

TOWN OF DRYDEN  
PLANNING BOARD MEETING  
Via Zoom  
June 25, 2020

Present: John Kiefer, Chair, Tom Hatfield, Craig Anderson, Tony Salerno, Daniel Bussmann, Joe Wilson, David Weinstein, Alice Green (alternate), Simon St Laurent (alternate)

Absent: Tony Salerno (arrived at 6:40 p.m.)

Staff: Ray Burger, Planning Director

Liaisons: Loren Sparling (Town Board), Nancy Munkenbeck (Conservation Board)

Chair John Kiefer called the meeting to order at 6:00 p.m. Alice Green was made a voting member in the absence of Tony Salerno.

#### **Public Comment**

None.

#### **Approval of Minutes**

Changes in the minutes were discussed and agreed on, including that language with respect to a sketch plan should say that the sketch is accepted instead of approved. On motion of J Wilson, seconded by A Green the minutes were unanimously approved as amended.

#### **Maifly Development – Freese Road**

J Kiefer reported that at their last meeting the Town Board worked long and hard on concepts of definitions. There was a lot of debate about ownership and what buildings needed to be owner-occupied or whether it was alright to have rentals. If an application that is past sketch plan phase is deemed to be complete within 60 days of approval of the local law, the applicant can choose to proceed under the old zoning. A hearing on the proposed local law is scheduled for July 16.

Adam Fishel said they have reached out to SRF who did the traffic report for the Trinitas project. They will do a trip generation letter for the new portion of the Maifly development as well as the cottages development so that those two projects will be addressed in the same letter together with any potential impacts at the Freese Road/Dryden Road intersection and how, if it all, it will change the conclusions they made for the Trinitas project. SRF just received the accident data from local authorities this week and hope to have the report in the next week or ten days.

M Durbin said they would like to have a complete application in the next 30 days, but realistically it will be 45-60 days when they have the final set plan prepared encompassing all of the items listed previously by this board.

## Conservation Subdivisions Using Restrictive Covenants

The moratorium expires this month and J Kiefer said he doesn't think the board has a deliverable associated with that. He has spent a great deal of time on this and consulted the town's attorney and an attorney with the Association of Towns. The process of creating a conservation subdivision and documenting the board's requirements for approval, whether done with a conservation easement or restrictive covenants, and should require involvement of the town attorney. This board has not done that in the past and should going forward.

J Wilson noted that it was recommended that the Planning Department and Highway Superintendent should have checklists for projects. He volunteered to work with the Planning and Highway Departments on those checklists.

He added that restrictive covenants will inevitably lead to litigation if there is any contention over them because the town or property owner will have to demonstrate that the restrictive covenant has a beneficial effect on the use of the land. On the other hand, with respect to conservation easements, the statute lists defenses that cannot be used once a conservation easement has been created. He recommends use of a conservation easement and to not rely on restrictive covenants.

R Burger addressed processes that he has put in place to date. DPW has been provided with the map and restrictive covenants for the Mill Creek Subdivision so that they are aware of what the requirements are when a driveway permit is applied for. It was a more passive process in the case of the Blue Bird subdivision, there were proposed driveway lines on the plat and there was no coaching or briefing on what the Planning Board expected. The transmittal process and related duties are clearer now. There have been 20 driveways installed in the Mill Creek Subdivision and discussion between Highway/DPW and Planning Department staff regarding the location of the building zone in the process. With respect to building permit applications, the plats are reviewed when an application comes in. They are looking at options for tracking these requirements into the future when current staff are no longer employed here. There may be software available to help track this restrictions/covenants.

### Discussion/Comments:

- We need a good system that picks up any restrictions and covenants on a parcel.
- The buyer is responsible for knowing what the rules are.
- A title search shows any encumbrances on the property.
- The town can be smarter and more helpful about it, but it is the homeowner's responsibility.
- The town should use a conservation easement and not rely on buyers and sellers to properly document their restrictive covenants.
- The town attorney needs to be involved in the process.
- There are some instances where a restrictive covenant is more appropriate than a conservation easement.
- What is to be protected and how to proceed needs to be clear.
- There needs to be a memorialization of that, and language developed that is acceptable to the town.
- Each case will be somewhat unique.
- Consulting the town attorney should be part of the process.
- There is a cost to the town.

- Should the developer be responsible for the expense of putting these protections in place?
- There should be a directive in the process for involving the town attorney.

J Kiefer will prepare a proposal for modification of the zoning law that includes language that the town attorney needs to be engaged to produce the appropriate documentation and the cost

Nancy Munkenbeck asked about enforcement of the easements by the Conservation Board. R Burger said the Conservation Board has taken on the stewardship aspect of the conservation easements. Those easements and contract do have enforcement mechanisms. The restrictive covenants have no process like that.

Conservation Board members have inspected an issue in a conservation easement in Ellis Hollow and the town hasn't followed up on it. R Burger said it is being pursued and the SWPPP needs to be executed by that lot owner.

#### Short Term Rentals

The board took this up after complaints from residents. Zoning doesn't allow for short term rentals in the residential zone. Goals were to keep it simple, make short term rentals an allowed use, and make sure that we protect the character of the neighborhood.

T Salerno said most of the complaints have been cases where someone is using a property pretty much exclusively for short term rentals. Many municipalities have tried to deal with those because it kind of gets around all of the rules that impact hotels and motels because it is almost being used as a commercial property instead of a residential property. It also drives up rent because it makes fewer houses available to rent on a long-term basis, makes houses more expensive to buy, and changes the character of the neighborhood.

He reviewed the proposed resolution with the board. After discussion and some edits, the following resolution was passed.

#### **Resolution #9 (2020) - Regarding Short Term Rentals in the Town of Dryden**

T Salerno offered the following resolution and asked for its adoption:

Whereas the Dryden Town Board requested the Planning Board review and make recommendations related to Short Term Rentals.

Whereas Short term rentals have been increasingly popular over the last several years in many areas of the country including the Town of Dryden

Whereas Short Term Rentals are not covered under current Town of Dryden zoning law and are therefore a prohibited use.

Whereas Short Term Rentals can have positive impacts such as offering lower costs to travelers, increasing tourism, bringing economic activity into the community and providing an additional revenue stream for residents.

Whereas Short Term Rentals can have negative impacts such as increasing the cost of housing, decreasing the availability of long term rentals, decreasing the availability of affordable housing, decreasing property values of neighboring properties and significantly changing the character of neighborhoods.

Be it resolved that the Town of Dryden Planning board recommends to the Town Board the following changes to the Town of Dryden Zoning law.

### **Article III: DEFINITIONS**

Add Short Term Rental Definition

“SHORT TERM RENTAL - Rental of a residence or a portion of a residence to the same natural person or family of fewer than thirty (30) consecutive days.

### **ARTICLE VII: VARNA**

Section 702: Varna Use Regulations

Add section 702 – E

- E. Short Term Rental provisions contained in section 912 shall also apply in Varna.

### **ARTICLE IX: GENERAL REGULATIONS**

Add Section 912

Section 912: Short Term Rentals

- A. Use of a dwelling unit or a portion of a dwelling unit for short term rental is permitted only when the residence containing the dwelling unit is contained in or adjacent to the primary residence of the property owner and only as an accessory use.
- B. Short term rental of a residence or a portion of a residence, meeting all of the following requirements:
  - a. Compliance with all Federal, State, County, and local laws, codes, rules and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code.
  - b. Permitted short term rental types:
    - i. Rental of a residence or a portion of the residence, such as a secondary self-contained accessory apartment or a room contained in a residence, for a maximum of thirty (30) days total in any calendar year where the owner is not present in the residence, provided that the owner of the residence or his/her agent is available locally in order to respond in a timely manner to complaints regarding the condition of the residence or the property at which the residence is located or regarding the conduct of occupants of the residence.
    - ii. Rental of a secondary self-contained accessory apartment, provided that the owner of the residence is present in the residence during the term of the rental.
    - iii. Rental of a room, or portion contained in a residence, provided that the owner of the residence is present in the residence during the term of the rental.

- c. A short term rental may not be used by a total that exceeds 2 adults per bedroom.

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

### **Comp Plan Update**

Feedback from the advisory boards will go to the consultant by the end of the month. A survey will be released to this board on July 1 for review and to try online. On July 8 any final survey tweaks will be made and postcards will be prepared and mailed.

A Green asked about a pretest process and suggested someone other than board members and those familiar with the process complete the survey before it was released. The consultant will be asked about this.

### **Noise Complaints/Ordinance**

The Town Board discussed noise complaints that have been received by the town. The complaints are a mix of party noise, target practicing near someone's house, roosters crowing and other things. The Town does not have a noise ordinance for this purpose and wondered about the Planning Board taking this up. J Kiefer did some checking about what other towns have done. Newfield had a good approach to the situation. They called the County Sheriff and asked for someone to address their board on the topic and make recommendations. The Lieutenant who came to the board said the ordinance used by the Town of Ithaca was a good one and they were able to enforce it. J Kiefer has suggested to the Town Supervisor that he request someone from the Sheriff's office to come out and share their experiences, and if they recommend a template, that could be reviewed by the advisory boards. He asked if the Planning Board felt this was an appropriate matter to take up. There were comments that the Town of Ithaca ordinance was a good place to start and that having the Sheriff address the board was a good idea. J Kiefer said the Town Board will make a formal request and offer some more specific direction if they want the Planning Board involved.

### **Special Use Permits**

There are three special use permits coming to the Town Board in the next few months. A material storage yard on Hanshaw Road, the improvements to the Borger Station on Ellis Hollow Creek Road, and a fiber installation on Route 13.

R Burger said the materials on the contractor yard were sent to Planning Board members. He asked if any board members had anything to pass on to the Town Board. A 40' x 100' will be constructed and used to store cabinets and lumber. C Anderson said the site currently has equipment there and anything put under cover would be a benefit to the area. The lot is buffered from nearby residents. It is a fairly large lot. The Planning Board recommends neutral colors for the building, that materials be stored out of site, and that the site be kept in an orderly manner.

### **Future Meetings**

The comp plan meeting will be July 8. There was discussion about Governor's Order relaxing the open meetings law and how it may affect future meetings. The Order may be continued or it may be revised to allow some hybrid of socially distanced in-person meetings combined with virtual attendance.

It was suggested that the sound system in the meeting room could be improved, including using lapel microphones. A location other than the meeting room in town hall may be necessary to allow for proper social distancing.

**Blue Bird Subdivision**

R Burger said the owners of the lot where a house was constructed in the conservation easement area are trying to obtain a mortgage and get out of their construction loan. They are pursuing an agreement with other property owners in the subdivision and have asked the town if they would give up their enforcement rights. The answer to that was no. They may try to expand the settlement to adjacent neighbors. He is not sure what they will propose.

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

Respectfully submitted,

Bambi L. Avery