

Town of Austerlitz
Planning Board Meeting
September 7, 2023

Present: Deborah Lans, Chair, Steve Lobel, Dale Madsen, Eric Sieber, Planning Board Members. Also present: Joseph Catalano, Attorney for the Town and Planning Board Clerk, J Lotus. Member Chris Ferrone Absent.

Public Hearing Called to Order at 7:03 p.m.

Continuation of Public Hearing for Vieni PL-2023-09

Property Owners: Charles P. Vieni Trust & Cosimo Vieni

Applicant: David Vieni

Project Property: Stonewall Road, Austerlitz, NY SBL#87.-2-6

Zoning: Rural Residential

This Public Hearing is the continuation of the Public Hearing regarding the minor subdivision on Stonewall Road, proposed by David Vieni, that was held over from the August 3, 2023 Public Hearing.

Project Description: The application to subdivide the 39.6 acre parcel into two parcels; a 10.497 acre parcel and a 29.103 acre parcel. A discrepancy between Mr. Vieni's maps and the Columbia County, NY tax map was pointed out at the August Planning Board meeting. Mr. Vieni consulted with his surveyor and was told that the surveyor's maps were precise per the information on the property deed, therefore, Mr. Vieni's maps are correct. The Columbia County, NY tax maps are incorrect and will be corrected on the county level once Mr. Vieni files the signed maps. Vieni submitted his maps with the surveyor note on them explaining which part of the 39.6 acre parcel is affected by the Tessitore boundary issue. The 10.497 acre parcel that Mr. Vieni wishes to subdivide is not affected by said issue.

Member Lobel made the motion to close the Public Hearing, seconded by Member Madsen.

Roll Call Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1. The Public Hearing was closed at 7:06 p.m.

The Regular Planning Board meeting was called to order by Chair Lans at 7:07 pm.
No Roll Call was called.

Minutes

A motion to accept the August 3, 2023 Public Hearing and Regular Planning Board Meeting minutes as written was made by Member D. Madsen, seconded by Member E. Sieber.

Voice Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1

Old Business

David Vieni for PL-2023-09 Minor Subdivision

Property Owners: The Charles P. Vieni Trust & Cosimo Vieni

Applicant: David Vieni

Project Property: Stonewall Road, Austerlitz, NY SBL#: 87.-2-6

Zoning: Rural Residential

Project Description: Minor Subdivision as described in the Public Hearing above.

The Planning Board Chair, D. Lans, called for the answers to all of the SEQR Part 2 questions regarding environmental impact. The Planning Board identified no medium or large impacts and concluded that the Vieni Minor Sub-Division will result in no significant environmental impacts, therefore a negative declaration was made.

A motion was made by Member E. Sieber to accept the SEQR as completed and the Planning Board's conclusion of a negative declaration. Member D. Madsen seconded.

Voice Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1

Member D. Madsen made a motion to accept the Vieni Minor Sub-Division application as complete, to approve the Minor Sub-Division as presented, and to authorize Chair D. Lans to sign the maps. Member E. Sieber seconded.

Voice Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1

The application was accepted and approved with no conditions.

New Business

Berj Krikorian for PL-2023-15 Site Plan Review for a Ground Mounted Solar Array

Property Owners: Berj Krikorian

Applicant: Ben Potiker of PlugPV

Project Property: 1156 State Route 203, Chatham, NY SBL#: 77.-1-86

Zoning: Rural Residential

Ben Potiker of PlugPV was asked to generally describe the proposed ground mounted solar array. It is to be a 16 kw ground mount residential solar array to provide electricity to the household. There will be two, 400 watt panels and each of them will be 3.5ft by 6 ft. The proposed location for the panels is 609 feet from the main road which, Mr. Potiker states, is within the set-back requirements from Route 203 and the different property lines. Mr. Potiker passed out small plan maps. The length of array is to be 49 ft 7 in. feet and the height is to be 15 feet 7.25 inches.

Mr. Potiker was asked to describe the vegetation between the proposed array and neighboring boundary lines. He stated that the array will not be visible from Route 203 as the site is heavily wooded. Member Seiber questioned whether there were specific screening requirements in the Zoning Law for ground mounted solar arrays.

Planning Board Chair, D. Lans, quoted “All such systems shall be located in such a manner so that the system is adequately screened with respect to neighboring properties so that the views of the system from neighboring properties, particularly residences, or from a public road, are not a significant detraction. The proposed development shall be visually compatible with the character of the community to the extent feasible. Mitigation of visual incompatibility, such as screening, may be required to prevent uses from detracting from adjoining uses. Screening can be accomplished by utilizing existing buildings and vegetation as well as deer resistant evergreen plantings when necessary.”

Member Madsen stated that he was familiar with the property and that there may be some screening necessary around the upper border of the property, as the solar array would be visible from the neighbor’s house. Chair Lans asked Mr. Potiker to provide a google map showing exactly where the Array would be located on the plot so that the Planning Board can determine whether there is adequate vegetation for screening. Chair Lans also stated that Columbia County Route 203 abuts one edge of the property which requires the Planning Board to refer the matter to the Columbia County Planning Board. The Columbia County Planning Board has authority to give the Town of Austerlitz’s Planning Board a recommendation. If the County Planning Board recommends something that Mr. Krikorian does not like, there can be a discussion with the Austerlitz Planning Board. Also, the Planning Board needs to decide whether or not to have a Public Hearing on this

site plan. Chair Lans stated that it is a difficult decision since the current map does not show where the neighboring properties and houses are. Member Madsen reiterates that the only neighbor that would be affected is the neighbor above the Krikorian property and questioned whether contacting that neighbor to obtain permission might mitigate the need for the additional screening.

In summary, the Planning Board is referring Mr. Potiker to the Columbia County Planning Board, which has 30 days to provide a recommendation, and deferring this application to the October 5, 2023 Town of Austerlitz Planning Board meeting. The Planning Board suggests that Mr. Potiker put deer resistant evergreen plantings behind the array and that that position be pinpointed on a large google earth map that he should provide at the October Planning Board meeting. The Planning Board also requires that a letter be sent to the Town of Austerlitz Fire Department, alerting them regarding the plan to install an array and where it will be. Note: The Fire Department needs to know that the locations of solar arrays because the lights from the fire truck can affect the array and cause some back feed. Mr. Potiker is instructed to alert future applicants to the need for a large Google Earth map for solar projects.

Gwendolyn Sherman for PL-2023-16 Major Subdivision

Property Owner: Roland Sherman

Applicant: Gwendolyn Sherman

Project Property: Bittersweet Acres, Old Wagon Road, Ghent, NY

The object of this meeting is mostly for discussion, there is not yet a completed application. The Shermans are not doing anything formal tonight. Gwendolyn Sherman passed out maps and described why her father desires to subdivide his land.

A general discussion ensued. Roland Sherman, the Frishkoffs and Langes purchased the prop in 1987 and then subdivided it into three parcels, one to each couple. Mr. Sherman is now looking to subdivide his 33.76 acre parcel into 7 different parcels. Mr. Sherman has four adult children living, one with Down's syndrome, and desires to develop and cover costs of development by selling a few parcels and keeping the rest in his family.

A private road can access up to six building parcels. The common land must be owned by someone. The road that will be built will be used by all six parcels. The road must be owned by someone and have easements on it or the road could be treated as a separate parcel and have an HOA owning it. The land that will be used "in common" could also be owned by the HOA to provide use and maintenance of the road and common land. If using an HOA, it would need to include every parcel that would be using the road.

Member Sieber asked about the anticipated length of the road. An estimation is approximately 1,000 feet. If you have to get a large truck or emergency vehicle will need a pull off every 400 feet and a cul-de-sac. In dark green on the map is grassy swath. Comes off Cool Timber Road. It is gravel. Peter looked at the property and thought that it was the perfect red shale base layer. Chair Lans requests a field survey that is up to date

and shows the boundaries of the large parcel that would be subdivided plus the setting and the neighbors. The attorney for the town, Mr. Catalano, gave instructions as to what the PB needs to see on the map and stated that the map must be signed and stamped by their surveyor. Carl Matusek is their surveyor. They'll present the map when they're ready to move forward. Chair Lans directed Gwendolyn Sherman to the Zoning Laws regarding Major Subdivisions.

The Shermans plan on doing the subdivision in phases and inquired whether there was a standard that could be used re: FEAF. They were informed that it would depend on where the houses will be located and the size of the houses. i.e.: If it is a 3-bedroom house, driveway, and clearing the land around the house a little the land required would probably be about one half of an acre to one acre. Member Madsen stated that their surveyor would help with FEAF as they will want to keep the disturbed land as little as possible. He suggested that they restore the land for each phase prior to moving onto the next phase and that it might be less expensive to operate as such because the DEC looks to whether there is a minor land disturbance or a major land disturbance. The major disturbance adds to costs and inspections. Attorney for the Town, J. Catalano, informed the Shermans that even though they are phasing the development, when doing the environmental review, the Planning Board has to look at the entire plan.

The land is heavily forested. It has a lot of Bittersweet which is an invasive species. Ms. Sherman says they'll have to get rid of the bittersweet so that it does not kill the native species and asked whether that would be counted as a land disturbance. It was suggested that she ask the DEC or her surveyor as the DEC wants invasive species taken care of. Member D. Madsen suggested that Ms. Sherman ask the DEC or the surveyor about removing the invasive Bittersweet and Rose. Gwendolyn Sherman doesn't want to have that counted as land disturbance. The DEC wants the invasive species taken care of. Ms. Sherman discussed the part of the property that is boggy and that to the east of the boggy area is a ridge. The Shermans are considering a pond in the boggy area (which has a lot of dead Ash trees). Including most of the boggy area there are 12 acres that the Shermans desire to conserve as part of the original parcel. She was informed that Austerlitz Zoning Law allows for a bonus if they conserve 50% of the parcel. Ms. Sherman asked whether they could conserve acreage on the East and West sides to obtain the 50 acres.

The Shermans can work on the road plan with their surveyor. Ms. Sherman asked whether they could develop the road in phases so as to reduce the financial burden. Chair Lans stated that the Planning Board might ask for a performance bond to be put in place so as to secure that the rest of the road would be completed within a certain time and that the building of the private road won't become a burden on the Town's tax payers (that it will be completed with private dollars).

The Shermans will need to submit a preliminary plan showing the general layout and all of the information that was discussed with the Board tonight. Once they receive preliminary approval the Planning Board will need to see the HOA documents and all

other plans. The real detail stuff can occur after the general site is approved. Chair Lans read the preliminary plat section of the zoning code §167-703. The surveyor will help so that their road can meet grade standard.

Other Business

Hi-Roc: 4375 Crow Hill Road:

After discussing the berm on the Hi-Roc property, Member Sieber motioned that the Planning Board instruct Mr. Catalano, Attorney for the Town, to inform Hi-Roc that current berm is not acceptable and that it must be restored to at least the quality of the original berm that existed at the time that the maps for the sub-division were signed by Chair Lans. Also, that this violation of the requirements to create the sub-division must be remediated immediately. The letter is to instruct Hi-Roc that the berm is to be reviewed by Ms. Reis, the town Code Enforcement Officer. The Board discussed options should Hi-Roc fail to comply with the requirements of the sub-division creation. Chair Lans seconded.

Voice Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1

Stone and Jensen: 104 East Hill Road:

The Town Code Enforcement Officer notified the property Owners, Jensen and Stone, that, in accordance with the Resolution created on May 4, 2023 specifically prohibiting events such as the one that was advertised on Facebook and Instagram which was to occur on August 19, 2023, the previously issued operating permit, under the state building code, to have an outdoor event with less than 200 people, was pulled. After the notification, the owners of the property went forward with their August 19th event.

The Resolution of May 4, 2023 directly states that “any events, gatherings or other activities that are related to the design studio and music studio Home Occupations that are not conducted within (i.e. inside) the dwelling or music studio are not authorized and are prohibited”.

Member E. Sieber made a motion, seconded by Chair D. Lans, to authorize the Attorney for the Town, Joseph Catalano, to send the owners of the property a letter informing them that the Event held on August 19th was not compliant with the Approval of the Special Use Permit.

Voice Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1

Member Madsen would like to see the letter before it is posted.

Member S. Lobel made a motion that the meeting be ended. Member D. Madsen seconded.

Voice Vote:

Chair D. Lans: Yes

Member C. Ferrone: Absent

Member S. Lobel: Yes

Member D. Madsen: Yes

Member E. Sieber: Yes

Motion Carried 4:0:1

The September 7, 2023 Planning Board Meeting ended at 9:03 p.m.

Respectfully Submitted,

J Lotus

Planning Board Clerk