

TOWN OF LYSANDER
PLANNING BOARD MEETING
8220 Loop Road
Thursday, March 9, 2023 at 7:00 p.m.

The regular meeting of the Town of Lysander Planning Board was held Thursday, March 9, 2023 at 7:00 p.m. at the Lysander Town Building, 8220 Loop Road, Baldwinsville, New York.

MEMBERS PRESENT: John Corey, Chairman; Hugh Kimball; Steve Darcangelo; Doug Beachel and Matt Hunt

OTHERS PRESENT: Al Yager, Planning Board Engineer; Tim Frateschi, Planning Board Attorney; Steve Sehnert, Applied Earth Technologies; Annette Smith; Jeff Smith; Kevin Rode, Town Board; Karen Rice, Clerk to Planning Board

I. PUBLIC HEARING -- 7:00 p.m.

1. Minor Subdivision	Smith, Ryan
Case No. 2023—001	9417 Fenner Road

The Public Hearing opened at 7:00 p.m.

Recap from the February 9, 2023 Planning Board meeting:

Steve Sehnert, Licensed Land Surveyor, represented Annette and Jeffrey Smith on behalf of their son Ryan for a Minor Subdivision for property located at 9417 Fenner Road, with an address of Fulton, New York. It is approximately 48 acres with 1359 +/- foot of road frontage. The Smith's would like to subdivide our 5+/- acres (280' x 780') on the northeast corner of the property. The remnant piece contains Ryan's home and out-buildings. Fenner Road is a County road; we have offered the County the additional 40' for the widening of Fenner Road if at some point in time that is required. The 5 acre parcel is not a residential building lot according to the Onondaga County Health Department Regulations and therefore is not approved for residential use. No percolation tests have been taken. An individual sewage disposal plan must be approved by the Onondaga County Health Department prior to conversion to a residential building lot and issuance of a building permit.

The Public Hearing closed at 7:01 p.m.

II. APPROVAL OF MINUTES

Review and approval of the minutes of the February 9, 2023 Planning Board meeting minutes.

RESOLUTION #1 -- Motion by Corey, Second by Kimball

RESOLVED, that the minutes of the February 9, 2023 regular Planning Board meeting be approved as submitted.

5 Ayes -- 0 Noes

III. OLD BUSINESS

1. Minor Subdivision	Smith, Ryan
Case No. 2023—001	9417 Fenner Road

At the last meeting there was some concern with using the existing driveway as it was a farm access and not access for a residential structure. The thought being that farm access gets less use than a residential driveway. The Smith's contacted the Onondaga County Department of Transportation and received the following response, that was read into the public record:

Email correspondence from Kirsha Smith, Civil Engineer I
Dated March 6, 2023:
Subject: Subdivision on Fenner Rd, Ryan Smith Property

Dear Mrs. Smith,

After review of the submitted sight distance information on the Ryan Smith Property Subdivision drawing dated February 23, 2023 and prepared by Applied Earth Technologies, the Onondaga County Department of Transportation has determined that the location you requested, at Proposed Lot 1 on Fenner Road meets our sight distance requirements for a 45 mph speed limit.

Please note: this email is **NOT** a permit. Final location of the future access location will be subject to available sight distance and any other restrictions required by this Department. Please go to our website

<http://www.ongov.net/dot/permits.html> for the permit process and instructions.

Steve Sehnert, Licensed Land Surveyor, stated that he has shown lot lines at right angles and has added the out-buildings to the plan.

Al Yager, Planning Board Engineer, stated that he has reviewed the application and find that all concerns have been addressed.

FINDINGS:

An Environmental Assessment Form indicates that the proposed action will not result in any significant adverse environmental impacts.

Al Yager, Town Engineer, has had the opportunity to review the plan with his comments being made part of the public record.

This action is consistent with the Town's Comprehensive Plan.

This action is consistent with the Town's current Zoning Ordinances.

This action will cause no adverse effects on the public health, safety and welfare in the neighborhood or district.

RESOLUTION #2 -- Motion by Corey, Second by Hunt

RESOLVED, that having reviewed the Minor Subdivision application of Annette and Jeffrey Smith, on behalf of Ryan Smith, as defined on a map dated February 23, 2023, prepared by Stephen Sehnert, Applied Earth Technologies, for property located at 9417 Fenner Road, Tax Map No. 016.-01-02.0, Fulton, New York is hereby approved.

5 Ayes -- 0 Noes

RESOLUTION #3 -- Motion by Corey, Second by Darcangelo

RESOLVED, that in granting a subdivision to Annette and Jeffrey Smith, on behalf of Ryan Smith, for property located at 9417 Fenner Road, Fulton, New York, the Planning Board invokes its right to impose a fee of \$250.00 per lot for one (1) lot, in lieu of land for the development of parks, playgrounds, recreation or open land areas in the Town.

5 Ayes -- 0 Noes

All fees associated with the application have been paid.

State law states that the applicant shall file the final plat in the Onondaga County Clerk's office within sixty-two (62) days from the date of final approval or such approval shall expire. The applicant shall also file one copy of the final plat in the Lysander Clerk's office.

Mr. Sehnert and the Smith's thanked the Board for their time.

IV. OTHER BUSINESS

1. Recommendation to Town Board: Adoption of the Town of Lysander Comprehensive Land Use Plan (CLUP)

John Corey, Chairman, stated that the Planning Board has been requested by the Town Board to make a recommendation regarding the adoption of the Town of Lysander's updated Comprehensive Land Use Plan; which you have all had the opportunity to review. We have received a number of comments back on it. Bob Geraci, a Town Board member, has sent us a long list of his thoughts and concerns and/or questions. We have gone through that list, talked with Bob about it...there are a number of his suggestions which have already been marked up in here as changes. Most of what Mr. Geraci presented was more of an editorial nature vs a substance nature to the facts or goals or positions presented. He made a number of good points which we have recognized. I also received a detailed response from one of our members, Hugh Kimball, basically responding to Mr. Geraci's list. I've gone through the document and have made appropriate marks which are consistent with our review of Mr. Geraci's comments and Hugh's.

Mr. Corey continued stating that for the other Board members there are parts of this document which are not part of the Comprehensive Land Use Plan, for example Appendix A; that will not be part of the updated CLUP. Some recommendations that the Committee has made to make adjustments to the Town Code to reflect the Code to match some of the goals and objectives stated in the updated CLUP. It's important that the Codes are consistent with the intent of the plan and that's what these recommendations are about; but they will not be adopted as part of the CLUP. The Town Board will have to consider them on a separate path.

Mr. Corey stated that Matt, myself, Karen, Al and Tim to a lesser extent but he was a formal member of the Committee and participated in the preparation of this document; and asked the Planning Board Attorney if they have to recuse ourselves as far as voting.

Tim Frateschi, Planning Board Attorney, stated absolutely not, that's why they put you on the committee.

Mr. Corey opened up the floor to any other members of the Board for any questions or discussions they have with regard to the document:

Doug Beachel stated that he has reviewed the CLUP as well as Bob's comments and am content as it.

Steve Darcangelo stated that he has a few comments that he would like to make:

Mission Statement: On the Mission Statement I think the language 'preserving those attributes and characteristics that make Lysander a unique and special place' could be interpreted in so many different ways. Someone could say 'we want to preserve an agricultural feel' and someone else could say 'why, it's a great piece of property on a corner lot' yet the attribute is traffic. That could be used in so many different ways I'm just curious whether or not that was taken into consideration when that was made the Mission Statement. It's a big part of it but I'm afraid of it that it could be used in a manner that is certainly not the way it was intended. Someone could make the argument for what it's worth.

Solar Coverage: With regard to the 50% lot coverage, how are we measuring that?

Mr. Yager stated that we measure that by the area covered by the solar panels, (the horizontal projection). The green space between the rows of panels...most of the ones we see the rows of panels are based on 21' spacing between each row of panels so the spacing beyond the horizontal coverage does not count in the lot coverage. It's fairly typical in most Towns...in how they do it. It's hard to call green space that's not covered by a panel anything other than green space and be fair to the applicant. Other municipalities have lower lot coverage percentages for sure, but if your Code is overly restrictive the State, on larger projects, does have the authority to essentially override it and make it happen. One of the things I know that the Committee that originally developed the Solar Code took into consideration...I know it's something we talked about in depth while we were coming up with language in the Renewable Energy section of the

CLUP...a big change there was trying to protect prime agricultural soils and make the remnant piece still conducive to agricultural use after a Solar Farm is developed. I've looked at a lot of different municipalities Codes and a lot of them have these stringent two and three hundred foot setbacks and what you end up doing is end up taking a 75 acre agricultural field, you're only putting 30 acres of solar panels on it, but you're putting it right in the middle and you're making it so that field is no longer desirable from an agricultural standpoint. We've tried to balance that and give the Board some flexibility with screening requirements and setback requirements to try to preserve prime agricultural soils and make sure that the remnant parcels are still viable agricultural land.

Mr. Darcangelo stated that he thinks that's good; I think we should do it. The other thing regarding solar and prime soils...solar projects preserve agricultural land in reality. If we have a good decommissioning plan soils removed should be returned and the soil has rested now for 25 years. It doesn't take agricultural land out of agricultural use permanently as many other developments of property do. So, I agree that the process is good.

Mr. Darcangelo continued stating that he didn't see anything regarding walkability or pedestrian friendly...was it addressed?

Mr. Yager stated that we do talk about connectivity in residential development. We know Mr. Geraci asked for some additional language in the river section about trails and walkability I don't see a problem with that.

Mr. Darcangelo stated that he saw that and would encourage walkability. My distinction between walkability and pedestrian friendly would be neighborhood to neighborhood or neighborhood to other facilities. I am a strong advocate of sidewalks and curbs in subdivisions and I know our developers would not be; and they would say the Township is not a place for sidewalks, but quite honestly as the density increases your Township starts to look like a Village or a City and I think suburban neighborhoods age much better with curbs and sidewalks. There are all sorts of examples of that throughout Central New York. If we look at some of the older subdivisions...if you look at Bayberry and some of the others you will see, if you were to drive through them, Bayberry is a good example particularly on the northside of Route 57...the original portion. It looks tired...what's missing is a definition of the road to the private property. A curb would certainly do that nice, and sidewalks. I don't know that we should put it into a Comprehensive Use Plan; I don't know where it would belong but I do think that that should be somewhere taken into account as we further see the Township get developed. A lot of people may say 'it's too late, there are so many subdivisions without sidewalks you're going to start requiring them now'; but you have to start somewhere I guess. That's my thought on that.

Recreational Development:

I know it was mentioned for the Peninsula and I've seen this in other communities, particularly down south where it's effective. Was there any consideration and/or would it be worthwhile in trying to get recreational opportunities that are combined with the School District; I live on the Peninsula...for instance Palmer School has a very large piece of property, way under-utilized. It's mowed. That's about it. The school does not seem to utilize it; a lot of private people will utilize it particularly because it has a baseball backstop and they utilize it for Little League Season; but it's vacant. Where I've seen this is where adjacent to a school...and I think we have it at Henninger in the City, the municipality has an athletic facility, in this case it's an astro-turf field I think and I also think the skating rink is a City-owned rink adjacent to Henninger. It facilitates both the school and the general public and to me it's a great way to share a resource that can be quite expensive to develop. Two municipalities developing it certainly helps the tax base from cutting the cost of it and I just think has the opportunity to be used more. Again, I don't know if it belongs in the CLUP but it would be nice if a recreational facility was to be developed elsewhere in the Town other than the park that could be in conjunction with the school, YMCA or something else because I think a lot of facilities do get under utilized and I think it would be nice if they have a multiple use to them.

Mr. Kimball stated that there is a mention in here, particularly the Village having all of the school properties with the exception of Palmer (Reynolds, McNamara and Ray Middle School) and anybody that lives in the School District can use those facilities...that's in there.

Mr. Yager added that we do talk about partnerships with the YMCA. The Y is open to it; they've expressed an interest.

Mr. Darcangelo concurred stating that he believes that would be a great combination too; but when you say the school facilities are open to the public I would dare say they're not. I don't know who is making that statement. You can get permission to use school facilities but it's not easy and it's extremely....

Mr. Kimball: ...perhaps in the buildings.

Mr. Yager stated even the field space is expensive, it's very expensive, that's part of the reason why I think further investigation hasn't been done. I don't know if you've read the Parks...we do have a Town of Lysander Parks Master Plan...

Mr. Darcangelo stated that he was not aware of one.

Mr. Yager stated that the Town Clerk has a copy of it; I'm sure she'll lend it out if you wanted to take a look at it.

It was suggested that the Town of Lysander Parks & Recreation Master Plan be put on the website.

Mr. Yager continued stating that the school district fees are immense for using their facilities whether it be Towns or any soccer club, anything...their fees are exorbitant. You could quite frankly rent the Jones Road Soccer Center fields for less than what it costs to use school property. So unless there's a way to make that some kind of agreement with the School District, but to date that hasn't been the case. Historically the school hasn't been very flexible.

Mr. Darcangelo stated that his last comment would be with regard to Solar, it's in the CLUP, kind of but I think the decommissioning plan we have should be extremely stringent and should be extremely in the favor of the municipality from a cost standpoint. The reason that I say that is because it's a very long-term investment. Everyone of them forms a separate LLC for a purpose; so that in the event that they want to abandon the facility the LLC can dissolve and it disappears and you don't have anyone to go to. I guess our question is whether or not we do have bond sufficient for prevailing wage rate, costs to decommission those sites and really those sites should go back....that's the beauty of taking particularly an agricultural parcel and seeing it get developed, it can be brought to the condition that it was the day before they broke ground. There's no reason why it can't...if they stockpile the soil they strip for the roadway; they take out their units...I think that's a great opportunity for agricultural land to continue to be here but I would hate to leave a legacy rotting away solar panels that the funding doesn't cover the costs of decommissioning them.

Mr. Yager stated that he has put a lot of thought on this. I have some concerns with the Town being the only named entity on the bond. Personally I feel that the owner of the property should have a greater stake on calling on the decommissioning and calling on the bond for the decommissioning. One, it's less expensive for the homeowner to have it decommissioned because they don't have to go through the prevailing wage hoops and everything. The other piece of it is the reality of the Town calling on the bond, hiring a contractor, going in to the property to decommission assist. Certainly there are ways that that can be done through condemnation of an easement but it's a whole legal process and a whole lot of steps that are involved to do that. So one of the things I was going to urge the Town Board to consider is taking the bond not only in the Town's name but the property owner's name as well. They're has to be a better stake somehow for the property owner to make sure the decommissioning is done to a standard that is acceptable to them and the Town. I haven't exactly figured out the best way to do that; I've put a lot of thought into it and I do have concerns with the Town being the only name on that security for decommissioning just because of the costs associated with the Town doing work on private property and frankly exponentially greater cost for the Town to have the infrastructure removed more so than what it would be for a private party to have the infrastructure removed. I don't know the best way to handle that. We do require a decommissioning bond that I think the standards are adequate

Karen Rice, Clerk, questioned how you keep track of people when transferring the property to other names.

Mr. Yager concurred the Codes Officer really has to be on top of this as well.

Mr. Darcangelo questioned if a Special Use Permit was required.

Karen stated that it is not...only a Controlled Site Use. The Planning Board doesn't hold the bond. The Town Clerk's office does.

Mr. Corey concurred stating that none of this is a Comprehensive Land Use Plan issue...it's good discussion, but there is a procedure in place for bonding it. Maybe we could have something in Appendix A that would say do we believe the Town Board should review the decommissioning process as it's currently in the Code to upgrade it to make sure it's...etc.... but that's not what is on the table tonight.

Mr. Darcangelo stated that maybe the answer is, 'it's sufficient'. I don't know that because when we've talked about them here I've never really seen the decommissioning plan, we ask if one is in place, the answer is yes and we approve the projects. I just think we want to be cautious about those. I wouldn't want to do something that is over burdensome to the organization that's coming in with a solar facility but at the same time I think we should make sure that it certainly covers whatever liability the Town has when it may occur which could be between 15 and 25 years from now.

Mr. Yager asked Mr. Frateschi if he had any other examples...do you think there are legitimate legal concerns with the entrance on to private property and getting through that process?

Mr. Frateschi stated that he has not seen any decommissioning.

Karen stated that they have not here either because they are so far off in the future from our approvals.

Mr. Frateschi stated that every Town has this issue. We're all trying to figure this out. I have looked at our Solar Code (which shouldn't be in the Comprehensive Land Use Plan) but first of all the only secure way to do it is to get cash but that is extremely burdensome to a developer because they're not going to tie up \$500,000 worth of cash for 20 or 25 years. That's really the only way you're going to be sure of decommissioning.

Mr. Darcangelo questioned why...could the bonding agent fail?

Mr. Frateschi stated that they could...there are lots of problems. People think it's just easy to call on a bond, it's not, they are insurance companies, they're not just going cut you a check. There is all kinds of language that you have to understand and know and frankly I'm not a bonding/insurance guy. I'm a land use attorney but not an insurance guy. I look at them, they look good to me, but do I know for sure that that's an easily callable bond...no.

Karen questioned Letters of Credit?

Mr. Yager stated that Letters of Credit are only good three years max, maybe?

Karen...can't they renew it?

Mr. Frateschi stated that yes, but you'd have to have a requirement in there that it gets renewed with 60 day notice or 90 day notice and if you don't get it to us we can call on your Letter of Credit. But the bank isn't going to just hand you money either. It's a real problem. Now we have done bonding for roads and all types of infrastructure and I'm sure we do keep track of those things.

Mr. Yager concurred but those aren't 25 year bonds.

Mr. Frateschi stated that the Chairman is right, this is really not a matter of the Comprehensive Plan, this is a matter of our Local Law and making sure our Local Law properly reflects the concerns that you're raising.

Mr. Corey stated that the only way you can deal with this; and I'm not proposing it; is in the Comprehensive Land Use Plan state that it's the objective of this plan to prevent solar farms from coming in and fashion your Code that way and you won't have to worry about decommissioning. That's not practical; that's not going to happen.

Mr. Darcangelo stated that that wouldn't be my objective to keep them out...

Mr. Corey stated that that wouldn't be his either, the point is right not we focus on the CLUP and recommendation that we will make in some form to the Town Board. Just for your understanding, the intent is this...assuming we recommend adoption of this plan by the Town Board, all of the input we have received over the last month or two and what we're picking up tonight there are being changes made to this draft. It is our intention to take and put all of those changes on to the document and reprint it with all of those and then send it back to the Town Board so that the document they are dealing with in their Public Hearings and stuff reflect all of the changes that have come to light. Again, remember this was a document that was prepared by a Committee and it was the sense of the Committee that this is what we would recommend to the Town Board for adoption. It is the responsibility of the Town Board to then challenge us on these recommendations and in the end come to their decision as to what they see should be there vs what we want. I personally am very comfortable with the essence and the substance of what we have recommended. You can argue over language, should it be 80% or 60% the point is the 80% recommendation is consistent with what we've put in the plan with the idea of how do you expand Industrial and Commercial availability in zoning without going through and creating new zonings and stuff. You do that by increasing your coverage to allow.

There was some discussion as to how to word the proposed resolution.

Mr. Corey stated that normally it's 'this is it, take it as its is'. Well we already know it isn't going to be as is, how would we phrase a recommendation without going through and listing every page by page change.

Mr. Frateschi stated that the Comprehensive Plan in draft as you're looking at it tonight...everybody has reviewed it; everybody is comfortable with the approach that the Plan has set forth. There are no significant objections to anything that is stated in the plan. Your job is not to be the editors of the plan, your job is to look at the policy of the plan and to make sure that you're comfortable.

Mr. Kimball questioned how we get in there that we'd like to have the minor changes throughout the document get made.

Mr. Frateschi stated that you can always attach the detailed changes that you want to see made to the resolution.

Mr. Corey stated that the way it was intended was by putting all of those changes into the document and giving them that updated version for their process. In other words you won't have to attach a list because they'd have a new document with all of the changes.

Karen stated that she doesn't think we need to do that. I think I'd rather have the attachment...putting this document together was very time consuming and their Public Hearing is coming up.

Mr. Yager stated that the Board could have other opinions and want to make additional or more changes. I think we give them the comments as they're stated.

Karen...as an addendum to the resolution. Do you have the comments in written form, the changes, because I do not.

Mr. Corey stated that not all of the comments were accepted, some of them were in error. They didn't understand what the Code said and what was in here was what the Code said.

Karen stated that she can attach the comments to the resolution.

Mr. Frateschi questioned when the Planning Board will be getting their recommendation to the Town Board.

Karen stated that they are holding the Coordinated Review Monday, March 13th. NYS DOT is the only one who has indicated that they are coming.

Mr. Corey questioned if the application has been forwarded to County for their review and recommendation.

Karen stated they should have sent it to County Planning for the Coordinated Review because they're one of the agencies involved. You'd have to check with Dina on that.

Mr. Yager stated that the Town Board won't take any action until we get something back from the County. I think they're going to take their sweet time on it.

Karen concurred...especially with Micron.

Mr. Corey stated that they made that very clear today.

On another note, Karen stated that in discussions with AI, CHA has staff that could put this document together.

Mr. Yager concurred stating that they have people who can do the editorial pieces of it, formatting and the like. Yes, whatever it takes.

Mr. Frateschi stated that his suggestion would be to pass a resolution as previously discussed and also direct Karen, AI and I to work the specific comments that you all have and collate them, put them in a form that we can append to the resolution.

Board members concurred.

Mr. Kimball stated that you have everything that I have...Mr. Corey concurred.

Mr. Darcangelo stated that his comments were just for discussion.

Mr. Frateschi stated that we could also attach the minutes of this meeting with the comments that have been suggested here.

Mr. Darcangelo questioned one more item...the wetland section appears to have been written in 2015.

Mr. Yager concurred stating that a lot of it came from the 2007 planning...

Mr. Darcangelo stated that he feels a final review should be looked at. There is stuff in there that is just not accurate (talk about ground water, definitions); I think that should be corrected.

Karen questioned if it's only the language and not the map you want taken out? County will help up with the maps.

Mr. Yager stated that we'll have them update the map as well.

Mr. Kimball suggested changing the language under Wetlands, page 25, first paragraph:

A wetland is an area of land where groundwater level is at or near the soil surface for a significant part of the year. Historically, wetlands were viewed as basically useless areas being neither fully land nor fully water. Since the 1970's the general perception of wetlands has been changing resulting in the recognition that these wetland areas are important and have intrinsic value.

Mr. Kimball further stated that the only other comment he had related to Bob Geraci's comment about viewing water and liking to see water and so forth; I thought at some point, and there's a couple places it could be put, there is a new NYS DEC Boat Launch down on Hayes Road that you could take a car down; you don't have to take a boat and you could park there and look at the river if you want to and it's public.

Mr. Corey stated that he's in favor of Tim's recommendation in putting forth that resolution with the attached amendment showing proposed changes that are already being suggested.

Mr. Kimball questioned if that's going to be some of the things Bob Geraci's made, as well as comments from the Board members.

Mr. Corey concurred adding the Committee members as well.

The Board with the aid of Mr. Frateschi came up with the following resolution:

RESOLUTION #4 -- Motion by Corey, Second by Darcangelo

The Planning Board has reviewed and some of the members participated in the development of the Draft Comprehensive Plan presented to the Planning Board on February 9, 2023;

The general scope, approach and strategies set forth in the Draft Comprehensive Plan is in conformance with the goals of the Planning Board;

There are several detailed changes that the Planning Board would like the Town Board to consider;

These changes will be collected and collated by the Secretary to the Planning Board and developed into a document to be attached to this resolution;

NOW, therefore, be it

RESOLVED, that the Planning Board hereby recommends the Draft Comprehensive Plan to the Town Board; and

FURTHER RESOLVED, that an addendum will be added to this resolution that outlines several detailed changes the Planning Board members have suggested.

5 Ayes --- 0 Noes

V. ADJOURN

RESOLUTION #5 -- Motion by Corey, Second by Kimball

RESOVLED, that the March 9, 2023 regular Town of Lysander Planning Board meeting adjourn at 8:12 p.m.

Respectfully submitted,

Karen Rice, Clerk
Planning Board