



PLANNING BOARD

MINUTES (FINAL)

THURSDAY, FEBRUARY 13, 2020

6:00 P.M.

RECREATION CENTER

CALL TO ORDER: Mark Torpey, Chairman called the meeting to order at 6:05 P.M.

SALUTE TO THE FLAG:

PRESENT: Mark Torpey, Chairman; Jamin Totino, Vice Chairman, Ruth Horton, Sara Boivin; Todd Fabozzi; Lexie Bonitatibus; Kerry Mayo

STAFF: Susan Barden, Principal Planner, City of Saratoga Springs
Vince DeLeonardis, City Attorney, City of Saratoga Springs

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

A. APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the end of the meeting.

B. POSSIBLE CONSENT AGENDA ITEMS:

NOTE: The intent of a consent agenda is to identify any application that appear to be “approvable” without need for further evaluation or discussion. If anyone wished to further discuss any proposed consent agenda item, then that item would be pulled from the “consent agenda” and dealt with individually.

None at this time.

C. APPLICATIONS UNDER CONSIDERATION

1. **20190117 EBERLEIN SUBDIVISION,** 42 Ruggles Road, final subdivision of a 2-lot conservation subdivision in the Rural Residential District.

RECUSAL:

Board Member Lexie Bonitatibus recused from this application.

Mark Torpey, Chairman stated this is a proposed two-lot conservation subdivision within the Rural Residential District. The Board has seen and reviewed this project several times at a number of meetings. The public hearing remains open. In reviewing the records we had a sketch plan review in March of 2019. We have had this application noticed back in May and re-noticed in December. The public hearing remains open. The plans have changed significantly in response to many of the Boards comments. The current design now has a driveway that has been re-routed away from the steep slope section of the property. There is a placement of a no cut buffer to the neighbor to the north which will protect views. Location of the conservation easement itself it now includes a swath that runs the entire area of the stream all the way up to a drainage easement. The City Attorney reviewed the language and we are still attempting to receive

information and work with the Town of Saratoga. It is providing continuity and protection from construction from that drainage way. At the last meeting we spoke about protecting the view shed on Ruggles Road and provide protection from tree cutting to maintain the rural atmosphere of the area. We have received some new information dated January 7, 2020 from Sterling Environmental Engineering which was provided on behalf of Mrs. Raga and which has been reviewed by the Board. This report noted some concerns regarding the conservation analysis as well as some concerns with the SWPPP. A subsequent report from Sterling Environmental Engineering submitted February 6, 2020 which questioned a PE stamp on a previous subdivision. The Board has had some time to review this as well as some new items submitted. On February 5, 2020; Chazen the City's consulting engineer for this project reviewed all the additional information provided and issued no further comments based on what they have seen.

Susan Barden, Principal Planner, City of Saratoga Springs stated we are in receipt of a response from the referral sent to the Saratoga County Planning Board noting no significant countywide or intercommunity impact.

Mark Torpey, Chairman stated there is an additional item posted on the web which is some additional analysis completed by a law firm again hired by a neighbor Caffry and Flower that identified some issues which should be brought to our attention and provides additional information to the Board for consideration.

Applicant: Geraldine Eberlein

Agent: Dave Ingalls, Ingalls and Associates, LLP

Mr. Ingalls stated the Chair has provided a good summary of the project. There is nothing further to add. We are referencing the sign off from Chazen dated February 5, 2020. They did not have any further questions or comments on our SWPPP. All their comments have been addressed. We have also moved the conservation area along the frontage. This was in response to the comments by this Board to preserve the rural frontage and trees. We have also provided a Draft Declaration of Restrictive Covenants. This specifically references the conservation subdivision regarding the five acres of preservation land. Also, this specifically references the City's no cut buffer policy, and allows the City the right of inspection.

Vince DeLeonardis, City Attorney stated the Assistant City Attorney is reviewing this and may possibly include working with the Town of Saratoga to provide a rural view shed on Ruggles Road.

Mr. Ingalls provided a visual of the site and updated changes. A review of the conservation area was provided for the Board.

Mark Torpey, Chairman Spoke regarding the 10 foot buffer to be increased another 10 feet for additional buffering for a minimum of 20 foot buffer is something the Board would like to see.

Mr. Ingalls reviewed the remainder of the site noting no DEC wetlands have been noted.

Mark Torpey, Chairman asked if there were any additional questions or comments from the Board.

Mark Torpey, Chairman questioned the City Attorney regarding a recommendation by Attorneys Caffry and Flower having both property owners on Lots 1 & 2 declarants have the right to enforce the conservation easement against one another – an additional level of protection.

Vince DeLeonardis stated this is not uncommon and is something which can be done. Insofar as the City holds the rights it may not be necessary. It is something we have seen before.

PUBLIC HEARING:

Mark Torpey, Chairman stated the public hearing was opened and remains open.

Mark Torpey, Chairman asked if anyone in the audience wished to comment on this application.

Leeanne Raga, 50 Ruggles Road. Neighbors in the immediate area at 50, 47 and 51 Ruggles Road have raised issues of the topography of the project from the first public hearing in May of 2019. There are issues regarding stormwater runoff as well as issues with the culverts. These issues have been reiterated repeatedly at these meetings as well as an onsite meeting with the Department of Public Works in June 2019. Issues were raised regarding the standing water at the 50 Ruggles Road culvert has also been submitted. Also, 42 and 47 Ruggles Road have documented wetlands on both sides of the road. Ms. Raga questioned the accuracy of the SWPPP with regard to the culverts; there is no mention of culverts in the SWPPP and the issue with drainage. These have been well documented. The neighbors continue to oppose this project.

Joy Bull, 47 Ruggles Road. She is still in opposition of the project. Based on the culverts and water issues in this area which will adversely impact her property. Major concerns are the overflow of water on her well and septic system. She opposes this application as this will have implications for all the adjoining properties.

Mark Torpey, Chairman closed the public hearing at 6:23 P.M.

Mark Torpey, Chairman asked if there were any further questions or comments from the Board. None heard.

SEQRA:

Mark Torpey, Chairman stated the Board will review Part I of the SEQRA Short Environmental Form which was submitted by the applicant. Several areas were discussed and the discrepancy concerning the area of disturbance was rectified to read 0.9 acres. Some additional areas of concern were discussed with the applicant and corrected on the submitted form. It was determined this was now accurate as submitted.

Mark Torpey, Chairman and the Board reviewed Part II of the SEQRA Short Environmental Form. No large or important areas of concern were noted.

SEQR DECISION:

Jamin Totino, Vice Chairman stated that based upon the information provided by the applicant in Part I of the SEQR Short Environmental Assessment Form, and analysis of the information provided and presented in Part II of the SEQR Short Environmental Assessment Form, I make a motion for a SEQR negative declaration since the project will not result in any large and important impacts and, therefore, is one that will not have a significant adverse impact on the environment. Sara Boivin seconded the motion.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Todd Fabozzi, in favor; Ruth Horton, in favor; Sara Boivin, in favor; Kerry Mayo, in favor;

MOTION PASSES: 6-0

Mark Torpey, Chairman stated we will now move onto the 2- Lot Conservation Subdivision Approval. The following are conditions as noted by the Board a 20 ft. minimum requirement for the buffer along Ruggles Road to provide greater buffering and maintain the rural view shed along Ruggles Road. Allowing two property owners having jurisdiction to provide a greater level of enforcement for the conservation easement. Orange construction fencing to delineate the no cut buffer areas during clearing and construction. The Planning Boards language on the no cut buffer will need to be embedded in the deed as well. That requires some form of delineation for the conservation easement location for perpetuity. Flexibility is provided to the land owners discretion to provide what suits them. Approval of final signage details to be provided for administrative approval.

Jamin Totino, Vice Chairman made a motion in the matter of the Eberlein Subdivision, 42 Ruggles Road, final subdivision of a 2-lot conservation subdivision be approved with the conditions as noted by the Chair. Kerry Mayo seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Todd Fabozzi, in favor; Ruth Horton, in favor; Sara Boivin, in favor; Kerry Mayo, in favor;

MOTION PASSES: 6-0

Lexie Bonitatibus resumed her position on the Board.

2. 20170676-17.051.1 DEVALL SUBDIVISION AND RESIDENCE, 59 Franklin Street, coordinated SEQRA review
For a two lot subdivision within an Urban Residential-4 District.

Mark Torpey, Chairman stated the Planning Board received a required advisory opinion request from the ZBA for area variances associated with the subdivision. An unfavorable opinion was issued on October 18, 2018.

SEQRA:

- Type I action – An Unlisted Action occurring wholly or partially within or substantially contiguous to any historic district. Coordinated review is required.
- ZBA involved agency – May 7, 2018 deferred Lead Agency Status to the Planning Board.
- DRC involved agency-July 29, 2018 deferred Lead Agency Status to the Planning Board.
- PB accepted Lead Agency on October 18, 2018 and requested an advisory opinion from the DRC.
- DRC issued a favorable advisory opinion on November 16, 2019.
- Full EAF now provided by applicant as required.

Applicant: Richard and David DeVall

Agent: Michael Toohey, Attorney

Mr. Toohey provided a history of the project for the Board noting the concern was setting a precedent in this historic zone by creating two substandard lots. We are utilizing the historic context of this property and having them return to their original context back in to the 1800's. All pertinent documentation has been submitted to the City with regard to the deeds on this property. These are two separate properties, 59 Franklin Street and 11 Cherry Street. This property was always listed as 2 separate and distinct properties by the City. A visual presentation of the old City tax maps noting the location of the properties back into the 1940's denoting the two tax parcels owned by two separate individuals for twenty years prior to the inception of Martin zoning. Sanborn maps were also provided noting the properties in question showing two separate homes and properties that were divided, subdivided properties. In 1960 Martin zoning came into effect showing three specific homeowners on these properties. Mr. Toohey spoke regarding the review necessary for this possible subdivision to proceed through the City's Land Use Boards, as well as the several new homes constructed in this area and what currently exists in the area and the role the Saratoga Springs Preservation Foundation plays in assuring that historic precedent is not set in a negative fashion. A letter dated June 17, 2019 directed to the DRC noting they have recognized what is being proposed and they have no problem with it recognizing the history of how this property was divided in the past. Mr. Toohey provided a map for the Boards review noting the historical properties which still exist in the City especially the properties in question this evening. Obviously, what the applicants are proposing is not setting a precedent but bringing the context of this lot back to where it was.

Mr. Toohey reviewed portions of the SEQRA form which the Board initially had reservations and concerns about and the Comprehensive Plan requirements noting the compatibility of the applicant's request.

Discussion ensued among the Board regarding the necessity for a subdivision.

Mr. Toohey reviewed the character of the Franklin Square Neighborhood and noted the lack of carriage homes in this area. Mr. Toohey stated this property has remained the same since the 1800's and remains a historic lot and how the property became one lot prior to the DeVall's ownership. There is no deed that shows the merger of these two properties.

Vince DeLeonardis, City Attorney, City of Saratoga Springs, stated the City does not have any forced merger provisions in our Zoning Ordinance. We have never had any. It is unknown exactly why or how they became identified both at the County and the City as one parcel. Mr. Toohey does present some compelling arguments regarding the historical nature of the property.

Susan Barden, Principal Planner, City of Saratoga Springs stated the lot sizes are fine in the UR-4 district it is the lot widths would require relief.

Discussion ensued among the Board regarding historic zoning versus current zoning standards and the size of the subdivided parcel, siting of the proposed structure on the site and the possibility of setting a precedent.

SEQRA REVIEW:

Mark Torpey, Chairman stated the Board is in receipt of the SEQRA Long Form Part I was submitted by the applicant and has been reviewed and is accurate. The Board reviewed the SEQRA Long Form Part II. No large or important areas of concern were noted.

SEQRA DECISION:

Jamin Totino, Vice Chairman stated that based upon the information provided by the applicant in Part I of the SEQR Short Environmental Assessment Form, and analysis of the information provided and presented in Part II of the SEQR Short Environmental Assessment Form, I make a motion for a SEQR negative declaration since the project will not result in any large and important impacts and, therefore, is one that will not have a significant adverse impact on the environment. Todd Fabozzi seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Todd Fabozzi, in favor; Ruth Horton, in favor; Sara Boivin, in favor; Lexie Bonitatibus, in favor; Kerry Mayo, in favor

MOTION PASSES: 7-0

Mr. Toohey requested the Board reissue an Advisory Opinion to the ZBA for this application rescinding the previously submitted Unfavorable Advisory Opinion.

Mark Torpey, Chairman stated based on the information we discussed this evening the Planning Board should issue a New Advisory Opinion to the ZBA.

The Board was in agreement with the Chair.

Mark Torpey, Chairman stated the Positive Advisory Opinion should read as follows: Based on the information the Planning Board has received, along with the benefit of information from the Saratoga Springs Preservation Foundation and the DRC, the Planning Board feels that its' previous Advisory Opinion should be rescinded and is null and void. A favorable Advisory Opinion should be rendered in its place.

Ruth Horton made a motion in the matter of the DeVall Subdivision and Residence, 59 Franklin Street, the Planning Board issues a Favorable Advisory Opinion for the project on this date February 13, 2020. The previous Negative Advisory Opinion should be rescinded. Lexie Bonitatibus seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Todd Fabozzi, in favor; Ruth Horton, in favor; Sara Boivin, in favor; Lexie Bonitatibus, in favor; Kerry Mayo, in favor

MOTION PASSES: 7-0

3. **20170715-2017.040 FADEN MIXED-USE DEVELOPMENT**, of West Avenue and Station Lane, SEQRA review for a new mixed-use project in the Transect-5 District.

Susan Barden, Principal Planner, City of Saratoga Springs stated the information was previously provided to the Board. We are hoping to provide information to the applicant relative to SEQRA review.

Mark Torpey, Chairman stated it would be helpful to have independent engineering review relative to the SEQRA Long Form submitted for the project as well as the benefit of the SWPPP for this as well. There are many challenges regarding stormwater in this area of the city. We would like to have Site Plan and Special Use Permit information to complete this review thoroughly. Also, the larger project by the Train Station may not be built, we are unsure at this time. A traffic analysis and traffic impact should be updated and reviewed. Layout of the pedestrian flow for this project. Details on the project phasing as well as the proposed civic space. If this information can be shared with the applicant would be beneficial in the further evaluation of this project.

D. BOARD DISCUSSION – PUBLIC DRAFT UDO

Discussion ensued among the Board regarding additional comments for the UDO review.

E. APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the February 27, 2020 Planning Board meeting.

UPCOMING MEETINGS:

Planning Board Meeting, Thursday February 27, 2020 at 6:00 PM.

MOTION TO ADJOURN:

There being no further business to discuss Mark Torpey, Chairman adjourned the meeting at 8:30 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 4-30-20