

Town of Austerlitz  
Planning Board Meeting  
October 6, 2022

The Planning Board meeting was held in-person.

Present: Deborah Lans, Chair, Eric Sieber, and Chris Ferrone. Member Steve Lobel absent due to illness. Joseph Catalano, Attorney for the Town, also present.

**Regular Meeting called to order by the Chair at 7:05 p.m.**

By consensus of the Board, J. Catalano will take notes of the meeting and prepare the minutes.

**Minutes**

A motion to approve and accept the August 2022 Planning Board Meeting minutes as presented, was made by E. Spiegel and seconded by C. Ferrone.

Voice vote

Deborah Lans: yes

Eric Sieber: yes

Chris Ferrone: yes

Steve Lobel: absent

Motion carried 3:0:1

**Old Business - Planning Board Application PL-2022-07 Oleynek Minor Subdivision and Boundary Line Change**

Chair Lans gave a brief explanation of the background and process for the benefit of Member Ferrone since he is new to the Board. The Board previously determined that the application was not complete due to the survey not being completed. However, the Board allowed the applicant to proceed with obtaining the necessary waivers from the Highway Superintendent and the Town Board to allow an additional lot to be accessed by the private road, Indian Trail Way. Those waivers were granted subject to the completion of the PB process and certain conditions. The applicant's surveyor, Fred Haley, was present and he was asked to present the proposal and explain the survey details. After much discussion and questions from the Board, the Board requested that certain notes be added and revised on the survey map. The Board also received the Agricultural Data Statement and the easement for the private road where it encroaches on a neighboring property. Since the private road is owned by one lot (currently Paula and Edward Bednarcik) there is no need for a road maintenance agreement except what was incorporated on the original subdivision map. The Planning Board requested the applicants to submit consents in writing from all parcel owners whose parcels are affected by the proposed additional lot and lot line adjustments as shown on the map submitted, at or before the public hearing.

A motion was made by E. Sieber, to accept the application as complete subject to receipt of the consents from the parcel owners and revised map notes, and seconded by C. Ferrone:

Roll Call

Deborah Lans: yes

Eric Sieber: yes  
Chris Ferrone: yes  
Steve Lobel: absent  
Motion carried 3:0:1

As no further comments were made, a motion was made by E. Sieber to schedule the public hearing on the application for the next PB meeting to be held on November 3rd at 7:00 pm, and seconded by C. Ferrone:

Roll Call:  
Deborah Lans: yes  
Eric Sieber: yes  
Chris Ferrone: yes  
Steve Lobel: absent  
Motion carried 3:0:1

There was no other item of old business on the agenda.

### **New Business**

#### **Planning Board Application PL-2022-17 Mitchell Site Plan Review**

Donald Mitchell of Mitchell Orchards appeared before the Board and explained that he wishes to develop an apple orchard on his property located at 38 Knox Lane. The property is approximately 24 acres with 10 acres in Austerlitz (Tax map # 106-1-23) and the remainder in the Town of Hillsdale. His site plan application is submitted for permission to remove all or most of the trees on the property for planting and operation of an apple tree orchard. He explained that the property was once farm fields but is now mostly woods except for approximately 1-acre of open field and the access road. There are approximately 1332 mature trees on the property that he wants to replace with 1400 apple trees and also construct a single-family home on the property. He has been advised by a consultant with Farm Net that DEC jurisdiction over his plan, normally a requirement due to the extensive clearcutting, is preempted by USDA regulation (Natural Resources Conservation Service). The Board requested legal authority for that position and Mr. Mitchell said he would provide documentation. Mr. Mitchell was directed to the Appendix in the Town Zoning Code that addresses the requirements for site plan review of extensive clearing for agricultural purposes. The Board and Mr. Mitchell agreed to work together and Mr. Mitchell will keep the Board informed as his plans develop for the orchard. It was the consensus of both the Board and Mr. Mitchell that his plans need to be developed further with more detail and documentation on the appropriate jurisdictional authority for erosion and drainage control, as well as the requirements of the zoning law.

#### **Planning Board Application PL-2022-18 Hi Roc, LLC Minor Subdivision**

David Hammon and Kevin Hartka of Hi Roc, LLC, presented a proposed subdivision map for subdivision of an approximately 51-acre parcel into 3 lots. The access for the 51-acre lot is via a long driveway from Crow Hill Road that seems to be a shared driveway. The applicants went over the map with the Board and there was a lengthy discussion and questions about the proposal and a prior subdivision that created the 51-acre parcel. Based on the Planning Board files, when the 51-acre parcel was created in 2007, along with an adjoining lot, now owned by Melissa Hartka, the driveway in question was to have been approved by the Highway Superintendent as a condition

of the subdivision approval. The Certificate of Occupancy for the residence was not to be issued until the driveway was approved as acceptable to the Superintendent. Apparently, that approval never occurred. The Board reviewed with the applicants the various requirements in the Town Code for private roads/driveways and the Board advised that the private road would have to meet those requirements. The Zoning Code requirements were also discussed and there was a discussion that the parcel/driveway lacked the required 75-foot road frontage on a Town Road, Crow Hill. This may have occurred because the prior subdivision was approved prior to the Zoning Code being adopted by the Town. The Board also pointed out to the applicants that the private road cannot be a stand-alone parcel as depicted on the map but has to be part of one of the 3 parcels proposed.

The conclusion of the discussion resulted in the following: the applicants will revise the map in accordance with the PB discussion; present the revised map to the Highway Superintendent and Fire Company for input and approval; provide the Board with written approvals from both; and return to the Board with the revised map. At this point the application was deemed incomplete until the above issues are addressed.

**Public Comment**

There were no members of the public present and accordingly no public comments were heard.

**Adjournment**

A motion to adjourn was made by E. Sieber and seconded by C. Ferrone; and motion carried 3:0:1 by voice vote: Meeting adjourned at 9:00 p.m.

Respectfully Submitted,  
Joseph Catalano, Attorney for Town