

MINUTES
SENECA COUNTY PLANNING BOARD
March 11, 2021
Remote Meeting via
GoToMeeting Software

MEMBERS PRESENT: John Swanson, Mark Lott, Kyle Black, William Dalrymple, Jon Salmon, Bill Squires, Charles Brady, Kathy Lutz, Tom Scoles (Alternate), David Wood (Alternate)

MEMBERS ABSENT: John Pigman, Michael Scaglione, Mary Kelleher

STAFF: Jill Henry, Director; Harriet Haynes, Sr. Planner; Joe McGrath, Planner; Amanda Forney, Staff Resources Assistant of the Seneca County Department of Planning and Community Development

GUESTS: Matthew Fitzgerald of Philips Lytle, representing Earl Martin of Deer Haven Park, LLC; Mitchell Rowe, Seneca County Manager; Mary Anne Kowalski, Seneca County citizen; Frank Ruzicka, Planning Board Chairperson of Seneca Falls; Steven Barto

Tom Scoles, former Vice Chairperson, was selected to act as Chairperson by consensus.

The meeting was called to order at 7:04 p.m. by acting Chairperson, Tom Scoles.

Tom Scoles (Alternate) was appointed to sit in for the town of Tyre vacancy and David Wood (Alternate) was appointed to sit in for the town of Lodi vacancy.

The minutes of February 11th, 2021 meeting were approved by a motion of John Swanson and seconded by Charles Brady. Carried 10-0

PUBLIC COMMENTS:

Public comments are requested before GML reviews. There were no public comments and all discussions during this meeting pertained to GML reviews.

GML Reviews:

1.) Town of Varick, Use Variance, Deer Haven Park, LLC

Charles Brady moved and Bill Squires seconded adoption of amended Resolution 11-21, recommending that the request for a use variance be denied due to the hardship being self-created.

This property is located on 96A in the Romulus. This project was reviewed because it is within 500 feet of State Route 96A and Agricultural District #8.

Matthew Fitzgerald, Attorney of Philips Lytle, spoke on behalf of Earl Martin and Deer Haven Park, LLC. Mr. Fitzgerald explained that this location is part of the former Hillside property and

was previously an institutional children's home. The property is owned by the Seneca County IDA and is currently under contract to be sold to Deer Haven Park, LLC.

Mr. Fitzgerald explained that Mr. Martin is currently housing 25 individuals and believed the use was permitted at the time of acquisition since this location previously housed more individuals than what he is currently proposing. Mr. Martin was served a Notice of Violation by the Town ZBA because this use is not permitted.

Mr. Fitzgerald stated that he believes their submission shows that the standards are very clear as a use variance. He emphasized that the value of the property issued a reasonable return and that Mr. Martin was the only individual to place a bid on the property and did so because he understood he would be able to use it as this proposed use. Mr. Fitzgerald stated that the cost to use this property as something else would far exceed any other economic return on the property.

Mr. Squires stated that the Town zoning would not allow individual housing in the institutional setting and that there would need to be a change in the zoning code in order for this use to be permitted.

Mr. Fitzgerald stated that they decided to move forward with a use variance request because the use is not permitted. He also stated that the request is being made in part because the intention is that there are certain uses of this property that would be permitted but that they would not permit an economic return. Mr. Fitzgerald felt that a use variance was the most appropriate way to address this issue.

The review by the County Planning Board explained that the applicant applied for a use variance to allow housing at the former Hillside campus, which has historically served as an institutional care facility. The parcel is located in the Town's zoning district "SBI" for small business, professional, or institutional. Residential uses, other than institutional, including single family homes, rooming houses, cluster development, etc. are not permitted in the SBI zone.

Mr. McGrath explained that Deer Haven Park, LLC entered into a lease and purchase contract with the Seneca County IDA for this particular property. He stated that it was the understanding of the Planning Department that in the time since, Deer Haven Park has partnered with Specialty Crop Seneca and that there are 25 individuals currently living on this site. The town of Varick Zoning Code Enforcement issued a violation stating that the code does not allow housing of individuals outside of the institutional setting. The applicant has applied for this use variance to continue housing people at this location.

Mr. McGrath stated four (4) statutory requirements in regards to "unnecessary hardship" in order to be granted a use variance. 1.) It must be proven that the property is incapable of earning a reasonable return on the initial investment if used for any of the allowed uses in the district. 2.) It must also be proven that the property is being affected by a unique or highly uncommon circumstance. 3.) It must be proven that the variance, if granted, will not alter the essential character of the neighborhood. 4.) It must be proven that the hardship is not self-created.

The Department of Planning and Community Development initially recommended that the use variance request be approved conditional upon the ZBA finding that all four of these requirements are met.

Several members inquired about whether Mr. Martin proposed this use for the property or if he had planned this use before submitting a bid. Mr. Fitzgerald stated that he was not privy to this information specifically as he was not involved in that process.

Mr. McGrath then stated that zoning information is available on the Town website that includes a clear definition of institutional settings that speak directly to the institution zoning ordinance.

It clearly states that it is medical, behavioral, emotional, or a judicial type of institution. Mr. McGrath stated that this information was out there and easily could have been found. Mr. Tom Scoles called for a vote on the resolution recommending denial of the use variance based on the hardship being self-created. Carried 9-1

2.) Town of Tyre, Zoning Amendment

John Swanson moved and Mark Lott seconded adoption of Resolution 12-21, recommending that the request of the town of Tyre for a zoning amendment be approved.

This request by the town of Tyre requires review under Section 239 of the General Municipal Law because it is a proposed amendment to a zoning law.

This proposed zoning amendment adds definitions and use categories, modifies minimum frontage requirements, and grants greater authority to the Town Planning Board regarding signage and parking requirements in the commercial zones. Zoning classifications that now have definitions and that are allowed uses in particular zoning districts include bank or financial institutions, event centers, laundromats, schools, short term rentals, and storage facilities.

Ms. Haynes explained that side yard and rear yard set-backs are to be decreased to 15 feet and the required frontage will be dropped to 150 feet in all districts. Ms. Haynes stated that the following will be added to the zoning: "The town of Tyre Planning Board, when reasonable to do so, may waive any requirements, regulations, and/or bulk standards which may apply to parking and/or signage regulation contained within the Commercial West (C-1) and Commercial East (C-2) zoning districts. The determination as to whether to grant the waiver shall be subject to consideration of the following factors: feasible alternatives, safety impacts, traffic impacts, consistency with the character of the neighborhood including design, scale, and land use intensity, and generally whether the benefits of the application outweigh any detriment to the neighboring properties and/or the community at large."

Ms. Haynes stated that this amendment will grant the Town Planning Board a degree of flexibility to respond to some applications that are highly dynamic. Adjustments will more easily be allowed in that regard.

Ms. Haynes stated that there are no significant ways that this negatively impacts County plans or purposes; therefore recommending that the request for the zoning amendment be approved.

Carried 10-0

3.) Town of Varick, Minor Subdivision, Smoker & Stoltzfus

Kyle Black moved and Charles Brady seconded adoption of Resolution 13-21, recommending that the request for a minor subdivision be left solely to local determination.

This property requires review under Section 239 of General Municipal Law because it is within 500 feet of State Route 414, County Road 128, and Agricultural District #8.

Ms. Haynes explained that Smoker is the property owner and Stoltzfus is the applicant intending to purchase part of the property as it is divided. The parcel to the north is approximately 42 acres and the parcel with the houses on it has approximately 30 acres. It is an area of mixed residential and agriculture uses. The purpose of the subdivision is to allow the transfer of property over for the continued use of the actively cultivated acreage.

Ms. Haynes stated that no future development was anticipated for this property and that there is little to no impact on County plans or purposes; therefore recommending that this request be left to local determination.

Carried 10-0

4.) Town of Fayette, Site Plan Review, Jennifer Alcott

Kyle Black moved and Jon Salmon seconded an adoption of Resolution 14-21, recommending approval of the request for a site plan review and special use permit.

Ms. Haynes stated that this property was forwarded for review because it is located within the agricultural district. It was formerly owned by Suburban Properties and has undergone a couple of generations of cleanup due to removal of tanks. The applicant has included a letter from the DEC with their application that indicates completion of the cleanup and monitoring of the ground water. Ms. Haynes confirmed that there is no plan for continued monitoring unless there is any indication that it is needed. If needed, the DEC will reopen the file.

Ms. Haynes explained that the Fayette Zoning lists as Conditional Uses Permitted by Special Use Permit, in the Agriculture Rural Residential District: "Other retail and personal-services businesses that, in the opinion of the Town Planning Board, are compatible with and complementary to the principle uses permitted in this land use district due to the nature and scale." (Section 500,D,16,f). Ms. Haynes stated that it is likely that this proposal will be found to be consistent with other uses allowed by Special Use Permit in this District.

Ms. Haynes also explained that there aren't plans for residential use on this property and that the proposed use is appropriate within this agriculture district. Ms. Haynes also noted that the plan did not specifically indicate where parking would be located but the size of the property would be able to accommodate that.

Ms. Haynes recommended this request be approved for a special use permit and a site plan review. Mark Lott and Charles Brady abstained from voting. Carried 8-0

5.) Town of Fayette, Minor Subdivision, Bruce & Lisa Bonafiglia

John Swanson moved and Bill Squires seconded an adoption of Resolution 15-21, recommending that the request for a minor subdivision be approved.

Ms. Haynes stated that this property is located off of 96A where the applicant owns two (2) adjacent pieces of property. The property to the north is their residence and the 9.2 acre parcel to the south is also a residential property. They are proposing to divide of a strip along the north property line. Ms. Haynes explained that subdividing the strip will benefit the north parcel because the driveway is currently right along the existing property line, and this will allow them to have a strip of land along the driveway.

Ms. Haynes stated that this does not negatively impact the use or viability of the parcel being subdivided, have any impact on agriculture in the area, and should not have any impact on County plans or purposes. Ms. Haynes recommended that this request for a minor subdivision be approved. Mark Lott and Charles Brady abstained from voting. Carried 8-0

6.) Town of Romulus, Subdivision, Estate of Joseph Kaiser

Mark Lott moved and Kyle Black seconded an adoption of Resolution 16-21, recommending that this request for a subdivision be left solely to local determination.

Mr. McGrath stated that this property was referred for review because it is within 500 feet of Route 96A and an agriculture district. Mr. McGrath explained that this location is a well-defined residential area.

Mr. McGrath explained that there is a pool and potentially another structure that straddles the existing property line to the south. He stated that this review was recommended to be left to

local determination because of the pool being on the property line, ensuring that there would be flexibility to deal with that if they desire.

Carried 10-0

7.) Town of Romulus, Subdivision, Reuben Stoltzfus

Charles Brady moved and David Wood seconded an adoption of Resolution 17-21, recommending that the request for a subdivision be approved.

Mr. McGrath explained that this property is technically located in both the towns of Ovid and Romulus. It crosses a municipal line, which is one reason it was referred to the County Planning Board. Mr. McGrath stated that if this property was completely within Romulus, it would have the correct amount of acreage and enough required frontage on every parcel for a subdivision. The town of Ovid does not have any zoning or subdivision requirements. Mr. McGrath noted that the purpose of the subdivision is to create plots for the applicants' family members to have their own homesteads. The recommendation from the County Planning board was that request for a subdivision be approved. Carried 10-0

8.) Town of Fayette, Site Plan Review, Georger Family Cottage, LLC

John Swanson moved and Bill Squires seconded an adoption of Resolution 18-21, recommending that the request for a site plan review be denied based on it not being for an allowed use.

Ms. Haynes stated that she anticipated this review being removed from the agenda. She explained that the applicants are proposing to build a small, separate structure to provide extra living space on the site of the property, which would make it a 2nd use principal use. In the town of Fayette, one (1) principal use is permitted on any single lot except in the hamlet district. Ms. Haynes contacted the Town who then notified the applicant that this is not an allowed use. The applicants still wanted this review to move forward so that they could acquire more information on how to move forward. Ms. Haynes stated that they would need to identify how it could be an allowed use such as a use variance or a zoning amendment that would allow a 2nd residential structure such as granny cottages, or a modification of what they are proposing that does not include constructing an additional residential structure.

Ms. Haynes recommended the request be denied because it is not an allowed use. Charles Brady abstained from voting. Carried 9-0

OLD BUSINESS: None

NEW BUSINESS: Ms. Haynes announced that she received the layout of classes that are being offered electronically by the Genesee Finger Lakes Regional Planning Counsel in lieu of their 1 day training. She informed the members that they can sign up for any combination of classes. They are being offered on Tuesdays or Thursdays. The information will be sent out via email.

Adjournment: John Swanson made a move to adjourn. The meeting adjourned at 8:26 PM.

Respectfully submitted,

Amanda Forney
Secretary