

June 6th, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Community member Cathy Gehrig

CALL TO ORDER

Chairman Jim Patrick called the meeting to order at 6:32pm and informed those in attendance that the evening's meeting was a continuation of the public hearing for Mr. Benjamin Borntreger's minor subdivision at 3167 Moyer Road, which was left open on April 17th, 2024.

REVIEWAL OF MINOR SUBDIVISION – TOWN OF MOUNT MORRIS

Chairman Jim Patrick stated that he believed further clarification had been received from the Town Attorney that the acreage of town properties was measured from the centerline of the road, but that in the definitions of the Town Code state otherwise. Town Code Enforcement Officer Shawn Grasby agreed and added that the definitions regarding subdivisions within the code state that any parcel of land shall not include the road right-of-way as part of the parcel. Chairman Patrick stated that Mr. Borntreger has since added on the required acreage to ensure that the measured acreage not including the right-of-way meets the 3-acre requirement set forth within the code.

Chairman Jim Patrick closed the public hearing for Benjamin Borntreger's minor subdivision at 3167 Moyer Road at 6:35pm.

A motion to issue a negative declaration on the SEQR attached to Benjamin Borntreger's minor subdivision application at 3167 Moyer road was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 3 (Clester, Race, Patrick)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Benjamin Borntreger's minor subdivision application at 3167 Moyer road was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 3 (Clester, Race, Patrick)

No: 0

Abstain: 0

The motion was carried.

OTHER BUSINESS

Chairman Jim Patrick asked those in attendance if any additional business needed to be discussed.

Town Code Enforcement Officer Shawn Grasby brought up an application for subdivision within the town that he's been hesitant to bring before the board due to issues Officer Grasby has had with the surveyor's maps. Officer Grasby stated that one map will show one part of the subdivision, the next map will show another, and yet another map will show the proposed parcels but not the structures located within them. Officer Grasby inquired as to whether or not the Board would accept the combination of all maps provided in order to review the applicant's proposed subdivision, or if he should once again tell the applicant to refer back to his surveyor for more detailed maps. Officer Grasby stated that the proposed subdivision clearly meets the code as the proposed parcels far exceed the requisite 3 acres defined within the code.

Chairman Jim Patrick stated that he did take issue with what Town Code Enforcement Officer Shawn Grasby has proposed. Phil Race stated that he agreed, so long as the subdivision itself meets the code. Joel Clester stated that he also doesn't take issue with reviewing the application as presented.

Town Code Enforcement Officer Shawn Grasby stated that he would follow up with the applicant.

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ADJOURNMENT

A motion to adjourn was introduced by Phil Race and seconded Joel Clester, and was voted on by members as follows:

Aye: 3 (Clester, Race, Patrick)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 6:56pm.

Respectfully submitted,

Kaylee R. Leone
Deputy Town Clerk/Town Planning Board Secretary

Marcy DioGuardi subdivision fiddler road. Application was recently withheld and planned to be sent to the joint ZBA due to misprint in Village Code. MM was able to find and verify that the filing with NYS was in fact NYS and the 115,000 square feet was in fact a misprint.

JP asked MM for additional info. Lot 2 will be joined with another tax account, the adjoining tax parcel. JP asked if KF was aware that no variance was required, MM stated yes.

Motion to set public hearing for 6/19/2024 1st JC, 2nd PR. All in favor, none opposed. Motion carried.

Minor subdivision town of MM on begole and swanson road.

SG gave additional detail, stated that whole parcel was not previously listed on survey. Proper maps have now been supplied. Does meet all code requirements, 120 acres and subdividing 50 off.

Motion to set public hearing for 6/19/2024 1st PR, 2nd JC. All in favor, none opposed. Motion carried.

Village agreement- same as town. Put on agenda for next month.

Other business- geological report for fire deoamernt. MM stated waiting on additional information to come back from village engineer.

SG – didas farms did sell, chris didas is looking to subdivide 13 acres from rest.

Notice for change of venue for fire departmnet, KL wants to put in notice at least one month in advance.

PR – whats the issue? MM – not a structural fill not supporting of cement slab as proposed in the plans. Potential for voids. 28 ft of bedrock below fill.

MM – fire department has been made aware.

Motion to adjourn, set next meeting June 19th 2024 at 6:30 st PR 2nd JC. All in favor none opposed adjourned at 6.52pm.

Introductions.

Approval of minutes 1st PR, 2nd JC. All in favor, carried.

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Approval of minutes 1st PR, 2nd JC.

Minutes 1st LW 2nd Phil Race.

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Dutch street road and moyer road. Benjamin 3 acres from 33 acres. House off of a barn, surveyor already surveyed. SG stated has required frontage and acreage.

Cathy Gehrig – upon review of material shows that is measured from middle of the road rather than property lines “always usable land”. Soil, permeability, septic/sewer. Asks that the board considers usable space. 5% lot coverage. Center of the road to land is not usable space. If this was to be approved is a “sub-standard lot” and would require an area variance. Illegal to create a non-conforming lot. 1/6th of acre is an awful lot to not have as usable land.

Chad Woodworth – do any other subdivision include “property map to the center line of the road”. JP stated its typical. 16.79 vs 17.9. Stated is not taxed to the center of the road as opposed to the ditch. SDG stated that all surveys on county/state roads include center line of road.

CG “is this a four rod road”. Sets a precedent that would allow property owners to circumvent 3 acre requirement within town code.

Shawn grasby 250 foot of frontage. Dutch street road is state, moyer is town.

LW asked what would happen if homeowner took plow to the road. SG stated that he couldn't as it has an easement. LW stated that he would be paying taxes on something he doesn't own.

JP opened questions to the board, LW stated that board should consult the county to know where the pins are placed and right of way lies.

JP “basically meets the intent of the code”. Where are we with town going to smaller lots?

CW and CG stated it never got passed, and that the comments/concerns filled the room.

CW – we have codes and a law on the books. Alleviate a lot of questions, verify with code enforcement officer.

CG went back to the precedent.

Kevin Fahey – Every situation is unique. Precedents aren't set unilaterally when a decision is made and that every application is separate and different, but that other people might try to do the same thing.

LW stated that precedent should be set and adhered to time and time again. Stated that KF was wrong in his case by case.

JP asked the applicant if he would be bothered to add half an acre to the proposed subdivision. Mr. Bontreger stated that he would not be bothered to do so and just wishes that he would have known ahead of time what the proper requirements are.

CG stated that he received several calls from community members as the acreage on the mortgage list

Motion to keep public hearing open pending clarification from town attorney. To table – 1st JP, 2nd PR. All in favor none opposed.

Motion to open public hearing 1st JC, 2nd PR. All in favor none opposed.

KF – uncle wants to give up some land. RD's parcel is large enough to have a barn on it, subdivided property will be added to KF's existing lot to ensure that conforming lot. JP asked if KF asked if he located sewer pie, to which KF stated that he wasn't able to locate it. Doesn't see any manholes, just trees and mud.

MM stated is conforming lot, will not be a stand alone parcel.

CG – asked what usual process of lot line adjustments in the village

JP asked if anyone else in the gallery wished to speak. No questions from board

Motion to close public hearing. 1st PR, 2nd JC. All in favor.

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Will add note to SEQR form. Motion for negative declaration, 1st PR, 2nd LW. All in favor, none opposed.

Asked for further discussion, to which there was none.

Motion to approve subdivision, 1st LW, 2nd JC. All in favor, none opposed.

Additional business.

Looking for date/venue for public hearing of Fire Department

Standard definitions need to be addressed for terms used in solar law.

LW - P2 section 2 any increased traffic due to solar activity.

Added that comments from last meeting that village board

Battery storage law to go along with the solar energy.

Approval 1st JP 2nd LW all in favor none

KF stated the County Planning Board was very pleased with the effort. Stated that the notes are included shorthand notes. Approved unanimously.

Advisory comments did not include previous comments from March 2024 planning board meeting, but will be reflected in next go around.

Bill Manthey reminded of comment from last month's meeting regarding.

Adjournment 1st PR 2nd LW. Adjourned at 7:27pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves. Chairman Jim Patrick announced that additional items have been added to the agenda including a reviewal of a subdivision and area variance application located at Fiddler Road in the Village of Mount Morris, as well as reviewal and comment on the Village Solar Laws, and subdivision ap

plication for a property located at the corner of Dutch Street Road and Moyer Road in the Town of Mount Morris.

A motion to approve the March 20th, 2024 meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 3 (Clester, Patrick, Race, Woodowrth)

No: 0

Abstain: 0

The motion was carried.

Planning board previously reviewed solar law for the
Chairman Jim Patrick added that board member Larry Woodworth has been excused from the evening's meeting as he had a prior engagement. Chairman Patrick also stated that the Fiddler Road subdivision and area variance as well as the Village Solar Law items on the agenda will be

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PUBLIC HEARING – HOAGLAND/MT. MORRIS – NUNDA ROAD SUBDIVISION

Chairman Jim Patrick opened the public hearing for a minor subdivision in the town on Hoagland road. Chairman Patrick gave the floor to Town Code Enforcement Officer Shawn Grasby to provide an overview of the application.

Town Code Enforcement Officer Shawn Grasby explained that the parcel

Per SG low density residential district with 250 dot of frontage, added meets all code. 75 acre lot. Was originally 72 acre. Split off 10 acres on Hoagland road. Applicants want to put as much of acreage into daughter's name. JP asked what will become of the 62 acres. Applicant stated no plans at this time, primarily is used now for hunting and firewood. Small parcel kept for themselves (applicants). No plans on further development for either parcel. Larger parcel has more frontage on 408. JP opened floor for questions. SG stated application is cut and dry. JP opened floor for comment, none was given. Public hearing was closed by JP.

JC 1st to approve, PC 2nd. Motion carried.

Advised to file soon as possible as if applicant doesn't file timely he may need to come back for another hearing.

Moved to minor subdivision Dutch street road. Applicant not present, SG gave synopsis on application. Corner of Dutch and Moyer. 3 acre property subdivided from 35 acre parcel. Remaining lot will have frontage on both Moyer and Dutch Street road. Wells, septic is on maps as requested.

Kevin Fahey inquired as to whether or not this is the property that is up for sale and if the listed acreage is correct or if it has changed. SG explained that the acreage is defined by the center road of the property. Meets frontage requirements and set back requirements within the code as is. JP requested that applicants complete SEQR and that the county prefers that the SEQR be completed electronically as many fields are automatically populated based on tax map ID. JP opened floor to board for questions. No comments or questions.

Motion to waive county referral set the public hearing for April 17th 2024 1st PR 2nd JC.

Minor subdivision for 10 dio lane in village, applicant is Kevin Fahey. MM contains approx. 8 wants to 3.3 acres from existing parcel so that KF can add the acreage to his own. The remaining acreage will be retained by current owner. Both proposed parcels meet required square footage. KF explained that the owner wants to get rid of land. KF stated that part will also be given to Marcy Dioguardi. JP inquired about the sewer easement that runs through KF's current property. Jo Rawlgih added that he doesn't believe that the line is through the property, just an easement. KF explained that he doesn't plan to build.

Motion for public hearing 4/17/2024 1st JC 2nd PR all in favor motion carried.

No countywide impact.

Fiddler road minor subdivision Marcy Dioguardi. 1.93 acres currently, wishes to divide 1.155 and .872. .872 will be retained by owner. This will create a non-conforming lot. 1972 updated code contains comma on square footage (115,00). Lot is currently vacant. 7k square feet in total with multi-unit apartment building. No frontage but combined with other tax map containing frontage. Comment only, will be sent to ZBA.

Moved onto discussion on new solar energy law. Bill Manthey stated moratorium was passed a little less than a year ago. Village moratorium is a little different due to space/land constraints and additional terms/conditions apply. MM added that attorneys are basing code off of other nearby municipalities. MM stated development on a residential scale would really look like accessory structures and roof-mounted systems. Installations per fire code.

Was a moratorium passed or was it expired? BM

KF asked additional questions regarding agricultural soils.

MM stated that the idea was to add this to the current village code as an additional chapter.

KL clarified with BM as to whether or not a moratorium was passed or expired one year ago, Bm clarified that the moratorium was passed.

JC asked how the village would know if a property's solar was not producing for one year. SG added that for the largescale properties SUPs are required annually and output reports are required.

JC also called into question the three foot walking space between arrays.

Other business

Fire district is coming up with a site plan review soon possibly in April but more likely in May. For the back lot ("Social building").

KF stated that site plan approval not included in districting from the village can apply for a special use permit. KF stated that code is wrong. JP stated that special use permit site plan review. Village code needs to be addressed. Confines within the code. Use variance is difficult to obtain. KF stated the village as a municipality can supersede a municipality. JP stated county and village engineer and county planning.

Motion to adjourn and set next meeting for April 17th, 2024 at 6:30pm made at 1st PR 2nd by JC.

Administrative variance due to errors in village code for square footage.
ZBA next meeting before 4/17/2024.

Chairman Patrick briefly introduced the board members in attendance as well as Town Code Enforcement Officer Shawn Grasby.

Chairman Patrick requested that the board review the minutes from the January 17th, 2024 Planning Board Meeting, and asked if the board had any corrections or questions. Phil Race noticed that the total listed next to the "ayes" was listed as "3" rather than "4" in the minutes. Town Code Enforcement Officer Shawn Grasby also noticed a typographical error with his name on the bottom of the second page. Secretary Kaylee Leone acknowledged the errors and stated that she would fix them.

A motion to approve the minutes with minor changes was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 3 (Patrick, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

CLARIFICATION ON CANCELLATION OF PUBLIC HEARING – EDF SOLAR

Chairman Jim Patrick stated that a public hearing was previously set for EDF Solar's minor subdivision application for this meeting but that our Town Attorney, Ed Russell, has since clarified that a public hearing is not needed. Chairman Patrick called on Town Code Enforcement Officer Shawn Grasby to brief the board further on the matter. Mr. Grasby confirmed that a letter has been received outlining that a special use permit would not be required as the subdivision sought would fall under a public utility exception within the Zoning code.

The correspondence between MRSEC's attorneys and the Town attorney details that upon completion of the construction of the point of interconnection, the collection substation, and the overhead transmission line that connects the two (collectively referred to as "the Substation"), that NYSEG will take over operation of the point of interconnection while MRSEC will continue to operate the collection substation. In order to facilitate this shared responsibility MRSEC intends to subdivide the parcel and transfer the

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piece of land that the point of interconnection resides on to NYSEG. As the Substation would be considered a public utility, the current Zoning Code would not require the Substation to acquire a special use permit as the Substation would conform to the minimum lot size, setback, and frontage requirements outlined in the Zoning Code for parcels that are considered “public utility uses”.

MINOR SUBDIVISION APPLICATION RECEIVED– TOWN OF MOUNT MORRIS

Chairman Jim Patrick moved on to discuss a minor subdivision application for a property within the Town and asked Code Enforcement Officer Shawn Grasby to give a synopsis on the application and plans. Officer Grasby explained that the survey was completed by Kevin O’Donoghue, and that application is requesting that the owners, Mark and Lisa Ewing, are hoping to subdivide 62 acres off of the current property to give to their daughter. Officer Grasby further explained that the applicants plan to keep nine acres to themselves. Chairman Patrick asked if the proposed parcels would have enough frontage, to which Officer Grasby state that the parcels have more than enough frontage with over 500 feet for each parcel. Chairman Patrick also asked if either of the parcels would have road frontage, to which Officer Grasby explained that they both would.

Chairman Jim Patrick asked the board members if there were any questions or concerns regarding the application for minor subdivision, to which there were none.

A motion to set the public hearing for Mark and Lisa Ewing’s application for minor subdivision on Wednesday, March 20th, 2024 at 6:30pm was introduced by Larry Woodworth and was seconded Phil Race, and was voted on by members as follows:

Aye: 3 (Patrick, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

ADDITIONAL MATTERS

Chairman Jim Patrick requested that Town Code Enforcement Office Shawn Grasby provide Secretary Kaylee Leone the information required for the public hearing notice, to which Ms. Leone stated that she the information required for the notice is all included in the Ewing’s application, of which Ms. Leone has a copy of. Board member Phil Race asked those officials in attendance who was responsible for the mailer notices to the applicants’ neighbors, to which Town Code Enforcement Officer Shawn Grasby replied that the applicants are. Chairman Jim Patrick added that mailers are not a requirement, only the public hearing notice be posted in the paper or shopper.

Chairman Jim Patrick would like our agreements with Livingston County to be reviewed. Chairman Jim Patrick asked Secretary Kaylee Leone if she could reach out to Heather Ferrero, the Livingston County Deputy Planning Director, to see what applications are not required to be submitted for review with the Livingston County Planning Board. Ms. Leone stated that she will reach out to Ms. Ferrero and include any information received in next month’s meeting packets.

Chairman Jim Patrick asked Mount Morris Deputy Mayor Bill Manthey if he had any other business to add to the discussion, to which Deputy Mayor Manthey stated that the village attorneys continue to work on solar laws for the Village. Board member Larry Woodworth asked Deputy Mayor Manthey if the Village is working to update the Village Code, to which Deputy Mayor Manthey replied that the Village is working on revising a couple items regarding grants and the comprehensive plan within the current code.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had any matters to discuss. Ms. Leone responded that she did not have any additional items to discuss.

ADJOURNMENT

A motion to adjourn and set the next Planning Board Meeting for Wednesday, March 20th, 2024 at 6:30pm was introduced by Larry Woodworth and seconded Phil Race, and was voted on by members as follows:

Aye: 3 (Patrick, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 6:51pm.

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Respectfully submitted,

Kaylee R. Leone
Deputy Town Clerk/Town Planning Board Secretary