

Town of Austerlitz  
Planning Board Meeting  
July 1, 2021

Present: Lee Tilden, Chair, Deborah Lans, Jane Magee, Eric Sieber and Perry Samowitz, Members. Joseph Catalano, Attorney for the Town, Susan Haag, Town Clerk and Angela Rothermel, Planning Board Clerk also present.

Continuation of Public Hearing for Planning Board Project PL-2021-05, Minor Subdivision for Davis.

Public Hearing called to order at 7:02 p.m.

Representative Dan Russell briefly reviewed the application for the board members, explaining that the application is for a minor subdivision of Roberta Davis' land on School House Road. There is 116.77 acres of land and it lies in both the Towns of Hillsdale and Austerlitz. The subdivision will divide the land into two parcels, one parcel of 33 acres and one parcel of 84 acres. Each parcel already has an existing well, driveway and house. Upon approval, the property will look the same with no additional structures being built. The minor subdivision is just to separate the houses on the property. Mr. Russell appeared in front of the Hillsdale Planning Board in May and again in June, with no objections as nothing major is being done on the property. There was a brief discussion regarding correspondence between Chairman Tilden and Hillsdale Planning Board Chair Barbara P. Olsen. In email correspondence Ms. Olsen explains that the Hillsdale Planning Board considered the application with no opposition and that a Public Hearing will be held on the matter at the July 12<sup>th</sup> Hillsdale Planning Board meeting, if there are no public objections, the Planning Board will proceed to SEQRA approval.

No comments were made from the public in attendance and no written comments were received.

A motion to close the public hearing was made by D. Lans and seconded by P. Samowitz.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0 Public Hearing closed at 7:23 p.m.

Public Hearing for Planning Board Project PL-2021-07 Minor Subdivision for Helmraht was called to order at 7:08 p.m.

Town Clerk Haag noted that the public hearing notice was legally posted June 15, 2021 in the Hudson Register Star.

Representative Nathan Burrows gave a brief description of the Minor Subdivision of Peter Helmraht's land on Punsit Road and Mallory Road. The minor subdivision is being requested to divide the 376 acres into two parcels, one parcel will be 18 acres and the other parcel will be the remaining 358 acres. The 358 acres contains Mr. Helmraht's house and barns. The surrounding landowners have been notified via certified mail.

No comments were made from the public in attendance and no written comments were received.

A motion to close the public hearing was made by E. Sieber and seconded by J. Magee.

Roll call  
Lee Tilden: yes  
Deborah Lans: yes  
Eric Sieber: yes  
Perry Samowitz: yes  
Jane Magee: yes  
Motion carried 5:0 Public Hearing closed at 7:25 p.m.

Public Hearing for Planning Board Project PL-2021-08 Ground Mounted Solar Installation for Folco was called to order at 7:12p.m.

Town Clerk Haag noted that the public hearing notice was legally posted June 15, 2021 in the Hudson Register Star.

Representative Stefanie Kussman passed around and reviewed a packet including changes to the site plan, maps and property photos. Ms. Kussman explained that all required setbacks for the front and rear property lines have been set and the property is well screened and not very visible from the road. D. Lans brought up the Solar Law and discussed the front yard, questioning if it fit the required distance and whether it was considered the front or side yard. The board members all agreed that they were comfortable that the project will be set up in the side yard. The surrounding landowners have been notified via certified mail.

No comments were made from the public in attendance and no written comments were received.

A motion to close the public hearing was made by J. Magee and seconded by E. Sieber.

Roll call  
Lee Tilden: yes  
Deborah Lans: yes  
Eric Sieber: yes  
Perry Samowitz: yes  
Jane Magee: yes  
Motion carried 5:0 Public Hearing closed at 7:30 p.m.

Regular Meeting called to order at 7:25 p.m.

Moment of Silence, followed by Pledge of Allegiance.

### **Minutes**

A motion to accept the June 3, 2021 Public Hearing and Regular Planning Board Meeting minutes, with a minor correction, was made by P. Samowitz and seconded by D. Lans. The June meeting minutes have been amended to read; "A Motion to adopt resolution approving the 2 Lot Subdivision for PL-2021-04 located at 135 LaBranche Road as presented."

Roll call  
Lee Tilden: yes  
Deborah Lans: yes  
Eric Sieber: yes  
Perry Samowitz: yes  
Jane Magee: yes  
Motion carried 5:0

### **Old Business**

**Planning Board Application PL-2021-04**

Property Owner: Walton Goggins, Jr.

Applicant: Walton Goggins, Jr.

Representative: Daniel Russell

Project Property: 135 LaBranch Road (Both Sides of the Road) SBL:106.-1-4.112

Zoning: Rural Residential

Project: Minor Subdivision-Original acreage 124.01 dividing into 2 parcels: 112.279 acres and 11.731 acres.

Chairman Tilden advised the Board that Planning Board Application PL-2021-04 could be taken off the agenda, since the minutes were corrected noting that Goggin's subdivision approval was made by Resolution.

**Planning Board Application PL-2021-05**

Property Owner: Roberta Davis

Applicant: Roberta Davis

Representative: Daniel Russell

Project Property: 131 Schoolhouse Road (Both Sides of the Road) SBL:105.-1-3

Zoning: Rural Residential

Project: Minor Subdivision-Original acreage 116.887 dividing into 2 parcels: 33.112 acres and 83.775 acres.

The application has been completed and the Public Hearing has been closed. Attorney J. Catalano explained that based on communications with the Town of Hillsdale, each town will do its own individual SEQRA. Chairman Tilden reviewed part 2 of the SEQRA and with the Board members' input answered no to all required questions. It was determined that there will be no critical adverse environmental effects. Attorney J. Catalano recommended a member of the board make a motion to adopt parts two and three of the SEQRA as completed by the Board.

Motion to adopt SEQRA EAF parts 2 and 3, as prepared by the Planning Board for application PL-2021-05, with the conclusion that the project will not result in a significant adverse environmental impact was made by P. Samowitz, seconded by Jane Magee.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

Chairman Tilden asked for a motion to resolve to approve the 2-lot subdivision, for the lands of Roberta Davis, per the map prepared by Daniel J. Russell, dated March 3, 2021. Motion to adopt without any conditions, was made by E. Sieber, seconded by P. Samowitz.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

Attorney J. Catalano explained to the Board members that the approval stamp only approves what is in the Town of Austerlitz and cannot be filed with the County until both Towns have stamped the maps.

**Planning Board Application PL-2021-07**

Property Owner: Peter Cox Helmraht

Applicant: Peter Cox Helmraht

Representative: Nathan Burrows

Project Property: Intersection of Punsit Road and Mallory Road SBL: 95.-1-32

Zoning: Rural Residential

Project: Minor 2 lot subdivision: Original 376.033 acres dividing into 2 parcels-358.033 acres and 18 acres.

The application has been completed and the Public Hearing has been closed. Chairman Tilden reviewed part 2 of the SEQRA and with the Board members' input answered no to all required questions. It was determined that there will be no significant adverse environmental effects.

Motion to adopt SEQRA EAF parts 2 and 3, as prepared by the Planning Board for application PL-2021-07, with the conclusion that the project will not result in a significant adverse environmental impact was made by D. Lans, and seconded by E. Sieber.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

A motion to resolve to approve the minor two lot subdivision for the land of Peter C. Helmraht as depicted on the Map dated May 9, 2021 prepared by NND Land Survey made by D. Lans and seconded by P. Samowitz.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

Chairman Tilden explained to Mr. Burrows, that going forward, there will be a ten-year lookback on subdivisions for the above referenced property. The Helmraht's thanked the members of the Planning Board.

**Planning Board Application PL-2021-08**

Property Owner: Mimi Folco

Applicant: Empire Solar Solutions, LLC

Representative: Stefanie Kusmann

Project Property: 32 Harvey Mountain Road SBL: 88.-2-26

Zoning: Rural Residential

Project: Site plan for ground mounted solar installation

The application has been completed and the Public Hearing has been closed. Attorney J. Catalano explained that the SEQRA is a Type 2 action and a review of the Environmental Assessment does not

have to be done. E. Sieber had concerns that the solar panels will be visible from the road. D. Lans pointed out the visibility in the photos. Ms. Kusmann explained that the maximum height of the panels, including poles and mounts, is 12 feet. There was a brief discussion regarding the natural screening and vegetation at the installation parcel and ways to maintain that screening. Chairman Tilden added a condition to the resolution that requires the current owner to maintain the natural vegetation, in its present or enhanced condition, along Harvey Mountain Road. No trees or shrubs shall be cut or removed along Harvey Mountain Road.

A motion to resolve to approve the site plan for the ground mounted solar panel installation listed on map dated April 2, 2021 with a June 9, 2021 revision date, with a condition that natural vegetation shall be maintained in its present or enhanced condition along Harvey Mountain Road, made by E. Sieber and seconded by J. Magee.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

#### **Planning Board Application PL-2021-03**

To date, a new map has not been submitted. Chairman Tilden told the Board members that the Boundary Line Adjustment was approved but the applicant has failed to provide an updated site map. Attorney J. Catalano explained to the Board that Planning Board approval expires 180 days from the original approval date and that maps must be filed with the County within 60 days. Town Clerk Haag advised the Board members that she would send a reminder email to advise of the time frame.

#### **Planning Board Application PL-2021-04**

To date, there has been no action on the application. The application will be removed from the agenda moving forward.

#### **New Business**

##### **Planning Board Application PL-2021-09**

Property Owner: Matthew Verenazi

Applicant: Matthew Verenazi

Representative: Frederick Haley, Surveyor

Project Property: Pratt Hill Road and Shale Mountain Road SBL: 94.-1-5.111/85.-1-16.12

Zoning: Rural Residential

Project: Boundary Line Adjustment/Minor Subdivision

Frederick Haley, Surveyor, reviewed the project with the Planning Board members, noting the property is conforming to Zoning Code requirements. The application is to split a 21-acre parcel into two parcels. One parcel will be 7 acres and the second parcel will consist of the remaining 14 acres. Currently the property is vacant land that is all wooded. Once the parcel is split into two parcels, each parcel will have road frontage and size to be conforming. Chairman Tilden questioned Mr. Haley regarding the School district lines that run through the property as school district lines cannot be adjusted. Mr. Haley explained that currently Mr. Verenazi receives three separate tax bills due to the school district lines running through the property as well as information pulling from two separate deeds. When the parcel is divided into two, each parcel will receive two tax bills. E. Sieber questioned Mr. Haley about the road frontage on Pratt Hill Road for parcel number 2. Mr. Haley explained that there was a former 50-foot-wide private right of way that is no longer valid since the land is owned by the person who has the right of way and

you cannot have a right of way on something that you own. Parcel 2 will be accessible by Shale Mountain Road. There was a brief discussion regarding the history of the property.

Attorney J. Catalano explained that a new SEQRA EAF form needed to be completed for the project description as the project is for a Minor Subdivision instead of a Boundary Line Adjustment, as noted on the EAF form.

A motion to classify the Planning Board Application PL-2021-09 as an Unlisted Action under SEQRA made by J. Magee, seconded by E. Sieber,

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

A motion to approve the application as complete made by P. Samowitz, seconded by D. Lans.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

The next meeting will be held on August 5<sup>th</sup>. 2021.

A motion to set a public hearing, as the first order of business, for Planning Board Application PL-2021-09 was made by J. Magee and seconded by E. Sieber.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

Attorney J. Catalano advised the Board members that the certain members of the Town Board complained about the Madsen application doing business at the property with no DOT approval. Attorney J. Catalano communicated with Building Inspector E. Reis via email and E. Reis confirmed that no work shall be done on the property until DOT approval is received.

Chairman Tilden spoke to the Board members about the Zoning code for ground mounted solar, explaining it is very ambiguous as it is still what the last Code Enforcement Officer approved 1-2 years ago. Attorney J. Catalano explained that a lot needs to be fixed in regards to the code. Attorney J. Catalano suggested the Planning Board makes a recommendation to the Town Board for parts of the Zoning Code that they would like to change or clean up. There was a brief discussion regarding solar projects that did not go before the Planning Board. Attorney J. Catalano will notify E. Reis to review the Code and check the records for what was issued a permit and what was not issued a permit.

There was a brief discussion regarding future State regulations on Air BnB's as well as the new NYS Cannabis Laws. The Town Board needs to decide if they will be opting in or out of the new Cannabis Laws.

**Public Comment**

None

**Adjournment**

A motion to adjourn was made by Chairman Tilden and seconded by D. Lans.

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0. Meeting adjourned at 8:43 p.m.

Respectfully Submitted,

Angela Rothermel, Planning Board Clerk