

TOWN OF DRYDEN  
PLANNING BOARD MEETING  
June 27, 2019

Present: John Kiefer, Chair, Craig Anderson, David Weinstein, James Skaley (alternate)  
Joe Wilson (arrived at 7:00 p.m.)

Absent: Martin Hatch, Tom Hatfield, Tony Salerno, Daniel Bussman

Staff: Ray Burger, Planning Director

Liaisons: Kathrin Servoss (Town Board)

Chair Kiefer opened the meeting at 6:05 p.m.

**Public Hearing**

**Mill Creek Conservation Subdivision**

Ray Burger explained this is a conservation subdivision in a Conservation District that straddles Caswell Road. The sketch plan has been approved. It is 900 acres that will be divided into 40 lots. 500 of the 900 acres will be designated as not buildable. It is a 40-lot residential subdivision restricted to one single family home per lot. Two parcels of land will be deeded to the town: 23 acres on Fall Creek (designated as a unique natural area) is being deeded to town and a 3.5-acre parcel on Wood Road slated as recreational use. It is suitable for possibly one soccer field. The 40 home sites are very carefully laid out to avoid the wetland and the creek.

**Susan Lowe** is unhappy with the short notice (four days) of this hearing. She fought against the landfill proposed for the site years ago; and said the beavers have built a dam on the property and water is almost the size of lake.

**Nancy Tenkate**, Wood Road, said she also fought the landfill. Forty pieces of property doesn't seem outrageous; but wants to make sure an EIS has been done because back then there was so much wetland and the creeks are there. She doesn't imagine it impacting her property like the landfill would have. She wants to make sure everything is preserved that is there. There is a lot of wildlife and fish that aren't in other places. R Burger said there has not been an EIS, but there will be a SEQR process tonight. The full environmental form has been on the web the last few months.

D Weinstein distributed maps to the audience and pointed out that the third sheet shows where people will be allowed to build.

**Kenneth Peck**, 157 West Dryden, said he understands that wetlands are being protected. There are also low-lying areas. He asked how much land fill would be brought in to the low-lying areas and what happens in terms of water reallocation, both surface and subsurface. In Lansing on Cherry Road there was an area that was lowland that had a wetland pond and it is being developed. They have brought in over 5 feet of fill. What constraints are being placed the proposed development in terms of water rearrangement and what proposed impact will that have on the environmental assessment? His well is

only 35' deep and he doesn't want to put in a deep well. When you change land height, you impact both surface and subsurface water.

**S Lowe** said she is familiar with the site K Peck referred to on Cherry Road. Every night it floods and goes away, and they have a large amount of mosquitos. She is upset about the short notice of this development and doesn't want to have to fight to keep her farm.

**Gary Wade**, 233 West Dryden Road, asked if the septic systems would be private – one for each home? Yes. In relation to the creek that feeds into Ithaca, will there be a problem with those septic systems in relation to the creek? The county reviews, approves and sometimes designs septic systems for individual houses.

**Cindella Palmer**, 306 W Dryden Road, purchased her property a year and a half ago. She is concerned with the uprooting of the wildlife. The beaver will move down river and build another dam. Fox, coyote, rabbits are a concern. She is also concerned with noise pollution during paving, knocking down trees, building noise, and how long will all that take. Great points about the septic and water and how it connects to the neighbor's lives, not just the homes.

S Lowe said the County bought homes of neighbors around where they were going to put in the landfill because the houses lost value. She didn't sell and low and behold, nothing happened. At least three homes were bought out in the 80's. History has a way of repeating itself.

N Tenkate asked whether of the property has sold yet and was told no.

**Shirley Lyon** said she was under the impression from a conversation she'd had that if someone purchased one of these lots they would be able to further subdivide it.

D Weinstein explained that there will be strict covenants that only one house can be put on a parcel, they cannot be further subdivided. R Burger said one single home only is allowed per lot. The covenants are listed on the front page of the plat. Any title search will include these covenants.

## **BLUE BIRD SUBDIVISION Modification of Approval**

Chair Kiefer opened the public hearing at 6:25 p.m. R Burger explained this subdivision of 7 lots was approved a few years ago. The filed plat indicated there would be three curb cuts servicing the six lots along Dryden Lake. There were proposed driveways labeled on the plat, but no associated note. In the past few years, unfortunately, there were five highway permits issued for the six lots along Lake Road. The action before the board tonight is to consider modifying that plat to align with the five curb cuts made instead of the three shown.

Comments:

**Mahlon Perkins**, 477 Lake Road, said he owns property across from the area in question. What you are asking now is for every lot to have its own curb cut, which is contrary to the policy of the Town of Dryden and contrary to what was portrayed on the major subdivision plat. In a Conservation District you are charged with making sure that lots are arranged in a manner that protects lands of conservation value and open space, facilitates vehicle, pedestrian and bicycle circulation. Access management

techniques such as shared driveways should be used to minimize curb cuts on rural highways. That is under the general rules.

At time of the sketch plan one of the things you should consider is conformance to the maximum extent practicable with the residential and development guidelines. At the time of the preliminary plat approval you were to see if the plat conforms to the sketch plan. The preliminary plat shall show or be accompanied by proposed plans for private roads or shared driveways. You did all that.

Now we just want to do whatever we want to do. We want to throw out the approvals and the policy of the Town of Dryden because of some disconnect at the town. Your subdivision law says it shall be the policy of the town to encourage, wherever feasible under the circumstances, the minimization of the number of driveways on a public highway by approving the use of common driveways in accordance with the provision of this article. The use of common driveways is desirable because a reduction in the number of curb cuts or road access points; minimization of land disturbance and so forth, and the residential and commercial development design guidelines, which you approved. Which the Town Board approved, which are referred to in your subdivision law. And in the introduction, it says the long-term cumulative adverse impact of small incremental developments which are not coordinated or considered as part of the whole community vision can have a significant detrimental effect on each of the positive values mentioned above in the introduction. Strip residential development, or in other words, the continuous and almost random subdivision of lots up and down roads in town is indicative of this concern and creates a problematic trend from a town-wide perspective.

In particular, design guidelines should be used to advance the following goals drawn from the town's Comprehensive Plan. There are four items there: integrating new growth in a way that respects and protects existing natural and cultural resources in a reasonable manner, provide reasonable examples from appropriate design concepts for landowners who propose to subdivide their property (as you did by requiring the shared driveways to be shown on the plat); protect wherever possible enhanced public safety along roadways; establish development patterns that are cost effective for the town and developers while creating a land use pattern that protects and strengthens the town's natural resources. One of the major issues in the town of Dryden is the current trend of almost all newly constructed residential lots having direct access to existing roadways. This strip residential pattern is increasingly creating a traffic safety issue. As the number of driveway cuts increases, so does potential conflict between roadway traffic and vehicles entering and exiting the highways. This kind of pattern creates more of an acute safety problem along state and county highways and other roads with higher design speed. The design speed, or the speed limit, on Lake Road is 55 miles per hour.

I suggest to you that if you are going to approve this amendment, you are flying in the face of the policy of the Town of Dryden. I don't care where the disconnect happens, I think it should be fixed. Whether it is by the town because the town erred, or I don't want to cause the homeowner a problem, but it seems to me they are on notice that there are supposed to be shared driveways. Not one driveway for every lot, shared driveways.

S Lowe – Can you understand why we might be worried about this next one?

**General Public Comment:**

None

**Approval of Minutes**

The board discussed the minutes of May 23, 2019, and a sentence regarding height of the wind installation was removed from page 3. On motion of D Weinstein and seconded by J Skaley the minutes as amended were unanimously approved.

J Skaley was appointed as a voting member.

**MILL CREEK SUBDIVISION  
Updates**

J Kiefer - Storm Water Pollution Protection Plan (SWPPP) – It was his understanding is that the developer was not going to delineate the development spots on each parcel to indicate where the house would be built, that the County subsequently required a SWPPP to be prepared, which then causes the developer to show those locations and then put together a plan that will be reviewed by the town engineer having to do with storm water flows.

R Burger said that is currently under review. DEC has the authority here and they may require a full SWPPP. The board could go through the review process tonight and just make it a condition that it complies with storm water law. (It would be part of the standard conditions of approval.) The other piece that is missing is the actual instrument to be used for deeding the land over to the town. The draft of that was just provided today and has been forwarded to the town attorney for review. County 239 review has not yet been received.

The board decided to not move forward without the county review.

S Lowe – Not enough notice of this. Land is a lot wetter now than it used to be. Why do we want this?

S Palmer – To watch it change, out of my control, gives me such a helpless feeling right now.

D Weinstein – I share your feeling that we should have open space, but we have to keep in mind –

- People’s ability to find parcels to build houses around here is getting really tough, so the price of houses, for someone that wants to build a relatively inexpensive house it’s tough to break into that market.
- Somebody owns these 900 acres; would you say to them you can’t make money off these 900 acres. It has to be a park? This is an abuse of our power. Forty houses on 900 acres keeping away from wetlands, buffers, no building near the wet areas – we have to weigh those things against each other.

J Kiefer – This board is charged with administering the laws and rules of the Town of Dryden. Our ability to do things outside a narrowly defined set of procedure is limited. Our role is to be familiar with the laws of the Town and use those laws as a test to see if they are following the laws or not.

Lorraine Baird – Where will houses be built? Will they be built back away from the road?

Peck – We tried to buy a portion of the land over the last several years and was told they wouldn't subdivide and now it is. We would like to buy pieces that adjoin our property and were told they weren't willing to subdivide or sell. This board has moved fast and if someone else would like to buy these parcels or part of them, you make it so that can't happen. If this passes in 21 days, he can't do an amendment. We've not had a response.

S Lyon requested an explanation of SWPPP. J Kiefer explained it is a civil engineering document that shows elevations, grades, and storm water flows. The applicant prepares it, it's an environmental protection initiative, and then the town engineer reviews it. It is a legal requirement for the developer.

J Kiefer made a motion to leave the public hearing open and pick it up again at the next meeting. C Anderson seconded, unanimously approved.

D Weinstein asked for a final version of the covenants that are going to be put in place. R Burger advised they are on the front page with the plat.

## **BLUE BIRD SUBDIVISION Amendment**

J Kiefer- This is a proposed amendment to the plat that increases the number of curb cuts from 3 to 5.

R Burger explained why this request for a modification is being made. This was a large piece with 6 lots on the lake and one across Lake Road (old golf course). It was mandated into the conservation subdivision process, and the board went through a variety of the things that Mahlon Perkins was talking about – bring it consistent with residential design guidelines. There is a conversation zone along the lake where they can't build or mow and along Lake Road to protect the viewshed from the road. This is a conservation subdivision and we were conscious in putting these shared driveways in place, pairing up the 6 lots and making them use 3 curb cuts. It was put on the plat as a proposed driveway and a proposed building site. There was no plat note associated with it and using the language "proposed" led both the applicants and our highway department to not see that as a mandate, so individual highway permits were issued when people came in for their driveway permits. All the culverts have been installed, only three of the driveways have been built. Is it impractical to create a shared driveway? Lots 1 and 2 were purchased by the same person so they have a single driveway and curb cut. Lot 4 has a house under construction, driveway installed, and the house is situated behind mature trees and they ended up putting a driveway almost directly to road. On either side of them (Lot 3 & 5) the driveways are not in place, but the culverts are in place. Lot 6 put the application in for the correct driveway line. There are already 5 curb cuts in place.

J Skaley - Sounds like something got missed and based on the design guidelines, these properties are now out of compliance. R Burger stated the design guidelines uses the language "should" a lot and I think we have implemented a lot of the design guidelines and we have a conservation subdivision that conserves a lot of the significant features of this parcel. We have "may" and "should" language. (J Skaley remarked this is a problem throughout our whole zoning operation.) Use the word "shall" if you want it to be universally applied.

The house on lot 4 was sited behind present trees and back from the pond. The wanted to utilize septic on one side and geothermal on the other. The geothermal is up into the conservation area, further reassuring there will be no buildings there. It made a shared driveway on that lot difficult. They would have had to parallel the road to share the driveway.

C Anderson said we are supposed to conform to the design guidelines to the maximum extent practicable. Conservation subdivision is really about cluster housing and we've taken it to a different level with large lots and having conservation land on individual lots. They have 250' of road frontage, not different than rural residential would have with a single driveway per lot.

D Weinstein – said he remembers hearing is that having these additional roadcuts would decrease the amount of impervious land because the driveways would be shorter. He thinks their remedy lies with the Zoning Board of Appeals. This board sets policy and it's very clear in many places throughout our zoning and guidelines that we feel it is a very high level of concern about having too many road cuts. I feel that we would be setting a bad precedent to tell them it's ok. They should go to the Zoning Board of Appeals and get them to issue a waiver to allow them to keep their driveways as they are.

J Skaley – It's odd that the Highway Superintendent didn't check with the Planning Department in terms of how this fits with the guidelines before issuing a permit. R Burger said it is his responsibility to red-flag the plats for the Highway Department. He is accepting a failure in his process and thinks we have several failures.

J Skaley is concerned about scattering of lots along the roadways which means extra roadcuts.

Rohn Brown who owns Lot 4 has already planted 550 trees this year. The way he read everything and the way it's written on the plat, everything is proposed or may. The Highway Department staff were very helpful when he inquired what he needed to do to get the culvert installed. He found out about this issue when he came in to find out what his actual address would be. To go back to what was the proposed position of driveways, that's no different than saying the proposed well, the proposed sewer – what does all that mean? Does it mean he has to put it there because it said proposed? He did what he thought he was supposed to do. Does he have to put the well, septic and house where it says proposed also?

C Anderson said the SWPPP had to outline the proposed building sites, so yes, you have to build in that circle or you modify the SWPPP.

R Burger said the town attorney's advice was that we should do it with the same process--a public hearing and plat amendment.

The Planning Board was under impression that when we created the subdivision that certain things would happen, and that was on the documents that were recorded with the county. Now we are hearing the term proposed, which does give an impression of flexibility.

Lori Hill who owns Lot 4 and her builder, Matt Haney were present. They are in the process of building and this would be an inconvenient time to say "sorry, we were wrong". Matt Haney, resident and builder, said this was done with zero ill will. He has seen many subdivision plans use the word "proposed". Proposed is typically subject to approval of zoning officer or code officer.

J Kiefer – For a variety of reasons, none of which are the fault of the people building, we ended up with 5 curb cuts. Town law doesn't require shared driveways. It says it is desirable when convenient to do so. If we choose to okay 5 curb cuts, we are not doing anything different than what the town law says. Hopefully, we will learn from this. Relative to this application, are there safety issues here that we need to think about? Are 3 curb cuts safer than 5? Are there environmental issues as to why 5 curb cuts are not an advantage and 3 are? Are there aesthetic issues we need to deal with? He doesn't believe so. If we force the folks building to do 3 instead of 5, we make problem worse. Based on what has already happened, the cure is worse than the disease.

**RESOLUTION #11 (2019) – RECOMMEND AMENDMENT OF PLAT CONDITION ALLOWING 5 CURB CUTS FOR THE BLUE BIRD SUBDIVISION**

J Kiefer offered the following resolution and asked for its adoption:

Whereas there appear to be no safety issues in increasing the number of curb cuts to 5, and  
Whereas there appear to be no environmental issues, and  
Whereas there appear to be no aesthetic issues associated with this amendment, be it

RESOLVED, that the Town of Dryden Planning Board accept what has happened for the above issues, that the board learn from this, and hereby amends the plat conditions to reflect the 5 curb cuts that are already in place.

2<sup>nd</sup> C Anderson – all in favor

Comments during discussion:

D Weinstein – I would take issue with your conclusion that there are absolutely no safety issues. The whole reason for shared driveways is because of safety. Deterioration of safety is acceptable in this case because it is not a lot of new curb cuts, not enough to warrant going against this resolution.

C Anderson - Conservation subdivisions were for cluster housing and made sense then. We have gotten out of that with large lot subdivisions with conservation easements. It isn't any different than rural residential with 250' of road frontage.

L Hill said a driveway straight out is safer than at an angle.

J Skaley suggested an official line of communication between the highway department and planning department.

J Wilson – The Highway Superintendent is elected on his own meaning he doesn't have to answer or communicate other than a matter of good professional practice with Ray or the code enforcement officers.

B Avery – It's on the Planning Department to make clear to the Highway Superintendent's office when you have a subdivision that has these types of restrictions, knowing they will be the ones issuing the driveway permit. There aren't that many situations where we would have this type of restriction, so the Planning Department should put the Highway Department on notice.

## **COMPREHENSIVE PLAN**

Proposals from consultants are due Monday. The selection committee needs to schedule a meeting to review. R Burger stated there have been no proposals received to date. He has heard from two firms that he is sure will be submitting. J Kiefer said the firms he spoke with were very interested in our work.

## **CLIMATE SMART COMMUNITIES**

J Kiefer sent out a draft Climate Resiliency Improvement Plan and A Green would like the board to give feedback on that (send comments directly to A Green). The Climate Smart Communities initiative through NYSERDA has funding to help pay for municipalities to update their comprehensive plans. J Kiefer and R Burger are working on that grant application. They are particularly interested in climate change initiatives. They would fund a study to determine where the risks are to the town associated with climate change. We are hoping they will cover half the cost of the Comprehensive Plan update.

J Wilson – The County Energy Task Force has been formulating initiatives and policies. A week ago, at their last meeting, there was a 2-page proposal for how the county will operate with regards to climate issues. He will share with Planning Board members.

J Skaley - Do we have information about what the governor signed regarding the New York State objective with regard to climate? We will be hearing something about that at some point.

## **SMALL WIND ORDINANCE**

A draft was finished, and a clean copy will be emailed to Planning Board members.

## **VARNA ZONING DISCUSSION**

D Weinstein sent out a resolution he would like to submit for the approval of this board and the justification for this resolution.

Justification:

The bottom line is that the Varna Community Development Plan set a goal as its buildout for Varna of 454 bedrooms. This does not include 1061 – 83 bedrooms because it is outside the hamlet. I calculated how many total bedrooms our current zoning allows in Varna by looking at our allowable unit table and then using the numbers from the census district that covers most of Varna that has an average of 2.6 bedrooms per townhouse or apartment and 1.9 bedrooms per single-family house. I used those numbers to get from allowable units to bedrooms and multiplied by the amount of available acreage in each of the Varna zones to determine the number of how many single-family houses, townhouses, apartments, duplexes could potentially be built with our current zoning.

Instead of 454 bedrooms, we have a potential of having 1,835 bedrooms (if only single-family houses) or 2,884 bedrooms built (if other than single-family houses). Compare that to the goal that was set. We have almost 173 bedrooms that have already been implemented in Varna.

D Weinstein offered a resolution for consideration by the board.

J Kiefer - agrees that zoning is inconsistent with spirit and intent of the Varna Plan. In your proposed resolution you quote numbers – avoid that.

J Skaley asked the county planning office and asked their GIS person to map out the Varna area that shows rental vs owner occupied. The calculations came out to 119 owner occupied, 11 duplexes, and 6 multi-units, that's what the current situation is without any additional development. Proposal on the table (Trinitas) would generate close to 90% rental in the Varna area. 1.1 apartments to single family for density. Plan would allow for the maintenance and construction of a certain number of single-family units in proportion to multi-unit development.

D Weinstein the subcommittee would propose ways of incentivizing single-family homes instead of maximum density buildout. Incentivize a mix of buildings.

K Servoss – Is here on behalf of D Lamb & A Green. D Lamb has comments regarding this resolution and we do not deny there is a disconnect. However, D Lamb says changes to the zoning should be addressed in context of comprehensive plan update and this type of action should be a charge from the Town Board. Maybe the resolution could be a recommendation to the Town Board to direct the Planning Board to do something with this.

D Weinstein – My understanding (per K Sokoni) is there is no problem with the Planning Board doing this when Town Board does not come over with any expressed interest in this problem.

J Wilson agrees in a narrower sense. Not productive to make a resolution to the Town Board asking to be told to do something. It takes time and is awkward. Planning Board should assess a need and ultimately make a recommendation to Town Board.

D Weinstein - No one wants a quick ad hoc solution, but we need to recognize that in the five years since the Varna Plan was created every development has been at maximum density. It has eaten up half of the flexibility in the community for getting interested developments. Another five years without taking care of it could mean exceeding the goals before new zoning is in place. We need to do something faster.

The proposed resolution was amended and adopted as follows:

**RESOLUTION #12 (2019) TO DECLARE THE ZONING IN VARNA IS INCOMPATIBLE WITH THE VARNA COMMUNITY DEVELOPMENT PLAN**

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

Whereas the Varna Community Development Plan set as a goal to add 450 bedrooms as a full buildout of the hamlet,

Whereas the current zoning in the hamlet of Varna allows for significantly more density than was identified as the goals of the Varna Plan,

Whereas the current pattern of development has seen almost every new applicant since 2012 propose to develop at the maximum allowable density,

Whereas this pattern of development is incompatible with the goals and objectives identified in the Varna Plan,

Be it Resolved that the Dryden Planning Board declares the allowable density permitted in the current zoning is incompatible with the Varna community growth goals as described in the Varna Community Development plan,

Be it Resolved that the Planning Board will create a subcommittee to study possible options for resolving this incompatibility and propose a variety of options for changing the zoning to bring it in line with the goals of the Varna Community Development Plan and incentivize a diverse mix of housing types.

2<sup>nd</sup> C Anderson

All in favor.

J Skaley will share saved information from when the plan was put together with the committee and this board. He doesn't think is different than what residents in the area will say today and is still relevant.

D Weinstein will reach out to members of this board for subcommittee members. He would like to chair. Need to come up with options – reduce allowable units, form-based zoning? He will gather names of people that would be interested to the next meeting for appointment.

J Skaley to R Burger – Ithaca Neighborhood Housing has an option on 2 parcels that Trinitas would acquire. It was his understanding that those were calculated into the green space number. If Trinitas was to be built and they were to sell the 2 parcels to INHS, this would reduce the amount of green space calculation. Town Board would need to evaluate benefit. Can't have it both ways. If you remove those two lots they will not meet the minimum green space.

J Wilson – What is the significance of having “x” amount of green space? It is required in the Town law of a minimum amount of green space to be provided.

## **MINEAH ROAD Update**

R Burger – S Lyon met with David & Angel and David just generated a memo for a grant opportunity for getting a planning grant to address the water problems on Mineah Road. Take a look and see if there should be any action. Water quality improvement plan – Rick Young and Jennifer Carious are working on getting an application in for a smaller project on Knollwood Drive.

S Lyon – We need to do something about slope building as it is impacting people down below. Kirk Road is also involved because it is flooded. We need to look at slopes and building and water.

## **IVY RIDGE DEVELOPER**

R Burger just got a call this afternoon from the developer of the 42 town homes at the end of Game Farm. He is looking at a neighboring 5-acre parcel (Kimball property) and wants to explore options for getting 1-bedroom units there, if there is any way to account for smaller bedroom count. It would be another project with half being 1 bedroom. Is there a way to increase unit count, but have less

bedrooms? This could be a reduced bedroom count. We don't have a tool to get there. A PUD is not likely.

There being no further business, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Bambi L. Avery  
Town Clerk

DRAFT