



## **Hillsdale Planning Board Minutes 12/14/20**

Meeting was called to order at 7:31 via Zoom

Members present: Barbara Olsen Pascale, Chairperson, John Avenia, Patti Rohrlich. Mark Barbato, Richard Freiman, Ellen Levy, Elizabeth Sheer, Planning Board Secretary, recorded the minutes

Member Bud Gardner was not present

Others Present: Tom Carty recorded the meeting

Gretchen Stevens, David Lewis, Neil Costa, Lynn Ahrens, Joe Castiglione, Matt Cabral, Sarah Proechel, Michael Ferrare and Joanna Ferrare, Andrew Aubin, Don Hillman, Andy Didio

### **Open Applications**

#### **Property: 2 Ridge Lane**

**Applicants:** Neil Costa and Lynn Ahrens, property owners, and their attorney, Joseph Castiglione

Matt Cabral represented the planning board

**At issue:** In the previous meeting, the CAC presented information that the property had significant tree cutting, possibly in violation of ridgeline and steep slope rules. It was not, at that time, determined whether the cutting had taken place before or after the rules were put in place. Thomas Mendenhall expressed a desire to purchase the property, but withdrew the offer when it seemed that there was an impasse about the tree cuts.

Barbara said that the Board did a search into its archives and determined that the date of the tree cutting was inconclusive, and therefore, was withdrawing all questions about it.

Matt Cabral said that the board should make sure that all documents pertaining to the issue be put into permanent record.

Joseph Castiglione said that his office has spoken to Mr Mendenhall, who is still interested in the property. Any request for information can go through him to Mr. Mendenhall. They are prepared to present a new iteration.

Neil Costa thanked the board for its consideration.

David Lewis requested that the CAC get a copy of what was in the town records.

Barbara then said the board should hold a vote on whether to proceed with the original site plan review

**Richard made a motion to proceed with the original site plan review, seconded by Ellen.**

**Aye: 6 Nay: 0**

**Decision: The original applicant, Thomas Mendenhall, can proceed with a site plan review**

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**Property: 765 Harlemville Road**

**Applicant:** Sarah Proechel

**At issue:** Subdivision

Previously, Ms. Proechel needed to get approval from the zoning board for the accessory unit on the property. This was done, although there is no final plat yet.

Barbara said that in order to proceed, the board requires a final plat, and mentioned that there were some issues with Fern Hill Land Management, of which this property is a member.

Fern Hill is waiting for approval from Hillsdale.

Matt said that the Planning Board would like to see that there is confirmation from Fern Hill.

Sarah wanted to know whether Hillsdale requires confirmation from Fern Hill first. Or, would it be possible to get a conditional approval from Hillsdale.

Richard replied that the Board does not do conditional approvals and suggested that Ms Proechel go to Fern Hill and tell them that the Board needs to know whether they are going to approve the subdivision.

Ellen added that the board will be supportive if those conditions are met.

However, there are still issues with the shared driveway and the trailer, which has been listed as an AirBnB. That requires a permit from the zoning board.

Matt reiterated that the big problem was the lack of a formal plat, which should be submitted for the next meeting.

Ms. Proechel wanted to know whether, if she spent the money for a survey and a formal plat, there are any other issues that would keep her from getting the board's approval for the subdivision. After some discussion about the trailer, which had been accepted by the zoning board, not as a 2<sup>nd</sup> accessory dwelling, Barbara said that a subdivision could be approved unless Fern Hill is putting a restriction on the deed.

John then asked whether there had been a perk test done on the potential 2<sup>nd</sup> lot to prove that it's buildable. He added that any perk test done when the properties were first merged 15 years ago no longer applies, and that if it perks well, that is a selling point.

Matt Cabral quoted subdivision law, stating that county health department approval of any lot which is subdivided for purposes of building a habitable structure and is not served by a public sewer system must be approved by the Columbia County Department of Health for a septic system. Without the DOH approval, the plat must be marked as "not habitable for building purposes". He suggested that Ms. Proechel come back for the subdivision after the DOH has done a perk test and the second lot has been marked as habitable. However, Ms. Proechel said that she was willing to go through the subdivision process again if that will hold up the current subdivision. Ms. Proechel said that she will discuss it with a prospective buyer, who might be willing to go through the DOH approval and subsequent subdivision approval. She then wanted to know whether getting a letter from Fern Hill and a formal plat would be enough for the board to grant a subdivision.

Matt said that if Ms. Proechel has a notice from Fern Hill and a plat it could be put down for approval at the next meeting and then go forward with a public hearing.

**Decision: issue tabled until receipt of a formal plat and a letter from Fern Hill**

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**Property: Schoolhouse Road**

**Applicant:** Andy Didio, engineer for applicant, and Don Hillman, attorney

**At issue: Building a horse barn**

Last month, the Board approved a retaining wall and tree well, and now the applicant would like to build a horse barn on the southern portion of the building envelope. The screen was shared to show the site plan and various elevations of this barn.

Mr. Didio said that this is a modification to the approved plan. The prospective barn is within the building envelope. The applicant is allowed three extra buildings, and the guest house is technically in Austerlitz. The building is tucked behind the knoll, where the 20 trees are to be planted. The gable ends of the barn will face east and west, and the cupola is 4' below that of

the main house. It is to be made of natural pine barn siding, which will weather, and a galvanized roof, which will oxidize and patina over time. The height of the barn is within the building allowance and is not visible from any public way. The 20 trees will mitigate the view from the road.

Ellen asked whether the roof of the barn complies with regulation that it be 40' below the top of the tree line. Mr. Didio was not sure, but based on prior approvals, it conforms with maximum height regulations since it is lower than the other buildings. The site was approved in 2007. At the time, after litigation, a stipulation agreement was made that any building be made within the building envelope, as long as the board approved.

Don Hillman said that it was actually dated in 2008, after the ridgeline rules were made. He added that since this is a barn, it would be an agricultural use building, putting it outside of the site plan approval process.

Andy Didio said that there was question whether the applicant even needed to come back before the board, but they wanted to comply with any regulations. It is important to stress, he said, that there is an approved plan, filed with the county, a subdivision approval in 2016 that reaffirmed the building envelope with the stipulation that improvements be brought before the board. The barn can't be seen from the public way. The applicant's obligation is being fulfilled by showing the barn location. So this is a formality to update the board's files.

Patti wanted to know the height of the cupola compared to the top of the house roof.

Andy replied that the 34.6' to the ridge and 44.4' to top of the cupola.

Then Patti asked what made this an agricultural addition?

Don Hillman replied that it was a horse barn.

Patti thought that made it a recreational building, since it wasn't generating income.

Andy said that there is no height restriction on an agricultural building. It conforms to bulk regulations as far as height, and the applicant is updating the site plan. Whether it is an agricultural building doesn't change the fact that it is in compliance with all prior approved plans.

Richard asked what would if the barn is built and can be seen from county route 7, since it is really close.

Andy responded that if anything, there is a potential to see the cupola, but the tree line is higher, planting 20 trees will mitigate the view shed, and it would be difficult to see the barn.

Don Hillman said that the settlement agreement that resulted from the litigation supposed that there would be a main house and three buildings. This structure is in parity with the existing buildings. In zoning and land use regs, an agricultural building is defined as the utilization of

structures for the storage of livestock among other things, although it does not include agricultural industry. This barn falls very neatly within the agricultural definition of the code.

Matt clarified that the contention is that based on the settlement agreement, this structure is allowed to be built, and that it conforms to the agreement.

Barbara asked whether we could approve this on structural merits.

Richard pointed out that we do not have to approve it, it just has to be brought to our attention, which it was. So Barbara said that we should vote on the amended site plan. However, she reminded Andy Didio that the roof material be allowed to weather, and he said that that was the plan. And that it could be stipulated that a matte finish roof is in part of the approval process. The materials as stated will be written on the site plans.

**Richard made a motion to approve the amended site plan as presented by the applicant based on the represented materials being in compliance with out rules and regulations. Mark seconded this.**

**Aye: 6 No: 0**

**Decision: The board approves the amended site plan**

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**Property: 111 Oxbow**

**Applicant:** Andrew Aubin, representative of Michael and Joanne Ferrare, Michael and Joanne Ferrare

**At issue: Subdivision**

Mr. Ferrare is looking to cut off a 3 acre parcel on the NW side of Oxbow on which a family member would like to build

DOH approval has been gotten to make this a buildable lot.

Surveyors are in the field finalizing the map for a final plat.

Barbara pointed out that we thought the curb cuts might be an issue. Richard Briggs did not have a problem from what he could see, but the curb cut and driveway need to be approved by the fire department.

Andy Crawford said that the applicant has provided information to the highway and fire department, but that if necessary, written approval can be gotten.

Mark said that the highway has to sign off on the curb cut and the fire department must also sign off.

Andy thought that the driveway would be approved when the house is built, and said that Lee Heim told him that the highway and fire department sign-offs should come at the time the house was built. There is not going to be any real constraint on building the driveway, which the highway department said was fine, although it has not been put in writing.

Until the house is finally sited, it is not possible to have a full plan for the driveway.

Barbara suggested that the applicants get a letter from Richard Briggs, the highway superintendent, and come in with the final survey. She wondered whether this subdivision required a public hearing.

Matt responded that a minor subdivision requires a public hearing. If the anticipated final plan is basically going to be just as the preliminary plan without substantial changes, a public hearing can be scheduled. There is provision in subdivision law for waivers if the planning board is amenable, but it is not advisable. The public hearing can be held before the next meeting.

Generally there is 10 days notice for a public hearing.

Gretchen had an additional comment. She saw a map of this property and there is an issue of seating the driveway if there is a steep slope. If this is the case, it might be a good idea to site a driveway before the subdivision is approved.

Andy responded that the proposed driveway does comply with the steep slope laws, but that there might be changes to conform to the design of the house. And that will be demonstrated to the building officials.

Matt asked about the slope of the proposed driveway as it currently stands.

Andy replied that at the road it will be at the maximum, as it proceeds up the hill it will be in the 10% range. But since the design is not done yet, it is hard to say.

Barbara asked about the steepest grade on the property and whether any part of it exceeded 25%.

Andy replied that this was probably the case, but not where the driveway is going to be.

Matt suggested that the board put a vote to set the subdivision down for a public hearing prior to the next meeting, provided there is a final plat plan a week before.

**John made a motion to publish a public hearing prior to the next meeting. This was seconded by Ellen**

**Aye: 6 No: 0**

**Decision: a public hearing will be held about this subdivision before the next meeting. The next meeting will review the subdivision if the plat has been submitted.**

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The board thanked Matt Cabral for being on the call.

Meeting adjourned at 9:45 without a motion.