinstein said three things that were patently false.

First, D Weinstein said his feeling that he stated at the town board meeting that without the solar moratorium being a specific agenda item, he felt it was incorrect to address it. The board decided it was wrong, but there was no intention of misleading the board. He was very clear about his feelings and why he felt that.

Two things J Osmeloski stated were patently false that he said: It is true in his report to the Conservation Board he said that the moratorium would cover all solar projects, and he was wrong about

that. He made a mistake and admitted it at that meeting, particularly after Tom corrected it, since our moratorium only covers everything 2 MW and up. He very much disagrees with the characterization of that; that it was patently false and he was trying to mislead the board. He made a mistake and it was easily corrected.

The second thing was, he agrees he should have gone back to the resolution and used that language. The language in the resolution says that the reason for the moratorium was to “determine if the location of the current applicant’s facilities if approved would be placed in the town where it would be most beneficial once all competing needs are accounted for.” Instead of using that phrase he used “to investigate all alternative sites to try and identify one where no neighbor would find it offensive.” He said he should have used the actual language, but doesn’t see where he is trying to mislead the board.

He thinks this is a vendetta that is being raised against him which he can only imagine is an agenda. He does not have an agenda. He wants to see the right project go into the right place. If he has opinions about the validity of the current proposal moving forward, he is entitled to that opinion. He thinks it is wrong to go after a board member. He has not tried to go after Mr Osmeloski even though immediately after joining the Conservation Board he started pushing the anti-solar project agenda, but that is his right. He’s a member of the board. If he feels strongly about that, that’s fine. D Weinstein is really bothered by this allegation and thinks it has no place in the politics of our town where a lot of people are trying to do as best as they can to figure out what is the right thing for the town. Nobody is getting rich off this. We are just trying to do the best job we can and he thinks it is below J Osmeloski to go after a board member like this.

M Moseley asked for approval of the May minutes. The May 3 minutes need to be edited and resubmitted. J Wilson moved approval of the May 25, 2017, minutes, seconded by T Hatfield and unanimously approved.

**PUBLIC HEARING  
CONSERVATION SUBDIVISION  
BLUEBIRD SUBDIVISION - FINAL PLAT  
RANDY & NANCY LUBERECKI**

M Moseley explained the applicant wishes to subdivide a 57.74 acre parcel (tax parcel #49.-1-30.2), 426-430 Lake Road, currently operating as a golf course. Seven residential building lots would be created with open space preserved along Lake Road and Dryden Lake. The final plat has been submitted.

J Wilson asked how long this plat has been available to the public and was told it was put on the web last week. D Cipolla-Dennis said information on the website is difficult to find and noted the agenda for tonight was not online.

Carl Snyder, agent for the applicants, displayed the plat and explained there are six lots between Lake Road the lake and a seventh lot across the road (currently a driving range). Applicants are going to retain lot #7 and the others will be marketed for residential building. Based on last month's meeting the two small ponds were completely assigned to a lot instead of dividing them between lots. The one large pond will be split between lots #3 and #4.

Rohn Brown, who owns land adjacent to the driving range and plans to build on that land, noted that a proposed building site and drive is shown on the lots and asked if there were any restrictions. He was told that no residence can be built in the conservation easement along the lake or along Lake Road. A run-in shed would be allowed in the conservation easement along the road. Their mission has been to protect the viewsheds for everyone. R Brown is concerned with his view of the lake. C Snyder said there is a potential buyer for lots 1 and 2 and the plan is to build pretty much on the line. Maximum building height is 35' and because of the conservation easement along the road there would likely be little impact on his view.

J Wilson asked about enforcement of the proposed covenants and was told property owners would have to work that out.

The proposed protective covenants, easements and restrictions were reviewed. Run-in sheds were discussed and "barn structures" were removed from the conservation easement area along the road.

There was discussion regarding the process to amend the restrictive covenants and applicant was told they would need to come back to the Planning Board because it would be an amendment to the subdivision.

T Hatfield suggested that there be some sort of acknowledgement of the covenants required any time the property changed ownership.

There was discussion about limiting the size of a run-in shed and the board decided that could be no more than 10' high and not exceed 800 square feet.

A covenant #14 will be added to the effect that: all grantors and grantees shall sign an acknowledgement of receipt of a copy of the covenants as recorded which are known to them at date of sale.

C Snyder asked what the process would be if they wanted to further massage the covenants. He was told they would have to come back to the Planning Board. There was discussion about whether to allow "home office" as a use in covenant #1 which reads: Lots shall be used only for residential, recreational and agricultural purposes. The intent of the covenants is to be fairly restrictive. It was noted that many people have a "home office" at which they work and that work does not increase traffic or visits to their home. It is different than a home business. Home office is not defined in our zoning. It was determined that it would be best to simply not include home office as a use in covenant #1.

The public hearing was closed at 7:45 p.m.

J Keifer said he greatly respects what the applicant has done and is pleased with the outcome. T Hatfield agreed that it has been a good process.

**RESOLUTION #19B - FINAL PLAT – BLUE BIRD SUBDIVISION, LAKE ROAD**

J Kiefer offered the following resolution:

Whereas, the Planning Board has reviewed the final plat for a conservation subdivision known as “Bluebird Subdivision” in the town (tax parcel #49.-1-30.2), and

Whereas, the Planning Board has found the project to be consistent with the Town of Dryden subdivision guidelines, and

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

Whereas, this is an unlisted action for which the Planning Board on April 27, 2017, acting in uncoordinated environmental review with respect to this project declared a negative declaration of environmental significance, after having reviewed and accepted as adequate a Short Environmental Assessment Form Part 1, submitted by the applicants, Parts 2 and 3, prepared by Town Planning staff, and other application materials; and

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

Therefore; be it resolved, the Dryden Planning Board approves the final plat design, and authorizes the Planning Board Chair to sign the plat, with the Standard Conditions of Approval and the following Protective Covenants, Easements and Restrictions:

**Bluebird on Dryden Lake Subdivision**

Lake Road Town of Dryden  
Protective Covenants, Easements and Restrictions

- 1) Lots shall be used only for residential, recreational and agricultural purposes
- 2) No further subdivision of any lot shall be permitted
- 3) There shall be only one single family residence on each lot in the subdivision and if 2 or more lots are combined into one larger lot there still shall be only one single family residence.
- 4) No singlewide or doublewide mobile home allowed

- 5) The exterior finish of all buildings must be completed within 18 months after construction commences
- 6) Grantor grants to each lot owner and each lot owner grants to all other lot owners easements for utilities along Lake Road
- 7) All utilities for each lot must be constructed underground from Lake Road to the house site
- 8) Grantee understands that a storm water management plan has been completed for the total subdivision. If any lot owner plans to disturb more area than shown on the proposed plan on their own individual lot then they may be responsible for hiring an engineer to complete a storm water management plan for their specific lot.
- 9) Grantee is responsible for obtaining any necessary State and local permits for building construction, well and septic system.
- 10) Outdoor lighting should be kept to a minimum and where necessary directed toward the ground and / or away from neighboring properties with all being dark sky compliant.
- 11) The designated conservation easement shown on the survey maps along Lake Road is restricted against any house construction. The area allows for agricultural purposes including fencing and run-in sheds not to exceed 10 feet in height and 800 square feet in area.
- 12) The designated conservation easement shown on the survey map along the DEC owned Dryden Lake property is restricted against any earth disturbance, construction of any building type and there shall be no regular mowing within this area. The operation of any ATV or snowmobile is prohibited in this area. Each lot owner grants to all other lot owners in the subdivision the right to cross each other's lot (within this conservation easement) for recreational purposes including walking, hiking, cross country skiing and portage of a canoe or kayak to access Dryden Lake. The lot owners do not have lake rights for construction of any dockage and no right to make any shoreline modifications per DEC regulations.
- 13) Where a common surveyed property line crosses an existing pond the adjoining lot owners shall share the surface rights to the pond for recreational purposes including fishing, swimming and using a canoe or kayak. There shall be no enlargement of any of the existing ponds.
- 14) All grantors and grantees must sign acknowledgement that covenants as recorded are known to them at time of sale.

2<sup>nd</sup> T Hatfield – unanimously approved.

**Rezoning of Route 38 north of Freeville** – this is a charge from the Town Board to analyze and advance recommendations. H Lambert has agreed to sit on the committee and M Moseley asked if any others were willing to serve on the committee.

R Burger said he had contacted residents on Cricket Lane and invited them to come to tonight's meeting. None were present. C Anderson said he understood that the residents wanted to change their

zoning to neighborhood residential and there may things in that zoning designation that they aren't aware of. For example, set backs would be different. There should be input from the neighborhood.

There is also a property owner near there who wants their lot zoned for commercial use. It was pointed out that there could be an emerging node at the intersection of Route 38 and Peruville Road to be considered. M Moseley said the committee would look at both requests. They could meet with the neighbors and have a discussion. The product from the committee would be a recommendation whether the parcels should be rezoned, individually or globally.

The committee will consist of Hilary Lambert, Craig Anderson, Deborah Cipolla-Dennis and David Weinstein. There may be representatives from the other boards who are interested in serving on this committee.

**Solar Update** – J Wilson said this has been a complex process. He hopes that the update includes specifically what actions the Planning Board is to take in what order and on what timeline and what procedures apply in each action the Board needs to take. This process has involved many moving parts and the Board needs a clear way forward. It needs to be as specific as it can be in terms of time, actions, and procedures.

R Burger announced we have a revised application from Distributed Sun and it is being reviewed by TG Miller. The first action item is to get to a SEQR evaluation. TG Miller had a punch list of necessary items to get to a complete application. The Army Corps letters have been received and we are down to one or two items where TG Miller is asking for clarification. If Distributed Sun can provide that (answers to questions) within a few days TG miller will complete their analysis. Once that is complete we can set up time for continuing the public hearing. The date contemplated is sometime in July and the town has promised ten days notice for this public hearing. July 13 has been discussed as a possible date for taking up the SEQR.

There will be a continuation and completion of the public hearing followed by a determination of significance. After a negative declaration of significance by the Town Board the Planning Board can take up its actions which include review of the application and making recommendations to the Town Board regarding the special use permit application. Once SEQR is done the Planning Board will also take up the subdivision (three-step process) of 2150 Dryden Road. Those two items for the Planning Board could perhaps happen simultaneously. There will be public hearings – for preliminary and final subdivision and for special use permit.

M Moseley said he would like to wait and see what the Town Board does. At its next meeting the Planning Board will discuss what avenue they would like to see first and move forward so everyone is clear and understanding of the process.

**Legal Counsel** - There was discussion about whether the Planning Board should have its own legal counsel. Board members agreed that having legal counsel available is important on an as needed basis and there is no objection that it comes from the town's attorney(s). D Cipolla-Dennis said she will talk with the Town Supervisor about arranging to have legal counsel for the Planning Board when necessary.

**Planning Board Liaison Responsibilities** – (M Moseley noted that C Anderson requested this be on the agenda and he had neglected to do so.) J Wilson stated several things should be taken up: the liaison responsibilities of a Planning Board member, timing of agendas, and the timing of submissions to the board by developers. Sometimes members receive information the day of the meeting and he was grateful that the last submission was noticed for July meeting. All of these things fit together for a worthwhile discussion.

C Anderson – distributed information on Planning Board responsibilities. There are minutes from August 2014 when Mahlon Perkins met with the board about its responsibilities together with the thirteen items that are under the Planning Board's site plan review purview. The Planning Board went through this a few years ago when they got a bit off track and were looking at asbestos and lead abatement and that is not the board's responsibility. He gets frustrated when the board gets outside its box. We are seeing it now when we are talking about heat pumps in site plan review. If the board wants that, it could be changed, but at the time it is not there. When you seem to dangle an approval over a developer's head, it's a fine line to walk. He asked that members review the information. If the board wants to create incentivized zoning (we have it in Varna a little bit) we could try to broaden it across the town.

M Moseley asked that members review the information for discussion at the next meeting.

C Anderson said we have two different boards doing site plan review and are getting two different results off the same list. That can't continue. One board or the other should do them all. For example, Incodema has no landscaping and the argon tank is not where it was supposed to be and is vertical instead of horizontal. There are orange doors on a storage building. It is too close to the street. There are no sidewalks on the Freeville Road storage building. Now there are blue roofs and blue doors on the Storage Squad building which are really natural colors. It seems the Town Board is following a different path and one day a developer will be pointing out these discrepancies. Green Scene was made to not have metal on the front of their building and the property is 200' off the street. He understands that this would mean one more trip for an applicant, but perhaps it would help with continuity. It is a problem and the process and result should be identical with each board.

D Cipolla-Dennis said she is confused about how rigid the design guidelines are. The Town Board is looking to the Planning Dept to do that. Maybe the Planning Dept isn't getting enough information. Perhaps the design guidelines should be reviewed to see if they are too vague and there is too much room for interpretation.

Sarah Osmeloski said her understanding is that members of the Planning Board take specific training and she is not aware of Town Board having the same training. The Planning Board is trained to do it and the Town Board isn't in general. She would feel better if people trained were doing it.

It was pointed out that while Planning Board members are required to complete a specified number of training hours per year, each member chooses the trainings he/she attends and so while one member may have received training in a specific area, others may not have. There are no training



requirements for Town Board members. There was discussion about joint trainings or a workshop meeting with Town Board members and improving the lines of communication. Each board uses the same list in considering its approval. The Planning Board is more constrained than a political board. Does it make sense for one board to deal with all the applications? It is important for community members as well as developers to see consistency. M Moseley asked members to consider the situation and bring ideas on ways to improve it to the next meeting.

**Additions to agenda –**

**Rail trail resolution** – J Kiefer said last fall the Rail Trail Task Force worked on a grant application that was not successful. This board’s resolution of support was included in that application. Now the task force is applying for another grant and Bob Beck has asked for a reaffirmation of support.

Resolution # 20 (2017) – Reaffirming Resolution #28 of 2016

D Weinstein offered the following resolution and asked for its adoption:

RESOLVED, that this Resolution #28 of 2016 (set out below in its entirety) is hereby reaffirmed by the Town of Dryden Planning Board.

Town of Dryden  
Planning Board  
Adopted September 22, 2016  
Reaffirmed June 22, 2017

**Resolution #28 (2016)** *Acknowledging the support of the Town of Dryden Planning Board for the creation of a mixed use trail along the abandoned rail corridor connecting the Jim Schug Trail in the Village of Dryden through the Village of Freeville and the hamlets of Etna and Varna to the East Ithaca Recreation Way at the Ithaca Town line, herein referred to as the Dryden Rail Trail.*

*WHEREAS: the Dryden Planning Board recognizes the importance of preserving the Town’s natural resources and rural character, and providing residents with more opportunities to observe and enjoy the natural beauty the Town offers,*

*WHEREAS, the Dryden Planning Board recognizes the importance of developing mixed use recreational trails, as resources vital to improving the Town’s economic base, tourism, property values, public health and fitness, and quality of life for Town residents,*

*WHEREAS, the Dryden Planning Board encourages the use of non-motorized modes of transportation and recognizes the significant environmental and economic benefits of reducing automobile use,*

*WHEREAS, the Town of Dryden Comprehensive Plan cites the creation of the Dryden Rail Trail as an important transportation and recreational initiative,*

*WHEREAS, the Town’s 4.2-mile Jim Schug Trail is currently established and popular, and runs south on the abandoned rail bed from the Village of Dryden, passing by Dryden Lake, to the Harford town line,*

*WHEREAS, the Lehigh Valley Railroad abandoned the East Ithaca to Freeville and Cortland rail beds and the Harford to Dryden, Freeville and Groton rail beds by 1977, and the abandoned rail beds are currently owned by a variety of private and public entities,*

*WHEREAS, the Town Board established a Rail Trail Task Force to take deliberate steps to develop the Dryden Rail Trail including acquiring easements, securing funding and moving the project through planning, design and construction,*

*THEREFORE BE IT RESOLVED THAT the Dryden Planning Board supports and endorses the work of the Rail Trail Task Force and the creation of the Dryden Rail Trail.*

2<sup>nd</sup> J Kiefer – All in favor

**802 Dryden Road** – An informal presentation was had at the last meeting. There is an option for the Planning Board to request a full Environmental Assessment Form (EAF) versus a short EAF. M Moseley said his thought is that the development will increase density in the area. It is going to be different than if it was a 1, 2 or 3 family-home. The board agrees a full EAF would be appropriate for this type of development. This project will be on the July agenda. J Keifer asked for a code analysis on the project; a statement that the process is consistent with the zoning laws. R Burger said it is in there.

**Charges from Town Board** – M Moseley said it was brought to his attention at the last board meeting there are various items that the Planning Board has not gotten back to: utility placement and looking into the special use permits (which C Anderson covered earlier). He asked J Wilson to send the utility information again and he will ask the Town Board prioritize these items. J Wilson noted part of the discussion was whether we had too many SUPs and he sent a memo about that also.

**Rules and regulations discussion** – M Moseley said his opinion is that if we didn't have an agenda that allows for additional items it could be detrimental. The board wouldn't have been able to have a couple of the discussions it did tonight. It seems beneficial to be able to add agenda items and it has been practice to allow that. Many municipalities use all sorts of rules and regulations. Some find it beneficial and others don't.

D Weinstein said he agrees in general. There is value in flexibility. There are two categories that might need to be treated as special cases. One is when an issue is "big" and sometimes you can easily identify that, and the public should be notified. The second issue is special meetings and it was his impression that when that is done we needed to identify exactly what work is going to be done at the meeting and nothing but that. It is easier to limit the scope at a special meeting.

Timeliness of agenda –M Moseley said when first was on the board the agenda might arrive the day before. He is comfortable with sending it the weekend before the meeting. The Planning Dept takes care of legal notices and getting it on the website. It was noted that the agenda should also be placed on the web.

J Wilson asked that the board collectively think about items coming up and whether something fits the big category. He suggested that the board try to avoid taking action on something big unless it is on the agenda even though there is no requirement that it be adhered to. He agrees that if the board is

going to be flexible and it should go both ways. With respect to timing, he feels more comfortable when he has time to review matters and agrees sending it out the weekend before is reasonable.

Liaison responsibilities – M Moseley requested that if we have liaisons at other board meetings that they act as liaisons. If the board asks questions, answer appropriately. If they want you to be quiet, do so and observe. The liaison is a visitor to the board.

M Moseley said if any member has a problem with this board that they come to this board first and have a discussion before going to another board (out of respect for the entire Planning Board).

C Anderson noted that serving as liaison to another board is a good learning experience.

M Moseley thanked the liaisons for serving as such. It is additional time spent that is not required. Appointment to liaison is done by the board chair. D Weinstein said the Conservation Board asks its liaisons for a written report. It helps with information flow and this board could benefit from it. T Hatfield cautioned that we don't want to overburden the liaisons.

M Moseley asked R Burger to make sure everything being considered is on the website page.

There being no further business, on motion made, seconded and unanimously carried, the meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Bambi L. Avery  
Town Clerk