

**MINUTES
SENECA COUNTY PLANNING BOARD
MAY 9, 2019**

**FORMER OFFICE FOR THE AGING ROOM, 1ST FLOOR
COUNTY OFFICE BUILDING
WATERLOO, NEW YORK**

MEMBERS PRESENT: Betty Berger, Henry Bickel, Charles Brady, Gordon Burgess, William Dalrymple, Michael Enslow, Mary Kelleher (Alternate), Sally Kenyon, Mark Lott, John Pigman, Jr., Tom Scoles, Michael Smith and John Swanson

MEMBERS CALLED: Michael Scaglione, Melvin Wagner and David Wood (Alternate)

MEMBERS ABSENT: Please See Above

STAFF: Harriet Haynes, Sr. Planner; Joe McGrath, Grants Management Specialist and Mary DeStefano, Staff Resources Asst.

GUESTS: Matt and Lisa Mihalko and Rick Willower

The meeting was called to order at 7:00 p.m. by Chairperson William Dalrymple.

Chairperson Dalrymple appointed Alternate Mary Kelleher to sit in for Melvin Wagner.

The Minutes of the April 11, 2019 meeting were approved by a motion of Gordon Burgess and seconded by Michael Smith. Carried 13 – 0.

PUBLIC COMMENTS:

Mr. and Mrs. Mihalko were present regarding their application for an Area Variance request. The applicants are replacing the decking and stairs at their cottage on Lower Lake Road in the Town of Seneca Falls.

Mr. Willower was in attendance regarding his subdivision request for land to be purchased from Bruce Mayberry.

GML Reviews:

1) Town of Varick, Subdivision Review, Willower, Richard

John Swanson moved and Mark Lott seconded adoption of amended Resolution 21-19, recommending approval with several conditions. Mr. Willower intends to purchase property as a result of the owner, Mr. Bruce Mayberry, subdividing approximately 130 acres into three parcels located west of Route 96A in the Town of Varick. Mr. Willower is also subdividing the parcel he owns. The proposal includes dividing three parcels and reconfiguring them such that Mr. Willower will own all of the land in the parcels west of the Railroad Track and Mr. Mayberry will own all of the land east of the Railroad Track. Tax Parcels include 06-1-12.11, 06-1-12.2 and 06-1-11.11. Parcel 12.11 currently has an access strip of 30' that will be retained as access to the properties west of the Railroad Track. Ms. Haynes stated that the property west of the Railroad Track will have no other frontage on a public road and a variance may also be required. Ms. Haynes stated that the proposal seems reasonable as a way of consolidating agricultural lands into larger parcels, should have no significant negative impact on County plans or purposes, and cited conditions as written in Resolution 21-19. A lengthy back-and-forth discussion pursued amongst the applicant, board members, and Planning Department staff as to the applicant's legal access rights across the Railroad Track to his newly purchased land, and the matter of such land being landlocked. The general consensus of board members was that Mr. Willower needed to gain legal authorization from the Finger Lakes Railway to access his land by crossing over the Railroad Track. When asked what he intends to use the land for, Mr. Willower stated that the land consists of timber and will be using it for hunting purposes. Charles Brady moved an Amendment to Resolution 21-19, adding an additional condition of "3) that the Finger Lakes Railway grants access across the tracks for access to the combined parcels on the west side of the Railroad Track, or an access easement be acquired from an adjacent property owner". Seconded by Gordon Burgess. Other conditions include 1) that the 30' strip be continued to the Railroad Track and made a part of the portion of 06-1-12.11 that will be on the west side of the track, 2) all of those parcels on the west side of the track be consolidated into one parcel,

4) that the portion of 12.11 on the east side of the tracks (minus the 30' strip) be combined with an adjacent parcel, and 5) completion of appropriate survey maps. The Amendment was seconded by Gordon Burgess. The vote on the Amended Resolution was carried 12 – 1 with John Swanson voting nay. The vote was then taken on the Resolution as amended. Carried 13 – 0.

2) Town of Seneca Falls, Area Variance, Mihalko, Matt & Lisa

John Swanson moved and Michael Smith seconded adoption of Resolution 22-19, recommending approval for request of an Area Variance. The variance is being sought by the owners to replace the deck and stairs at property located at 2435 Lower Lake Road in the Town of Seneca Falls. The new construction will connect their parking area to the home. The lakefront property has the parking area at the rear of the home as well as road frontage. Mr. McGrath stated that in this vicinity of Lower Lake Road, the road sits above grade from the lakefront homes. Upon visiting the site, Mr. McGrath observed that most of the decking and stairs have been removed. Mr. Mihalko gave the history as to the necessity of having to remove the rotted steps and decking. As proposed, the deck platforms and steps total 265sf, and added to the footprint of the home, the total lot coverage will increase to 49%. The lot coverage previously was 38.77%. Mr. McGrath stated that under the Seneca Falls Town Zoning, the maximum lot coverage in the R-1 Residential District is 25%, and any increase in that nonconformity will require an Area Variance. The side setback requirement in the R-1 Residential District is 15 feet. If both side setbacks are required, it would mean that the parcel would need to be at least 30' wide, and this parcel is only 28' wide. The parcel is pre-existing nonconforming to the Zoning Ordinance. Mr. McGrath stated that it would be impossible to impose the setback requirements of the district on this property. The applicants will require a setback variance. Front and back setbacks in the district require 30'. Mr. McGrath stated that most of the properties on Lower Lake Road are nonconforming to this regulation. He further stated that one could not argue that the hardship was self-created. Any impact to the County road will be minimal and the project will not be detrimental to the character of the neighborhood. It is recommended that the request for a maximum lot coverage variance, rear setback and side setback variance be approved. Carried 12 – 0. Tom Scoles abstained.

3) Town of Tyre, Site Plan Review, del Lago Resort & Casino

Gordon Burgess moved and Sally Kenyon seconded adoption of Resolution 23-19, which recommends conditional approval. This submission for Site Plan Review is the third application before the County Planning Board seeking approval of revised plans for a proposed expansion to the smoking area at the del Lago Resort and Casino. The del Lago Resort & Casino along with the Consulting Firm, BME Associates, have redesigned the proposed addition bringing the total square footage to 7,100 from the existing 1,280. Ms. Haynes stated that there are two design changes which include a second open-air garden area, and that the restrooms will be isolated from the smoking area. At the February and April 2019 meetings, concerns were raised by members of the County Planning Board regarding the NYS Smoking Ban and the lawfulness of the proposals. The Seneca County Public Health Department is the entity designated to enforce that law. Ms. Haynes stated that the County Public Health Department has been in contact with the New York State Department of Health regarding the determination if the most recent plans for the proposed area qualify as meeting the conditions for being an outdoor space. Ms. Haynes stated that as of this afternoon, the Director of the County Public Health Department had not yet received a response from the State office. Ms. Haynes reiterated that at this time, the final approval is pending on the State's interpretation with that information being conveyed to the County's Public Health Director. Therefore, it is recommended that any approval of this request be conditional upon receipt of approval from the Seneca County Public Health Department, and that it be further resolved that the Seneca County Planning Board will not consider any application for Site Plan Review of a smoking area which includes roof and walls as complete unless accompanied by a letter of approval from the Seneca County Public Health Department. Carried 11 – 0, with abstentions from Henry Bickel and Tom Scoles.

4) Town of Varick, Major Subdivision Review, Somerville, James

Sally Kenyon moved and John Pigman, Jr., seconded adoption of Resolution 24-19, recommending conditional approval for a Major Subdivision Review for property on Yale Farm Road in the Town of Varick. The applicant, Barry Somerville, p.o.a. for James Somerville, is proposing to subdivide 7.2 total acres, creating seven (7) lots. Ms. Haynes stated that in September of 2018, an application was submitted seeking preliminary conceptual approval for a seven lot subdivision. At that time, final approval was recommended with several conditions to be met. Ms. Haynes cited those six conditions stipulated in the September 2018 Report and Resolution, and reported the conditions that have been met. Final approval of this subdivision is conditional upon: 1) the Water and Sewage Plan for the subdivision having been approved by the Seneca County Public Health Department, 2) that the development footprint of Lot D be adjusted such that it not include the location of drainage pipe, and that an easement be placed on Lot D restricting structures and trees from being placed within the easement, and 3) completed and sealed Survey Map having been submitted to both the Town of Varick and the Seneca County Planning Board, care of Seneca County Department of Planning and Community Development. Carried 13 – 0.

5) Town of Waterloo, Site Plan Review, Ragan, Kathy

Gordon Burgess moved and Mary Kelleher seconded adoption of Resolution 25-19, recommending conditional approval of a Site Plan Review forwarded by the Town of Waterloo. The applicant, Kathy Ragan, wishes to operate a second hand shop at the former "Ye Olde Wood Shoppe Village" Barn structure, now referred to as River Park Commons on Route 5&20. There are no significant changes proposed to the exterior of the building; however, the applicant does indicate an intention to have outside sales with the occasional use of a tent for such sales. Ms. Haynes stated that the Lease Agreement does not appear to include use of such exterior space except for common purposes and that the applicant's right to use an outside area for the purposes of sales needs to be clarified and the outside area identified. The application indicates the plans to construct and install a 3'X8' sign with the support of two posts; however, no specifications were given regarding the sign. Furthermore, the lease states that the "all exterior signage will be approved by the Village of Waterloo". Ms. Haynes stated that the lease notates the "Village" when the property is actually located in the Town of Waterloo. Conditional approval is recommended upon: 1) clarification as to the lease rights to store and sell items outside of the structure and 2) clarification of the sign's design and construction, and amendment to the lease indicating that sign approval shall be from the Town of Waterloo. Carried 11 – 0, with abstentions from John Pigman, Jr. and Michael Smith.

6) Town of Seneca Falls, Minor Subdivision, Solomon, Brian

John Swanson moved and John Pigman, Jr. seconded adoption of Resolution 26-19, recommending conditional approval for a Minor Subdivision submitted by Brian Solomon. Mr. Solomon is requesting to sell a portion of the .25 acre located at 31 State Street in Seneca Falls. It is intended to sell the rear portion of the parcel measuring 60'X64' to the neighbor. In order to maintain compliance with the Zoning Code requirements for lot sizes in the C-1 District, the applicant would need to demonstrate to the satisfaction of the Town that the rear setback of 25' from any building or accessory structure will be met. Additionally, the plot of land removed from parcel 11-2-50 would need to be merged with tax parcel 11-2-51 to maintain compliance. Mr. McGrath stated that after the two lots become one, the new owner will only have 10.3' of access between the portions of the parcel. Mr. McGrath stated that the Seneca Falls Town Zoning Code does not seem to address such an issue. It is determined that there are no foreseen impacts to State Route 5 as a result of this land transaction. The application does not indicate what the neighbor's intention is for acquiring the plot. Conditional approval is recommended based upon the rear setback requirement is reviewed by the Town and that the newly created parcel is merged with the purchaser's neighboring parcel. Carried 13 – 0.

OLD BUSINESS: None.

NEW BUSINESS: None.

The meeting adjourned at 8:06 p.m. by motion of John Swanson III.

Respectfully submitted,

Mary DeStefano, Staff Resources Asst.
Secretary