



PLANNING BOARD

MINUTES (FINAL)

THURSDAY, MAY 5, 2022

6:00 P.M.

ZOOM WEBINAR

CALL TO ORDER : Mark Torpey, Chair, called the meeting to order at 6:15 P.M.

SALUTE TO THE FLAG:

PRESENT : Mark Torpey, Chair; Ruth Horton; Kerry Mayo; Todd Fabozzi; Jason Doty; Chuck Marshall;
Mark Pingel;

STAFF : Susan Barden, Principal Planner, City of Saratoga Springs
Leah Everhart, Counsel to the Land Use Boards

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. **#20220130 52 KIRBY ROAD AREA VARIANCE**, 52 Kirby Road, Coordinated SEQRA review and Advisory Opinion to the ZBA for a proposed two-lot subdivision in the Urban Residential-1 (UR-1) District.

Mark Torpey, Chair stated the ZBA has requested an Advisory Opinion from the Planning Board. This is currently a 20,000 sq. ft. single lot. The applicant is proposing to divide the lot into two lots each 10,000 sq. ft. each.

The ZBA has initiated coordinated SEQRA review and proactively deferred Lead Agency Status to the Planning Board on April 4, 2022.

No Representative Present for the application

Mark Torpey, Chair, stated we will move onto the next application and return to this application later in the agenda.

- 2. #20211077 74 MITCHELL STREET, SITE PLAN,** 74 Mitchell Street, Site Plan Review for a private club/recreation area that includes a member pool and cabana and associated site work in the Urban Residential-3 (UR-3) District.

Mark Torpey, Chair, stated this project has appeared before the Board previously. The Special Use Permit (Permanent) for a private/civic club issued on March 24, 2022, Board provided a SEQRA Negative Declaration for the project was issued on October 28, 2021. A lot line adjustment was approved on December 14, 2021, for the reconfiguration of 7 lots - 2 on Union Avenue and 3 on Mitchell Street. We had requested the applicant to return for Site Plan to review remaining issues.

Susan Barden, Principal Planner, stated it was brought to her attention today that the Part I of the Short EAF Form the Board reviewed previously under Question 12A - does the project site contain or is it substantially contiguous to a building, or archeological site district which is listed on the National or State Register of Historic Places, or has been determined by the Commissioner of NYSOPRHP to be eligible for listing on the State Register of Historic Places. That was identified as no we believe it should be yes because 74 Mitchell Street is adjacent across the alley from properties that are in a Historic District, those that front on Union Avenue.

Mark Torpey, Chair, stated this was noted in the public comment. Therefore, the Board would be able to acknowledge that that Question needs to be properly checked and then potentially reaffirm our previous SEQRA Negative Declaration or does the Board need to re-do the entire form.

Susan Barden, Principal Planner, stated she and Leah Everhart, Counsel discussed this.

Leah Everhart, Counsel, stated following a discussion with Susan Barden, we do not feel it is necessary to go back and redo SEQRA Review provided the Board is fully aware that the site is approximate to the Historic District when it was reviewed initially. We recommend that the applicant verbally amend their EAF form, and we have drafted a resolution for the Board to consider and reaffirms the SEQRA findings.

Applicant: Jay Hanley

Agent: Matt Jones, Attorney, Mike Ingersoll, Matt Brobston, LA Group; Mike Tuck, Balzer Tuck Architects

Mr. Jones requested that the EAF Form the applicant submitted be amended to reflect the changes to Question 12a and reaffirm SEQRA.

Leah Everhart presented the following resolution.

It is hereby Resolved as follows:

- 1). It has been discovered that the answer provided in EAF Part 1 in response to Question 12 (a) was erroneous;
- 2). At all times during the review of this application, including during SEQRA review, this Board was fully aware that the

Project site is contiguous to the Historic District and at no time did this Board misunderstand this circumstance or rely upon the response previously provided to Question 12 (a).

3). The response to Question 12 (a) has since been corrected on the record to reflect the Board's understanding that

The site is, in fact, contiguous to the Historic District.

4). The Planning Board hereby reaffirms and readopts its previous SEQRA Negative Declaration.

Ruth Horton made a motion to reaffirm the previous Negative SEQRA Declaration and the Notice of Decision presented by Counsel. Jason Doty seconded the motion.

Mark Torpey, Chair asked if there is any further discussion.

VOTE:

Mark Torpey, Chair, in favor; Kerry Mayo, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Mark Pingel, in favor;

MOTION PASSES : 7-0

Mr. Ingersoll provided a visual presentation of the site which is located on Mitchell Street and Snyder Lane.

A site survey map was provided showing the two homes existing on Mitchell Street, a vacant lot, the structure which will remain as well and 3 new homes on 8,000 sq. ft. lots. These are parcel which exist today. A visual of the Club Amenity Site Plan was also provided a listing of the current Conditions of the Special Use Permit. Mr. Ingersoll provided a layout plan with an alternate pool design which could be an oval or square and that has not been yet determined but the scale of the pool was provided along with alternate layouts. Mr. Ingersoll also reviewed three items which were of concern to the Board discussed at the workshop. These items are the clubhouse architecture which Mike Tuck will discuss. Site lighting and pedestrian access.

Mike Tuck, Architect, provided a floor plan of the 1st floor of the clubhouse. This is a lounge area and fitness space for the members, it is not a commercial space or restaurant. A view of all elevations was also provided. This structure is very much in keeping with the context of the residential neighborhood and the total footprint is approximately 2700 sq. ft. The building lighting will be low voltage downward facing wall sconces. Materials proposed for the building are a quarried granite stone veneer is proposed on the lower portion of the building with clapboard siding and cedar shingles on top. Aluminum clad wood windows, architectural shingle roof with a standing seam metal roof, timber framed rafters, all residential inspired materials. Mr. Tuck provided context photographs from the neighborhood superimposing the new structure for the Boards review as well as visuals of possible proposed new homes for the infill on Mitchell Street.

Mr. Ingersoll provided a visual of the lighting photometric plan. In keeping with the residential scale highlighting the low voltage of the proposed footcandles. We are well within the international dark sky criteria. There will be no light spillage off site. This is meant to mimic your backyard. Mr. Ingersoll moved on to the pedestrian connectivity to the amenity area. We are unsure where the driveways will be located for the future homes. There is an existing sidewalk on the frontage of the clubhouse on Mitchell Street. When the new homes are built alongside the clubhouse, they will be required to install sidewalks since they do not exist at this time. A view of the site plan - easements for walks was provided. On Snyder Lane a 5 ft. wide area of flushed paved surface to be installed out of the city ROW prior to the Certificate of Occupancy for lots 1, 2, 3, 4, and 5.

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

Mark Pingel questioned if the swimming pool counts as a building and is there any issue with maximum building coverage percentage against the UR-3 zone.

Mr. Ingersoll stated they discussed that with staff at City Hall but we this project is under the coverage requirements.

Mark Torpey, Chair, questioned the second-floor space and if a layout was available.

Mr. Tuck stated there is no layout for the second floor. It is open loft space for additional exercise equipment should it be necessary. There is no program need for that area.

Mark Torpey, Chair, questioned if street trees and curbing is proposed along Mitchell Street.

Mr. Ingersoll stated the street trees and curbing was included in the letter of credit for the clubhouse property.

We were not sure yet how to manage the others. We need to have a discussion with DPW regarding curbing and the crown of the road. This could be overseen as to the satisfaction of DPW.

Mark Torpey, Chair, stated there have been projects where we have done just that. We could incorporate language into the approval that would provide you with an opportunity to coordinate with DPW. The Chair questioned the pull off or landing area on Snyder Lane which does provide a safe haven for entry and exit for pedestrians. Signage to indicate a no parking zone would be for this location.

PUBLIC COMMENT

Tim Maloney lives on Ludlow Street. He spoke about the petition and outdoor group entertainment noise. The neighbors felt that 11:00 PM was too late. Could the applicants review this and review this issue? Secondly does the Homeowners Association exist and will this be constructed prior to the existence of the Homeowners Association. Lastly, 78 Mitchell Street was built as a home, but no one has ever lived there and will this be incorporated into this project.

Mark Torpey, Chair, stated the Board did have discussions in this regard. The analogy to Siro's is not appropriate since that is set up as full-fledged restaurant with outdoor entertainment. This is limited to members. There will be two of the residences flanking the clubhouse. Also, we looked at one pool versus each home having an individual pool, trying to coordinate into a fixed location. We have discussed and talked through those issues regarding the HOA and the sequence of events and how that plays out.

Susan Barden, Principal Planner, stated it is in the Notice of Decision of the Special Use Permit. In the text of that it notes that the lot will be commonly owned and maintained by 7 adjacent residential properties, 5 fronting on Union Avenue and 2 fronting on Mitchell Street as shown on the existing adjacent parcels plans ownership, management and Maintenance of the lot will be specified in restrictive covenance and deeds within the HOA document. So, that is specifically within the Special Use Permit language document itself. It is not listed as a condition but is in the language.

Leah Everhart, Counsel, stated there is nothing that prevents the Planning Board from having clear conditions imposed upon Site Plan Review to address the same concerns. If the Board feels they were not clearly stated in the Special Use Permit, they can be addressed at Site Plan Review.

Discussion ensued among the Board regarding property maintenance during construction period.

Susan Barden, Principal Planner stated the applicant would be responsible until the HOA had a maintenance agreement within it that would specify maintenance.

Mr. Jones stated the properties today are owned by an LLC, the Sutton family. Once we receive Site Plan Approval,

We will acquire those parcels and Mr. Hanley our client will then own these properties and promptly initiated the formation of a HOA, a process which takes about 6 months through the Department of Law to obtain. He will be the owner of the lots and therefore responsible for any maintenance.

Mark Torpey, Chair, stated 78 Mitchell Street, which is not part of this application, and we need to keep the conversation focused on this project.

Mr. Jones requested if the Board does decide to move forward with the Site Plan Review and institutes conditions, we would request the ability to discuss this with our applicant prior to voting.

Discussion ensued regarding noise and decibel levels considering neighbors.

Susan Barden, Principal Planner stated in any residential district the use of any apparatus for the amplification of sound between the hours of 11PM and 7AM in such a manner as to generate an instantaneous sound level of 60 decibels or an instantaneous sound level of 70 decibels or greater as measured from any point along the boundary line of the real property on which the sound pressure is generated.

Mark Torpey, Chair, stated it sounds as though this is explicit for the city to monitor that for compliance.

Todd Fabozzi stated he feels we should stay with the city noise ordinance rules and regulations.

Mark Torpey, Chair summarized the conditions for Site Plan Approval.

- Temperature of the down lighting 3,000 kelvin level.
- Elevation drawings are appropriate.
- Landing area to the rear of the property would not allow for permanent parking.
Directional signage would be necessary.
- Once the project is built out on Mitchell Street - extension of sidewalks to embrace those properties as well.
- Coordination with DPW with respect to curbing.
- Street lighting and street trees to extend to build out and to conform with city standards.

Mr. Ingersoll stated regarding lighting, the streetlights are the taller black lights which appear in the outer district.

They are much taller and across the street there is an existing overhead light. Once we begin to add these lights down the roadway, they will be right in someone's bedroom. Do we want to illuminate this area beyond the residential scale?

There are no other streetlights in this neighborhood other than Fasig-Tipton. On Union Avenue there are lights.

Mark Torpey, Chair, stated we can modify the language for the conditions. With regards to deferring to DPW regarding curbing, we will also defer to them respective to the type of light and street trees for this outer district area.

Leah Everhart, Counsel to the Land Use Boards, questioned the applicant since the site plan is related to a single lot. Obviously, the use of that property is intertwined with other surrounding properties. There will be an HOA, and somewhat of a community within a community and a shared HOA for maintenance. The applicant does not have any objection to the sidewalks to the extent they are to be placed adjacent to properties not adjacent to the current site.

Mr. Ingersoll stated they have proposed that with the condition that they be installed prior to the CO of that building not up front like you would do in a subdivision, since they will be driven over. We want to connect to the neighbors.

Leah Everhart, Counsel continued at the time of construction prior to the CO of those lots the sidewalks will be installed. She questioned the Board regarding the condition they are attempting to craft, which deals with maintenance, and the HOA.

Mark Torpey, Chair, stated the Board felt there would be sometime prior to the HOA membership filling out. There would be for a period a single owner who owns a series of surrounding properties that will become members. We want to insert a provision that the owner be responsible for all maintenance that would be needed to maintain this property that is part of this application is in safe and working order.

Leah Everhart, Counsel stated she does not feel this condition is necessary since every owner has the obligation to maintain their property. You can remove it from the list of conditions until the HOA becomes effective.

Susan Barden, Principal Planner, stated an additional condition approval to the satisfaction of the comments of DPW and the City Engineer.

Jason Doty made a motion in the matter of the 74 Mitchell Site Plan, 74 Mitchell Street, application, we move to approve the Site Plan with the conditions as noted by the Chair. Kerry Mayo seconded the motion.

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

VOTE:

Mark Torpey, Chair, in favor; Kerry Mayo, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Chuck Marshall, in favor; Mark Pingel, in favor;

MOTION PASSES : 7-0

3. **#20220180 BEMIS HEIGHTS ROAD SKETCH SUBDIVISION,** Bemis Heights Road, Sketch Plan review of a proposed reconfiguration of a subdivision resulting in 29 new residential lots in the Rural Residential (RR) District

Mark Torpey, Chair, stated this is an approved subdivision back in 1977. This is in the Rural Residential District of this city. Tonight, we will provide feedback to the applicant and understand the project better.

Applicant: Art Curto

Agent: Matthew Bond, Barber Engineering; Dominick Arico, Arico Associates

Mr. Bond stated the Board has been provided with the original subdivision application which was approved in 1977 and what is currently proposed. A visual of the 1977 project site was provided. All these lots are existing tax parcels currently. Zoning changes occurred and this is now a Rural Residential District. A visual of the proposed layout was provided for the Board. Due to the site restrictions with existing wetlands on the site we are looking to build more of a cluster style development to minimize disturbance to natural resources and take advantage of the high ground on the property. We are proposing tying into Bemis Heights Road at the corner of where it intersects with Lexington Road.

Originally existing are 39 lots which will be reconfigured into 29 lots. We are proposing 27 town home units along Lexington Road with 2 detached single family residences on the site. The proposed lots are smaller than the Rural Residential zone requires so we will be requesting area variances for these townhomes from zoning and then proceed to Site Plan Approval with this Board.

Mark Torpey, Chair questioned if there are any NYS-DEC wetlands on this site or are they all Federal Army Corp of Engineer Wetlands. No NYS-DEC wetlands on the site. When was the last time the wetland delineation was done?

Mr. Bond stated they are all ACOE wetlands. There are no NYS-DEC wetlands on the site. The last delineation was completed about 4 years ago and the applicant has contracted with a wetland biologist to update the delineation.

Mark Torpey, Chair, stated we have now in place a different set of rules and mathematics regarding wetlands, steep slopes, potential flood plains and all the issues which are articulated in the conservation easement which are undevelopable. Also, whether you have looked at the number of units that would translate into because of being disallowed to use those areas for development.

Mr. Bond stated they have not done the math. We have looked at the existing number of buildings lots on the parcel, and then looked at a way to still establish the project with lesser lots and lesser impacts. The existing design would require significant disturbance of the wetlands and mitigation which there is space on the site for a large volume of mitigation but We did not do the calculations on a conservation style.

Todd Fabozzi stated he suggested exactly what the Chair is bringing up. You take the entire property, and you calculate based on the Rural Residential Conservation Subdivision criteria. You would be removing the wetlands and the steep slopes and then you will be calculating with 2-acre lot size and the number of lots you can fit on what is left. Another requirement is you will then take 50% of what is left and not build on it, outside of the constrained areas. In this instance because you can cluster you would not require area variances. That is my suggestion. Your design would remain as is shown. You will get close to what you are proposing without any ZBA requirements.

Mr. Arico stated when you say without a variance being required are you referring to single family homes with a zero-yard setback for the townhouse style home.

Susan Barden, Principal Planner, stated these are considered attached single-family residences. So, each residence is on its own separate lot with a shared property line that goes through the building. These are single family residences which are permitted use in the RR District, but in a conservation subdivision you will identify as Todd indicated a zoning statistic specific to this project this subdivision. This will include minimum lot size, minimum lot width, and setback and coverage requirements like what we have regarding dimensional standards and requirements in Article II. So, you will propose that for this subdivision.

Mark Torpey, Chair, stated if we review this as a conservation subdivision, then we can identify the area's most suitable for development and the ability to work with the applicant regarding setbacks and what they could be based on the topography of the site and we could establish a 0 setback allocation where these houses could be right next to one another.

Susan Barden, Principal Planner stated that was correct.

Mark Torpey, Chair, stated this provides the Planning Board with the ability to be more flexible about how to arrange these structures in a way to protect valuable aspects of the property. As noted by Todd you could avoid area variances if you go this route potentially.

Mr. Arico stated we will look at the numbers to see what the overall aspects are and see how we can make the process move this project forward.

Mark Torpey, Chair, suggested the Board take a tour of the property with the applicant's agent.

Discussion ensued among the Board regarding what is being proposed, and what could be proposed.

Mr. Curto stated more than one builder is interested in doing the entire project. We will look at everything to assure this will not be a segmented project.

Jason Doty suggested an HOA, so the entire project is maintained throughout for continuity.

Mark Torpey, Chair, stated this project is a bit unusual for the Board in that it was a previously approved subdivision project back in 1977. Over the years zoning regulations have changed substantially. This is not a brand-new subdivision coming before the Board where we would require a Conservation Subdivision analysis and all that. Is there something the Board needs to keep in mind as we approach this project.

Leah Everhart, Counsel, stated she cannot provide an answer tonight, there are subtleties and nuances that are not necessary to review tonight since the applicant is in preliminary stages of discussion. We can provide the Board with guidance prior to the applicants next appearance before the Board.

Mark Torpey, Chair stated he appreciated the applicant coming before the Board with a sketch plan discussion which is a relaxed way to obtain feedback from the Board prior to the project moving forward. The Chair strongly suggests the applicant go through the math and returning with hard numbers so the Board can get a sense of how well this comports with the standards to make these developments fit and work.

Mr. Arico questioned if the applicant could meet with staff prior to returning before the Board to determine if they are approaching this in the correct manner.

Mark Torpey, Chair, stated this would be the next step.

Todd Fabozzi questioned Counsel if the applicant reviewed the Conservation Subdivision and felt it worked for them and returned before the Board are they doing another subdivision application even though they have previously received subdivision approval.

Leah Everhart, Counsel, stated we have determined this is a revision to a subdivision plat or an amendment to a subdivision plat since this area is subject to a subdivision and this is the appropriate way to identify it.

Jason Doty stated the applicant can return before the Board for a second sketch plan review.

Mark Torpey, Chair, stated that would be the best way to approach this application. Review the plan, meet with city staff, and then return to the Board for a second sketch plan review. Also, any ACOE wetland delineation paperwork from 1977 would be helpful to provide to the Board with the ability to provide an overlay of the wetlands to show how they exist today to map out how that change has occurred in this area.

1. **#20220130 52 KIRBY ROAD AREA VARIANCE**, 52 Kirby Road, Coordinated SEQRA review and Advisory Opinion to the ZBA for a proposed two-lot subdivision in the Urban Residential-1 (UR-1) District.

Mark Torpey, Chair, stated the ZBA has requested an Advisory Opinion from the Planning Board. This is currently a 20,000 sq. ft. single lot presently. The applicant is proposing to divide the lot into two lots each 10,000 sq. ft. each.

The ZBA has initiated coordinated SEQRA review and proactively deferred Lead Agency Status to the Planning Board on April 4, 2022.

Mark Pingle stated he looked at the neighboring properties. All the other plots of land across the street and in the area, all have 100 ft. frontages, and all are around the same size. From the street you would be unable to determine that this was not a conforming lot.

Discussion ensued among the Board regarding similar projects the Board has reviewed and non-conforming lots, and infill development, precedent setting nature of creating non-conforming lots.

Todd Fabozzi stated we have the Comp Plan Density which this exceeds, the Comp Plan Goals which speak to infill.

So, there is a positive aspect to the project as well as exceeding the density allowed and the idea of creating non-conforming lots. There is a bit of contradiction there.

Mark Torpey, Chair stated the applicant is looking to provide lots that appear to be consistent with the neighborhood, but creating substandard lots, and the proximity to the neighbors living room and bedrooms.

SEQRA:

This is an unlisted action. Coordinated SEQRA Review is not required but was initiated by the ZBA.

ZBA and Planning Board are the only involved agencies. The Planning Board should accept Lead Agency Status, review the submitted Part I of the Short EAF and review analyze and complete Part II of the evaluation.

Mark Torpey, Chair, reviewed SEQRA Part II of the Short EAF.

No large or important areas of concern were noted.

SEQRA DECISION:

Ruth Horton stated 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.
Jason Doty seconded the motion.

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

VOTE:

Mark Torpey, Chair, in favor; Kerry Mayo, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Chuck Marshall, in favor; Mark Pingel, in favor;

MOTION PASSES : 7-0

APPROVAL OF MEETING MINUTES:

Jason Doty made a motion to approve the minutes of the March 24, 2022. Chuck Marshall seconded the motion.

VOTE:

Mark Torpey, Chair, in favor; Kerry Mayo, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Chuck Marshall, in favor; Mark Pingel, in favor;

MOTION PASSES : 7-0

Mark Torpey, Chair, stated moving on to the Advisory Opinion to the ZBA. One issue is the precedent setting nature of taking a conforming lot and creating a nonconforming lot. We discussed the nature of the density and how it does not really affect people as they walk through the community. This is more having to do with the rhythm and the frontage.

Even though the lots will be smaller, the frontage of the lots is the defining character and the Planning Board

Feels it is important for the rhythm. We want to recognize the adjoining property is pre-existing non-conforming in terms of its intrusion in the setbacks, 6 ft. from the property line. Try to be consistent with that flow in the neighborhood and visual impacts. Consideration should be given in looking at the total setback value and considering a change in the minimum side yard setback for this project to allow for additional breathing room. The Planning Board supports the strong notion for infill development in this area providing as much flexibility for infill development without negatively impacting the neighborhood characteristics.

Mark Torpey, Chair, stated he would like to compose a draft Advisory Opinion having the Board review it prior to forwarding it onto the ZBA. The Chair stated he would like to issue a Favorable Advisory Opinion to the ZBA noting the variables which are inconsistent but need to be considered in the bigger picture. This will be voted on at the next meeting.

UPCOMING MEETINGS:

Planning Board Workshop, Thursday, May 19, 2022, at 5:00 P.M.
Planning Board Meeting, Thursday, May 26, 2022, at 6:00 P.M.

MOTION TO ADJOURN:

There being no further business to discuss Mark Torpey, Chair adjourned the meeting at 8:19 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary