

Town of Austerlitz
Planning Board Meeting
March 4, 2021

The March 4, 2021 Planning Board Meeting was held via Zoom in accordance with the Governor's Executive Order 202.1. Meeting instructions were on the Town website.

Present: Lee Tilden, Chair, Deborah Lans, Jane Magee and Perry Samowitz, Members. Susan Haag, Town Clerk also present.

Member Eric Sieber absent.

Public Hearing Called to Order at 7:06 p.m.

Public Hearing for PL-2021-1 Site Plan and Special Use Permit

Property Owner: 648 Rte 203 LLC, Dale Madsen

Applicant: Taconic Engineering, DPC, Andy Didio

Project Property: 648 State Route 203 SBL:86.-2-10

Zoning: Rural Residential

Project: The proposed project consists of building a 4800 sf building, 26.4' tall at ridge line, 1 story and using the building for storage of construction equipment and materials.

Applicant Andy Didio, Taconic Engineering, DPC and property owner Dale Madsen in attendance.

Town Clerk Haag noted that the Public Hearing notice was duly published in the newspaper and on the Town's website. Planning Board Chairman Lee Tilden advised that the applicant made the proper notice requirements to the neighboring properties within a 250 foot radius.

Applicant Andy Didio presented a power point presentation showing a survey of the proposed site explaining the topography noting a closed drainage system and the proposed building to be built on the site. It was noted that the NYSDOT has given a conceptual approval for the driveway cut noting required improvements to the area. This letter has been forwarded to the Town of Austerlitz Planning Board. The front of the proposed building was shown noting elevation. It was stated that only the very front of the building will be seen from State Route 203.

Property and Business Owner Dale Madsen explained that he owns a general excavation contracting business that handles mostly residential projects. His business currently employs 6 workers plus himself and his wife who handles the bookkeeping. This is a year-round business that has operated out of the Town of Austerlitz for the last 15 years. The current business location is at 397 West Hill Road in Austerlitz.

Planning Board Member Perry Samowitz questioned if any trees would be planted along State Route 203 for screening purposes. Property owner Dale Madsen advised that he wants to make

this area as comfortable as possible for the neighbors so he is willing to discuss the type of screening needed to satisfy any issues.

James Mannion, who lives at 662 State Route 203, gave a history about how he heard about this project noting he had no knowledge of it until he got a generated email from the Town of Austerlitz stating the date and time of the public hearing for this project. J. Mannion contacted the Town speaking with Town Clerk Haag who advised him how to find the particulars of the project on the website. J. Mannion received a certified letter and an additional letter concerning the project but did not received them until late in February, early March and feels there was not enough time given for him to consider this project. J. Mannion stated that he feels D. Madsen is a fine young man, but does not want to see this project next door to his property. J. Mannion feels that if this project goes through it will have a negative impact on his property value, not to mention the quality of life for his family and friends who come to visit. If this project is not postponed to give him time to access the ramifications, or if it is approved tonight, J. Mannion will contact his attorney.

Kim Garner, who lives at 626 State Route 203, noted she was just made aware of this project on February 12th by a certified letter. K. Garner had building plans for her property which she has now put on hold noting that if this project is approved, it would decrease her property value, kill her viewshed and increase the noise and traffic in the area. If this project is approved, at the very minimum, K. Garner would like to see screening. She is disappointed that this project is right up against her property and feels very adversely affected. This has nothing to do with her perception of Dale Madsen.

Mary Mannion, who lives at 662 State Route 203, questioned how many neighbors in the surrounding area were sent certified letters. Planning Board Chairman Lee Tilden advised that the Town Code states that any contiguous land owner 250 feet from the subject project property line is required to receive notification of the public hearing of that particular project. Property owners on the opposite side of State Route 203 were also notified. Applicant Andy Didio advised that the initial notices were sent out certified return receipt on February 16, 2021. The second notice, which was a redraft correcting contact information, was sent as an addendum and not sent certified return receipt. M. Mannion disagrees and notes she did not have to sign for any notice, also questioning who the notices were sent to. Chairman Tilden advised that 8 notices were sent, but he prefers not to give out private information out via zoom. Town Clerk Haag will send the list of those who were notified out via email. J. Mannion stated that the only land owners across State Route 203 are others in the Madsen family. According to J. Mannion, no other land owners were notified except him and K. Garner. The only neighbors are him and K. Garner and the other Madsens.

Kim Garner noted that she received the public hearing notice only 3 weeks before the meeting and assumes this project has been in the works for some time. Why weren't the neighbors given more time and discussion? K. Garner's assumption is that this project is moving forward and her property will suffer financially for this. Chairman Tilden noted that the project was received last month and the Planning Board has followed the process as stated under Town Code for a site plan and special use permit. Last month the Planning Board discussed the project with the applicant and with the land owner, discussed the project amongst the board, deemed the

application to be complete and designated as an unlisted action under SEQRA, and ready for a public hearing. The Planning Board took the steps necessary and the project was set for a public hearing at the March Planning Board Meeting. The neighbors were then notified that a public hearing had been set, a legal notice placed both in the newspaper and on the Town website. The application was also sent to the Columbia County Planning Board for comment. The NYSDOT has been contacted and responded and the septic system has been discussed. K. Garner questioned if this means that the application is approved. Chair Tilden advised no it does not. The application was only approved to move into the public hearing stage. Once the Public Hearing is complete and closed, the Planning Board will discuss the project and the comments heard. The Planning Board will then go through the SEQRA process. The Planning Board will deliberate and either decline the project, approve the project as is or approve the project with conditions. K. Garner asked if there were any financial considerations given to the residents in the area of this project. Chair Tilden noted that the Town Zoning Code allows for these types of projects in this area. A person would submit an application, the Planning board works through the process, deliberates and decides if this is an allowable use and if it is in the best interest of the Town. K. Garner questioned the increased traffic and noise. Chair Tilden advised that these are taken into consideration when completing the SEQRA review. K. Garner asked if the Planning Board needs anything from her. Chair Tilden stated if she wished she could put all her comments and concerns in writing.

J. Mannion noted that this was a large expense by Dale Madsen and it is a disgrace by how the Planning Board is handling this application. This seems like a done deal already. If this application is approved, J. Mannion will hire an attorney.

K. Garner noted that this type of project has a lot more effect when you live next door to it and asked if the Planning Board will come back to the neighbors asking what approval conditions will appease the neighbors. K. Garner would hate for this project to go through without any conditions. Chair Tilden advised K. Garner to put her concerns in writing, noting which property is hers and what conditions she would like to see as soon as she can. Chair Tilden advised that probably no decision will be made tonight on this project so K. Garner has 30 days to submit something.

Erlyn Madonia stated that if 8 people were notified of the Public Hearing, these people should know who else besides themselves were notified. Chair Tilden advised that the law requires that the contiguous land owners 250 feet from subject project be notified. The Planning Board has to follow what the law is. If some see a problem with the law, then any change in the law must be made by the Town Board. Planning Board Member Deborah Lans advised that the Town of Austerlitz' complete Town Code is on the Town's website and details how this process is to be completed. Member Lans urges the public to read the law, get a sense of what is there and how it happens. This process is not controlled by the Planning Board, but by the law. If some feel the law is wrong, discuss changing it with the Town Board who are the policy makers.

J. Mannion wants to again bring to the attention of the Planning Board that there are only 2 properties that border this project except other Madsens. These 2 property owners are on the zoom call tonight and do not want to see a business here.

Applicant Andy Didio stated that it was worth noting a couple of items. For the neighbor on the west side of the project, the project is over 150 feet from the property line. Secondly, the traffic of this business is not high. The equipment leaves in the morning and comes back at night. A. Didio discusses the currently traffic trends as compared to adding what additional this project would add. It is not significant. This project is not a construction site, just a storage building with an area to maintain and repair the equipment. Noise levels will be very low. A neighbor living next to where the current operation is housed wrote a letter and noted that there was no noise. The Town of Austerlitz does have a Zoning Code that allows for certain permitted uses by special permit. This project is not a change in the Zoning Code, not a variance application. This project fits the character for the area as there are other commercial operations. Madsen Overhead Doors, Fox Hill Camp grounds and the Town Highway Garage are in the area. The proposed building will sit back off the road and when there is foliage it will be hard to see. Sitting off the road, it will be harder to see without foliage as well.

Planning Board Member D. Lans questions A. Didio on how far back from State Rte 203 is the parking area and then the building proposed to be. A. Didio advised that the edge of the parking area is 200 ft and the building is +/- 300 ft. The building is set back as far as it is feasible.

K. Garner noted that it is good that the building is set back off of State Rte 203, but that means it is closer to her property. How will this affect her view? A. Didio noted that the back area is pretty heavily wooded and there is distance. A. Didio is not sure about how much visibility K. Garner would have unless her lot was really cleared and K. Garner is the one who has control of that clearing. K. Garner does not feel like it should be on her to clear trees or not because she had wanted to clear the lot for the view and with this building, the view would be impacted.

Comments received via email:

Scott Pintoff: Noted his family has lived next door to Madsen's current storage location since 2014 and have only positive comments to submit to the Planning Board regarding the Madsen business and, its owner, Dale Madsen. Although their house is approximately 100 yards from the building used by Dale Madsen, they have never had an issue with any noise, even as both his wife and himself worked full-time in 2020 from their home. They were never interrupted or awoken by the business. D. Madsen keeps the building and equipment on the grounds in a tidy condition and there has never been any debris or eyesores. Dale Madsen and the Madsen business have been ideal commercial neighbors to the Pintoffs. S. Pintoff continues that the Pintoffs have personally valued having D. Madsen as a neighbor. Dale is a very friendly person and is always willing to help them out with anything, including when trees have fallen in their driveway or when their furnace failed when the Pintoffs were away.

All those wishing to be heard were heard.

A motion to close the Public Hearing on Planning Board Application PL-2021-1 was made by P. Samowitz and seconded by D. Lans.

By roll call,

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: absent

Perry Samowitz: yes
Jane Magee: yes
Motion carried 4:1. Public Hearing closed at 8:04 p.m.

Regular Meeting called to order at 8:04 P.M.

Moment of Silence, followed by Pledge of Allegiance.

Minutes

A motion to accept the February 4, 2021 Planning Board minutes was made by J. Magee and seconded by D. Lans.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: absent

Perry Samowitz: abstains

Jane Magee: yes

Motion carried 3:1:1.

Old Business

Planning Board Application #3-2020.

Property Owner: Otto Maier

Applicant: Robert Beckmann

Project Property: 309 Rigor Hill Road SBL:94.-1-15

Zoning: Rural Residential

Project: The proposed project consists of building and using an auto repair and towing facility, 40' x 60' one story building, 2400 Square feet. Site currently has a foundation. Was the site of O's Diner. Fenced in area for 20-30 vehicles.

Email received from Robert Beckmann requesting that his application for site plan review be put on a 3-month hold.

Planning Board Application PL-2021-01.

Property Owner: 648 Rte 203 LLC, Dale Madsen

Applicant: Taconic Engineering, DPC, Andy Didio

Project Property: 648 State Route 203 SBL:86.-2-10

Zoning: Rural Residential

Project: The proposed project consists of building a 4800 sf building, 26.4' tall at ridge line, 1 story and using the building for storage of construction equipment and materials.

Planning Board Member Perry Samowitz is concerned for the neighbors. The Zoning Code is what it is and this is an allowable use. A special use permit does allow the Planning Board to put conditions around approvals. Member Samowitz would like to put as much protection in place for the neighbors as possible and would like to go and visit the site.

Member Lans agrees with Member Samowitz and would like to go and look at the site as well. This project is allowed in the Zoning Code, but there needs to be a plan for screening. D. Lans would like to defer any decisions until next month. Member Lans feels for the neighbors being caught off guard, but believes that this is just a product of the postal service.

Planning Board Member Jane Magee agrees that this project is a legitimate use for this site, but screening needs to be looked into. Member Magee does not want to loiter on the screening needs, but rather wants to move ahead exponentially to make a decision.

Planning Board Chairman Lee Tilden is in agreement with thoughts and does not think 30 days will make that much difference if it will take care of the needs of the neighbors. Chair Tilden will talk with the Town Attorney for language concerning any conditions to be placed.

Member Samowitz would like the Planning Board to go to the site together. The neighbors are upset and they think the Planning Board is going to rush this decision. Chairman Tilden noted that as long as the Planning Board Members do not discuss the project while on the site visit, the Board can go together. The neighbors can hear any deliberations concerning the conditions at next month's meeting. The Planning Board will decide when to meet for a site view at another time.

A motion to lay over Planning Board Application PL-2021-01 to the first item at the April Planning Board Meeting was made by P. Samowitz and seconded by J. Magee.

Roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: absent

Jane Magee: yes

Motion carried 4:1.

Member Lans asked if Andy Didio could provide the Planning Board with a map with all the properties in question on it. Chair Tilden will made arrangements with A. Didio to do a site visit.

New Business

Planning Board Application PL-2021-02

Property Owner: Goosetown Network Services LLC

Applicant: Richard Zajac/Crown Castle as agent for T-Mobile

Project Property: 321 West Hill Road SBL:87.-2-51.112-1

Zoning: Rural Residential

Project: The proposed project consists of T-Mobile proposing to add eight (8) antennas and ancillary equipment to existing cell tower. T-Mobile also proposing a 16'x21' compound expansion to accommodate new equipment cabinets as well as a 40 kw diesel backup generator.

Richard Zajac in attendance and explained the project noting that T-Mobile is proposing to add 8 antennas and ancillary equipment to an existing cell tower. T. Mobile is also proposing a 16' by

21' compound expansion to accommodate new equipment cabinets, as well as, a 40 kw diesel backup generator. There is a gap in the coverage area for the T-Mobile network and this would fill in that gap. Crown Castle owns the existing tower and their internal land use department is getting prior authorization from GooseTown Network Services for this project. Nothing will be coming down with this installation.

Chairman Tilden advised that the Town will need authorization from Goosetown Network Services for this project since they are an owner. Chairman Tilden also asked if R. Zajac could provide a full-size drawing for the Planning Board to look at. The cell area on the top of the artemia is increasing. The Planning Board needs to understand what happens if this tower falls down, whose property it falls on and to what extent. Chairman Tilden understand that this is a permitted use in the Town of Austerlitz' code, but he just wants to protect abutting land owners and do due diligence.

Applicant Zajac advised that an engineering company has done a structural impact which is included in the application. Chairman Tilden has reviewed this report, but still would like to look and make sure the tower will remain on the subject property.

Chairman Tilden advised that the next steps for this project would be receipt of GooseTown Network Services' authorization. The Planning Board would then deem the special use permit application complete and a public hearing would be set.

Member Samowitz asked if there was a better way to secure the antennas, maybe with cables, to make the structure more secure. R. Zajak advised that Crown Castle's structural team has already done an analysis on the fall zone and believes that this is required by the FCC and that there are Federal guidelines that must be followed. This project consists of a guyed tower. The structural analysis was based on certain stipulations and conditions. R. Zajak will provide the board with a larger drawing.

Chairman Tilden asked the age of the tower to which Applicant Zajak was not sure, but knows it is in the historical record. L. Tilden also requested a copy of the analysis done.

Miscellaneous

Member Lans questioned a solar project that was installed without a permit. Chairman Tilden advised that this project required a site plan review. Attorney for the Town, Joseph Catalano will reach out to Town of Austerlitz Building Inspector, Erin Reis, to be clear on how the process works when someone comes in for a building permit for a solar project. It was noted that this particular project was completed under the Town's previous Building Inspector. Chairman Tilden does feel that a section of the Austerlitz Code is not clear concerning solar projects and he would like to ask the Town Board to make this section clearer. Attorney Catalano can look into this project that was issue without a site plan review. Member Lans would like to send something out to Town residents concerning the regulations surrounding solar projects.

Public Commit

None

Adjournment

A motion to adjourn was made by P. Samowitz and seconded by J. Magee.

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: absent

Perry Samowitz: yes

Jane Magee: yes

Motion carried 4:1. Meeting adjourned at 8:37 p.m.

Respectfully Submitted,
Susan Haag, Town Clerk