

**TOWN OF DRYDEN  
PLANNING BOARD  
March 28, 2019**

Present: John Kiefer, Chair, Deborah Cipolla-Dennis, David Weinstein, Joe Wilson, Craig Anderson, Martin Hatch, James Skaley (alternate), Tony Salerno (alternate)

Absent: Tom Hatfield

Town Staff: Ray Burger, Planning Director  
Bambi Avery, Town Clerk

Liaisons: Dan Lamb (Town Board), Craig Schutt (Conservation Board)

J. Skaley was appointed as a voting member in the absence of T Hatfield.

J. Kiefer addressed members of the public who came to the meeting to talk about the Building Energy Committee. He said he has discussed next steps with Alice Green, the board member who has been working with the Building Energy Committee, and with some other folks. He believes it would be in the best interest of the Planning Board and the work that the Building Energy Committee is doing to reset the clock on this initiative and to start over. The Building Energy Committee had several meetings last fall that were not noticed. The Town's attorney said they did not need to be. When members of the public expressed interest in the meetings the Committee responded and all subsequent meetings were noticed and held at the Town Hall. The Committee's work is in draft form and was not close to being finalized or voted on. J. Kiefer wants to be sure everything is done by the book and according to New York State law. Would like to ask the Town Board to clarify, by resolution, what they would like the Planning Board to do relative to working on the comprehensive plan. Need to be absolutely clear as to what the Town Board has in mind for us. As of now, the Building Energy Committee will stand down and will not proceed until we hear from Town Board members as to what they would like us to work on.

D. Lamb stated the Town Board will be happy to provide that clarification. Work got off track, not in a way the Town Board expected to see happen. No intent at the Town Board level to mandate a change to our energy sources. Has seen a lot of colorful posts on the internet that flat out are not true. Not looking to ban any of those fuel sources. Not the process that we wanted to see played out procedurally. The County was contacted prematurely, there is no legislative proposal.

**Comments from the floor**

- Are documents the people of the Town could get hard copies of?
- Seems there is an effort to brush all of this aside and start over. We as the people of Dryden should look at why it went wrong, why were there illegal meetings, why all of this stuff?
- When our government tries to control how we function, you had better expect us to be upset. Denied putting out incorrect information. Wants answers as to why it went wrong.
- We are being told we are welcome to attend meetings, however, there were not any postings to let us know when and where the meetings were being held.

D. Lamb -Sending the Building Energy Committee draft recommendations to Tompkins County Planning was a misstep. Was far from coming to the Town Board to be voted on.

C Schutt - Went to Building Energy Committee meeting where it was said that they know they weren't going to satisfy everybody so why don't we just push this on and get it done.

D. Weinstein –How is the board supposed to get new ideas out on the table for debate? Someone must put it on the table to find out how people really feel about it. This idea was discussed at the January Planning Board meeting.

D. Lamb stated the Town prefers larger, commercial multi-unit developments be fossil fuel free. This is a goal for the Town, not a law.

C. Schutt – Agreed that the Comprehensive Plan is a recommendation, but that is where laws come from.

J. Kiefer - Asked to hold further discussion of the Building Energy Committee until later in the meeting, after the Planning Board addresses three agenda items.

### **900 acres on Caswell Road Mill Creek Subdivision**

R. Burger - This is a 900-acre piece of land on Caswell Road that is come up for a subdivision proposal. This will be a multi-month process to get to a final plat. No formal application yet, but I wanted to get the proposed project in front of you to get some ideas and discussion going.

Alan Lord (surveyor) - property is 908 acres just outside of Freeville. Map 1 topo and the wetlands (federal and state) and environmental features. Tried to lay out lots using natural features. There is a lot of road frontage in many different locations. Our marketing has determined people want larger lots to have land to grow things, room to walk your dog or go hunting. We are looking at 39 parcels out of the 900 acres. There will be deed restrictions (proposed) of 1 single family home per lot and no further subdivision. Limits impact so there will ever only be 39 homes or empty lots on 900 acres. Will do soil work with an engineer to make sure the land can be built on. There will be a soil profile for each lot.

- Did you consider using the Conservation subdivision approach to this? In a sense, this is a conservation subdivision since 39 homes are the maximum that would ever be on these 908 acres, however we are not proposing a formal Conservation Subdivision.
- Did you look at the residential design guidelines? Particularly where it suggests strongly that there not be too many roadcuts, some common driveways? Shared driveways do not always work well. J. Wilson - A couple of the reasons for trying not to have a road cut with each lot was for safety, and to preserve the rural aspect of the whole area. A. Lord – These road frontages are 640, 850, 350 so if you're putting a common driveway you would have to go hundreds of feet into their front yard to put in their driveway.
- M. Hatch agreed that it doesn't make sense to put in a common driveway given the sizes of these lots.
- A. Lord will not be building the residences, they will survey and mark the parcels and sell as vacant land.
- We put a 100' buffer along each side of Mill Creek in protective covenants.
- D. Weinstein appreciates the thinking that was put into it. I took the County's Natural Resource Inventory and overlaid your map on that. Would you be amenable, when you are selling the lots, to doing a designation of areas where houses should/should not be built? Would help to

keep people from trying to build in wet areas – put designated building envelopes on the lots. Moving that building envelope would need approval from Planning Board to move.

- Any thought to protecting existing vegetation? Wasn't a lot of mature growth, seems to be a lot of honeysuckle taking over.
- Seasonal road – in migration to becoming a year-round road. The Highway Supervisor is deciding as to whether he is going to pull the seasonal signs. May need engineer evaluation.
- Who would pay to have the road brought up to specs? R. Burger stated that would be part of this process.
- Lot lines may change depending on soil tests.
- C. Anderson – Inquired about the Storm Water Pollution Protection Plan (SWPPP) – any answer on that one? R. Burger – No, we need to sort that out. It's a gray area with DEC. No SWPPP required if only housing envelopes are shown on maps.
- Next steps are to do soils tests on each lot to determine if the soils are suitable for residential construction based on site hydrology of each proposed site. Need to demonstrate the County will allow sanitary sewers and potable water wells. Need to show that building envelope areas are not in flood plain.
- Applicant agreed to direct building away from wet areas and said he would be open to establishing building envelopes on the map.

#### **2141 Dryden Road –**

Doctor Office Introduction. Will be located on fill lot between the Medical Pain Consultants and Scottie's Garage. They are looking to go in there with a professional office with a medical/dermatology practice for the upstairs, and hope to get a second medical office for the space downstairs. J. Skaley- Why are people choosing to be in the country instead of in a denser area? You are losing the whole idea of a rural landscape. R. Burger - It is a mixed use commercial zone large enough to have the two practices and sufficient parking. There are already two other businesses next door.

- Suggestion was made that a multiple access road might be advantageous for safety reasons.
- Audience members stated it is a very hazardous location and there have been traffic fatalities in the past.
- C. Anderson issues:
  - Design calls for parking in the front -a couple of handicapped spots in front would be allowable however Commercial Design Guidelines call for parking to be in the back.
  - Sign does not comply with our sign laws – want low profile, monument signs in this district
  - No dumpsters out front
  - Suggested they comply with the design guidelines and come back

D. Weinstein stated we need incentives that make it more attractive for these kinds of offices to site in the village instead of on Route 13. Board needs to discuss this concept at some point.

J. Kiefer – We need to hear from DOT regarding the roadcut before we do anything else. J. Wilson- We should seriously pursue the multiple access road.

#### **1932 Slaterville Road**

Will be going back to the ZBA again for a variance.

Habitat for Humanity is attempting to develop a 3-acre parcel that has an existing historic home that will be remodeled, and they want to put up 2 other affordable homes on two one-acre lots. First proposal was for a flag lot, which was denied by the ZBA. The second proposal asking for a variance to line up the three lots. One would be the 150' frontage conforming lot and the adjacent two would be 100', so they are asking for 50' of frontage relief on two lots. This aligns the homes and makes the driveway shorter.

D. Weinstein- Would like to recommend the ZBA approve this subdivision based on the fact that the ZBA concerns were addressed in schematic, and applicant has demonstrated that 50% of houses in the area have same frontages.

### **RESOLUTION #2 (2019) – 1932 SLATERVILLE ROAD – RECOMMEND APPROVAL TO ZBA**

D. Weinstein offered the following resolution and asked for its approval:

RESOLVED that the Dryden Town Planning Board hereby recommends that the Zoning Board of Appeals grant this subdivision as the ZBA main concerns were addressed in schematic and the applicant has demonstrated that 50% of the houses in the area have similar road frontage as being proposed on these two lots.

2<sup>nd</sup> J. Wilson - all in favor

### **Approval of minutes – February 7, 2019**

C. Anderson suggested the table be changed where it states, “Section 8” to read either “low-income” or “affordable housing”.

J. Skaley – the point of that remark in the SEQR amendment refers to the fact that the current affordable/moderate income level houses were being demolished as part of the project. As part of the SEQR that is one of the questions to be addressed.

J. Wilson – In the minutes there was a comment to the effect that there were no significant changes in SEQR. I emailed today specific language that I am suggesting be amended in there, because I do not believe the comment is accurate. Therefore, I suggested the following language:

*Because of changes to this the SEQR Regulations that took effect January 1, 2019, changes have been made to the SEAF and the FEAF forms that we are to use, changes to the applicable workbooks, changes to the environmental impact statement procedures, and a new SEQR handbook the 4<sup>th</sup> Edition draft have been published.*

This will not delete the previous statement; only put on our record that we realize changes have been made and we have new documents/guidance/regulations to follow.

Discussion ensued regarding the Environmental Impact Statement, the one or two sentence summaries given for the Town Board for each item that was determined had a potential for positive environmental impact. These are areas in which the Town Board should pay some special attention to as the discussion continues at the Town level.

M. Hatch made a motion to approve the minutes of February 7, 2019 as written (including correction suggested by C. Anderson). Seconded by J. Skaley. C. Anderson and D. Weinstein abstained as they were not at the February 7<sup>th</sup> meeting.

D. Cipolla-Dennis has left the meeting, T. Salerno was appointed as voting member in her absence.

### **Approval of Minutes – February 28, 2019**

M. Hatch made a motion to approve the February 28, 2019 minutes as written. Seconded by J. Skaley. D. Weinstein abstained as he was not present at the meeting. All in favor.

D. Weinstein- We really do need to get together with the ZBA and have a conversation about where our procedures are not coinciding. D Weinstein and Craig Anderson to go to the ZBA meeting on April 2<sup>nd</sup>.

### **Public Comment**

#### **J. Kiefer thanked everyone for waiting and opened the meeting to public comment on climate change amendments to the Town Comprehensive Plan.**

Kim Schenck – Wants people to believe that we run a democratic process, there are checks and balances. Believe in ourselves that we have an eye on the town board. When people have crazy ideas, that's when we hold them accountable. These people are volunteers, the Town Board are elected -be careful as we go into this discussion about where the heat should fall, and whether some of what we are going to say should wait until a Town Board meeting.

Jacques Schickel – This whole process started because a small group of people have a belief system and they are trying to force the rest of the town to live under their belief system. It is no longer on the Town website, but it was all spelled out in the first proposal. It has the tone of religious oppression. If I was in power and believed fossil fuels was the all, end all and I tried to pass laws that forced you to submit to my beliefs – I think you would oppose.

Theresa Rehbein - Wants to know what was on the committee's mind. Wants to know her house is okay, that she doesn't have to worry about us trying to shove something through that will hurt us in the long run. Not everybody wants electric.

J. Skaley - Nobody is doing that.

J. Schickel – There was a statement of automatically adopting what Ithaca is doing with their new green deal, and that is why they were concerned. In new construction, no windows and doors on north side of house? You guys state that whatever Ithaca does would be automatic if it is more severe than what Dryden does. Ithaca no longer allows outdoor wood boilers/furnaces. People have a right to be concerned. He would like to know what happened to the documents on the website. R. Burger will share documents if they want them.

Audience member wants to know how this went to Tompkins County and then was booted back? R. Burger explained that the County has a statute that they get to weigh in on Town actions, he sent 239

for comment back from the County. Every time the proposal changes it would again be sent to the county for an opportunity to comment. This is before it goes to the Town Board for action.

Joe Osmeloski – My main issue is lack of trust. Would like to form a process to gain their trust back. Have the ideas out to the public first for discussion. I wrote a letter to J. Kiefer that I want in the record:

*Dear John Kiefer, Chair of the Planning Board,*

*As you are aware, I made a formal request to the Town Board this past Thursday, March 21<sup>st</sup> to dissolve and disband the sub-committee known as Building and Energy. And to declare all documents produced by the Building and Energy Committee, up to that point, obsolete. I am repeating this same request to you and the rest of the Planning Board.*

*I gave my reasons at the Town Board meeting on March 21<sup>st</sup> and I will repeat them to you, but I will also add a new additional objection that has come to light since the Town Board meeting. Also, please note that the Town Board already has copies of the documents that I am referring to in this email. So, if need be, please access those through the Town Board.*

*The Building and Energy Committee repeatedly violated public office law, article 7 – Open Meeting Law multiple citizens of Dryden including some of the members of the Planning Board have been in contact with Mr. Robert Freeman. For those of you that don't know who Mr. Robert Freeman is, he is the Executive Director of the Committee on Open Government, Department of State, State of New York. He basically overlooks the article that I just mentioned. Mr. Freeman is the New York State expert when it comes to open meetings laws and has unequivocally intimated to many of us at Dryden that the Building and Energy Committee violated Article 7 on multiple occasions and supplied us with the applicable case law supporting his position. I think you have that also, again the Town Board is in receipt of that.*

*Two, the Building and Energy Committee repeatedly violated NYS Town Law 272a. For someone who asked about the Comprehensive Plan, 272a is the NYS Town Law that governs how these committees go through amending the Comprehensive Plan. And again, one of those is including the public. The public must be included. Let's not forget, before I read the rest, these people represent you. They don't represent the Town, they represent you. The Town Board represents us. Even though they are volunteers, they make policy. This Board makes policies. We appreciate them being volunteers, they make policies. I'll continue:*

*In addition to the above laws being violated, I have since learned that these amendments were sent to the Tompkins County for 239a review by our Planning Director, dated February 22<sup>nd</sup>. Besides lacking a resolution from the entire Planning Board and submission to the Town Board for a public hearing and approval, the date of submission is very disturbing. You see, the Building and Energy Committee invited the Dryden public to a meeting, I believe you were in attendance and I believe the Planning Director was in attendance with the idea that the public would finally be able to weigh in these comments.*

*The fact that nearly 2 weeks before the March 7<sup>th</sup> meeting the documents for public review had already been submitted to County for 239a review. The County views, when they get these documents, as what could be final documents. This, in my opinion, is one of the most egregious acts I have witnessed from a Dryden public body. The mere fact that a board that is supposed to represent the Dryden public would dupe that very group of citizens is not only disrespectful to the Dryden citizens, but also shows a complete lack of transparency that the Building and Energy Committee has perpetrated since its inception.*

*Also at the Town Board meeting on March 21<sup>st</sup> I made the suggestion to start anew with a newly formed Building and Energy Committee. Anew, we just start over. And have the public included from day 1 of this new Building and Energy Committee as should have been the standing operating procedure of the previous Building and Energy Committee. I suggested they choose from the following pool- the people I would like to see on the committee (for me) come from the following:*

- *David Weinstein*
- *Tony Salerno*
- *Craig Anderson*
- *Tom Hatfield*

Please note, I would have also suggested John Kiefer but he is chair ad hoc.

Please note I will be at the March 28<sup>th</sup> meeting and request that this email be entered to the official record.

D. Weinstein – Joe, I forwarded the document from the State to everybody on the Planning Board so they all have it.

Sarah Osmeloski – thought the 3/7 meeting was a good meeting. Good suggestions and things were clarified. Alice Green wrote down a lot of the comments and questions and there were a lot of people here. Not once during the meeting did anyone say that this had already been sent for review. We thought we were having a meeting and helping modify the amendments a little bit and I was disappointed that it had been sent to the county 2 weeks prior – it was a sham. I put an effort into making comments and trying to see what other people see. Thought they were actually doing something.

J. Wilson - was shocked to find that the document went to the county. I talked with Scott Doyle and he understood that it was a final document. It wasn't, and in fact, exactly what occurred on March 7<sup>th</sup> is what we hoped would occur. The whole goal of the March 7th meeting was to get reaction so modifications could be made.

J. Kiefer- We wrote everything down and next step for the Building and Energy Committee was to sort through the information and look for common ground. He recognizes the 239 thing was awful and it caused great embarrassment for me and the folks around the table here. It can't be undone. Things have been shut down and we recognize the need to start over. It is my Intent to have open process and to comply with state law. The ball is now in the Town Board's court. If they choose to task the Planning Board with continuing, we will be relatively formal about that and we will see what happens.

J. Skaley – This was absolutely a draft. It was a way of laying out ideas, not to confirm ideas. That's why notes were taken of the comments to take into consideration going forward. We were far away from any kind of formal document.

J. Wilson - it was taken off the schedule to go to the Town Board's next meeting.

### **RESOLUTION #3 (2019) – DISSOLVE THE BUILDING ENERGY COMMITTEE**

C. Anderson offered the following resolution and asked for its approval:

RESOLVED that the Dryden Town Planning Board hereby dissolves the current Building and Energy Committee effective immediately.

2<sup>nd</sup> M. Hatch – J. Wilson and J. Skaley abstain – all others in favor.

C. Anderson requested documents be restored to website. D. Lamb will put them in the appropriate place.

Micki Preston – How will people find out when this happens again, before it gets to this point.

C. Anderson -The Planning Board could have had more oversight.

J. Wilson- Subcommittee met and under the advice of our town attorney we could meet and discuss what we might send to the Planning Board for review. Then J. Kiefer suggested that we need this to be more public so we began posting the meetings. The intent was to do what every subcommittee before had done.

Unknown audience member – Felt the Building Subcommittee was arrogant like we know better, we're smarter, we're going to force you to live under our belief system. Going forward you should be very careful of doing that.

D. Bravo-Cullen – What is the intention for this thing? We have a state building code and a state energy code that is revised each year. The energy code has been getting stricter each time. Does the town intend to pass a law that requires the people in the town to surpass the new energy code, or are you going to offer some advice or are you going to offer incentives to persuade people to do something beyond the latest energy code?

J. Kiefer - No intention to mandate a higher standard than what is defined in NYS code. The best example is in the zoning ordinance, there is an incentive for developers who meet the base LEED certification – they get a little higher density in their project. Things along those lines are in the control of the municipality to provide incentives for behaviors that we think are in everybody's best interest.

M. Adams – Could you maybe let it be offered for people that want to develop their land they would have a choice of whether they use this new system and if others don't want to they don't have to.

J. Wilson – We are looking at all kinds of ideas. The committee didn't get that far, we were just getting started.

M Hatch – We are not a legislative body so we can't enact any law, just suggest certain things that might be the right way to go as far as planning. Planning Board looks at things and follows rules passed by the Town Board on what is proper use of land. Comprehensive planning is a complicated process. Board listens to public input and tries to incorporate it in a comprehensive plan. M. Hatch has been here 48 years and there have been lots of changes during that time. Comprehensive Planning means thinking about how the changes take place. Climate change needs to be a significant component of the planning and be incorporated in the plan because as we all know now it is important it is to the community. We put ideas out for comment and think about how they affect our community. Doesn't think this is a religion. The energy we use is not anything spiritual. It is a real issue.

Visitor – We already have EPA regulations that already do a lot of what you guys are trying to impose and we already have tight regulations with regards to wood burning. Overstepping those are overstepping the boundary of the Town. If the meetings had happened in the open we wouldn't have gotten as far as they had gotten. When something seems a priority, it should automatically be a public hearing so all the basic steps are taken and no one feels left out or that you're trying to get something over on someone.

C. Schutt appreciates dissolving the committee, it was the right thing to do. For the committee to claim they didn't do any business, I can't buy that – how do you come up with this big power point presentation and proposed revisions to the Comprehensive Plan. I came to one of your meetings and you were headed right down that path of getting it done and over with. I agree that a totally different committee needs to be comprised. I think it should include builders, people who know what is feasible and know how this is implemented.

J. Osmeloski – You guys go through formal training and I am not sure that a person from the public on that board would be a good idea. I think you need to check with the attorney to see if you can mix a board.

Linda Fenner – Going forward figure out checks and balances so that documents don't get sent to the county before they're supposed to, or before the public knows.

Audience member – This issue is real, I have lived in my house for 25 years and the extreme weather events have flooded my house. Climate change is real. Information was available online, we just needed to find it and read it.

D. Weinstein – People need to email him comments on wind energy law and he will present these comments next time.

There being no further business, the meeting was adjourned at 9:23 p.m.

Respectfully submitted,

Bambi L. Avery