

Hopewell Planning Board

2716 County Rd. 47 – Canandaigua – NY 14424
585-394-0036 ext. #8 – www.townofhopewell.org
Minutes – August 23, 2021

Present: Chairman Jim Bator, Allan Wesche, Phil Bassage, Ryan Bruzda, Sylvia Moore, Nick Sergeant, Shawn Cotter, CEO Justin Bruen, MRB Lance Brabant, Neil Atkins, Rocco Sgro, Bob Wistner, Elizabeth Reed-Brown, Lisa Reed, Cindy Alves, Tim Stryker, Judd Plouffe, Mary Moran, Martha Hilton, Mike Roulan, Keith Griffith, Tim Vaughan, Liza and Reg Barnum, Rob Hunt

Absent: Jim Carello

The Chairman called the meeting to order at 7:00 p.m.

Privilege of the Floor: No one from the public spoke.

General Business: Approval of July 26, 2021 minutes.

Sylvia Moore moved to approve the July 26, 2021 minutes. Motion seconded and carried.

Prior to Public Hearings, Chairman Bator explained to the public the protocol and procedures the Planning Board would be following concerning the evening's Hearings.

**Continued Public Hearing: Jon Bagley – Smith Rd. & County Rd. 46 – Subdivision/Flag Lots
PZ-2021-015 - TM #85.00-1-3.000**

The Planning Board Clerk received the following e-mails concerning application PZ-2021-015: Bruce Batten, Anna Corrente, Toni London, Kristy McLaughlin, Gareth Tabor, Dennis Walsh, Tanya Kinney, Brad Smith, Marion Brooks, K. Boselli, Jackie Ledgerwood Esq., Maria Brooks and Michele Wistner. E-mails, were distributed to the Planning Board prior to the evening's meeting. Martha Hilton also submitted a petition and Liza Barnum a short video, which were distributed by the clerk via e-mail to the Planning Board members.

The Chairman opened the Public Hearing, continued from the July 26, 2021 Planning Board meeting.

Chairman Bator stated Town Attorney Jeff Graff was asked to respond to a letter dated August 9, 2021 from attorney Jackie Ledgerwood pertaining to the March 17, 2021 deed from Martin E. Meuhe, Executor of the LWT of Ruth L. Van Epps, to SAS Property Holdings.

Mr. Graff noted the following:

1. SAS Property Holdings, LLC contains no covenants or restrictions affecting the property conveyed therein.
2. It does not appear that there are any covenants or restrictions of record affecting the property that is the subject of this application.
3. The authority of the Planning Board is strictly limited by statutes specifying criteria upon which the Board must rest its decision. While a Planning Board is required to make sure that a proposed subdivision complies with the Town Zoning Law, a Planning Board is not empowered to limit its approval based on private covenants, should any exist, nor does it have any power to enforce private covenants.

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4. Covenants are a contractual restriction that benefits one or more properties and burdens one or more properties with the owners of the benefitted properties (or the grantor in a deed if the grantor retained certain benefits) being who would have legal standing to seek enforcement of any such covenants in a Court of law.
5. The Planning Board also has no legal authority to interpret a Last Will and Testament and make a determination that a subdivision application can or can not be granted because of how the Planning Board might interpret certain wording in such Will.
6. Any determination of the Planning Board must be rational, reasonable under the circumstances and supported by substantial evidence. A Court will not substitute its judgment for that of a Planning Board and, the determination may not be annulled absent illegality, irrationality or abuse of discretion.

The Chairman in addition to Mr. Graff's memo, the Board will not discuss any contents of the Will, nor will the public be permitted to discuss the topic since it is a legal matter and the Planning Board has no legal authority to discuss Ms. Van Epps will.

Comments from the public:

Bob Wistner – 4123 County Road 46 – Stated his biggest concern is traffic, adding, within last few years, several vehicles have ended up in his lawn which is located at the County Road 46 and Smith Road intersection. He is hoping the current construction of the round-a-bout will take care of the traffic issue. He further added, traffic between 7:00-9:00 a.m. and 3:00-5:00 p.m. is terrible, and is concerned about the increase in traffic with the proposed residential housing on the submitted subdivision plan.

Martha Hilton – 2757 Smith Road – Submitted 510 signatures of a petition, and read aloud her petition opposing the proposed subdivision. (Signatures were e-mailed to Planning Board members via PB Clerk)

Reg Barnum – 62 Deerfield Drive – Mr. Barnum referred to the Town's Comprehensive Plan, while commenting on rural characteristics, costs of development, commercial industrial use, agricultural open space, tax dollar gain and poor land use with negative impacts. He further added, Morgan Samuels is an existing business and the proposed subdivision will have a negative impact on their business.

Mr. Barnum stated their property is properly distance from neighbors which allows for elevated noise levels with their guests' events, and he now has concerns of neighbors within close proximity to their property who may complain about noise levels caused at their events. He further added, if agricultural lands are decreased significantly around the Inn, it could be the demise for Morgan Samuels, since one of the primary reasons for the guests booking events at their property is based on vista views.

Cindy Alves – 104 Holiday Harbour – Presented a video to the Board concerning the land at Morgan Samuels Inn, and the land which surrounds it which involves proposed sub-division development.

Judd Plouff – 2909 Smith Road – Stated he owns the land adjacent to former Vanepps Farm. He added, former owner Ruth Vanepps would not be happy if she knew the farm was being sold for residential homes. He further stated, the proposed development will hurt the Morgan Samuels Inn, and he himself is raising his son with hopes he will continue with their own farm.

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Mike Roulan – 407 South Main St – Geneva – Stated the approval of the proposed subdivision application will set a precedent for other farmland development and it will be the demise of the Town's Comprehensive Plan. There is history and historic nature of AG land in Hopewell, and it is the wishes of the community and the former Ms. Vanepps to maintain AG land and not use it as residential. Mr. Roulan stated there is no justification for AG land to be developed as residential, and believes the main reason for the development is profit motivated.

Keith Griffith - 2798 Smith Road. – *Mr. Griffith began his remarks and was asked to removed himself from the meeting due to inappropriate language and behavior.*

Liza Barnum – 62 Deerfield Dr – Stated the Inn land was purchased on 1794, 150-160 acres of land were used for cattle, with a farmhouse on the property as well. Over the years, Morgan Samuels built his home. The land has been divided over the years, presently there is 45-acres of land with the Inn, 35-acres of which is still used as farmland. Ms. Barnum presented a short video to the Board which showed the property line and view where a wedding had taken place over the weekend. She added, people come to their Inn for the view and privacy. Those who come to their establishment spend money in the area at other businesses as well, which brings revenue to the Town and County.

Tim Stryker – 4485 Latting Road – Stated he is speaking on behalf of the farming community and stressed the importance of preserving AG and farmland and how it is becoming a state wide and world-wide issue, as less and less farm land is being protected. Progress can be thought of as a good thing. However, if development is brought to the area, Hopewell will lose its charm as farmland is reduced, and the reduction and ability to farm and supply food as well. It is important to maintain AG land for the future.

Rob Hunt – 4282 County Road 46 – (represents his Mother, Della Hunt – where they farm) Mr. Hunt stated he has reviewed the subdivision plan with 13 lots, and questioned whether an EPA study had been done.

CEO Bruen stated the proposed subdivision design does meet with NYSDOH area wastewater specifications.

Mr. Hunt stated his family has been farming the land on County Road 46 since 1976. The residential homes are currently spaced apart from one another and he believes there are too many proposed residential lots being crammed into this development. He questioned whether there is any way to reduce the amount of proposed lots, and who will monitor the land that is supposed to remain as agricultural? Aesthetically, it looks as though too much of the land is being subdivided, and he believes there will be undue stress on the Morgan Samuels Inn, and the Smith Road and County Road 46 intersection.

Tim Vaughan – 3464 Lincoln Hill Road – Stated at last month's Planning Board meeting, there was discussion with the subdivision plans being changed and he wondered if they had been updated.

Chairman Bator stated the submittal deadline date was not met by Brennan Marks for plan revisions, and only this evening, was a draft copy of a new subdivision plan submitted to the Planning Board in an 8"x14" format. The plans include changes of a 14-lot subdivision to 8 lots, a 45% reduction of proposed lots.

Further discussion ensued with Board concerning the proposed changes. New plans will be submitted to the Planning Board prior to September's meeting.

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A question was asked concerning historical significance with Morgan Samuels property.

Lance Brabant stated to his knowledge, the Morgan Samuels property is not registered with the State Historic Preservation Office or Town of Hopewell as being of historic significance.

Sylvia Moore moved to continue the Public Hearing for application PZ-2021-015 to the September 27, 2021 Planning Board meeting, seconded and approved. (Resolution attached)

**Continued Business: Jon Bagley – Smith Rd. & County Rd. 46 – Subdivision/Flag Lots
PZ-2021-015 - TM #85.00-1-3.000**

Discussion ensued with the Board pertaining to the changes on the proposed subdivision. The plans include changes of a 14-lot subdivision to 8 lots, a 45% reduction of proposed lots. Further lot line adjustments will be made and new plans will be submitted to the Planning Board for review prior to September's meeting. There was a consensus between Marks Engineering and the Planning Board concerning proposed changes in the plans.

Chairman Bator stated Brennan Marks will have until the 16th of September as a deadline date for subdivision revisions. This will allow the Planning Board to review the plans prior to September's meeting. However, it may not give MRB enough time to review and comment on the Plans prior to the September 27th meeting date. The Chairman also instructed Mr. Marks to have the plans submitted by the deadline date in order for the public to review, if they so desire.

**TOWN OF HOPEWELL PLANNING BOARD RESOLUTION
MARKS ENGINEERING FOR JON BAGLEY
SMITH ROAD (14) LOT SUBDIVISION
SMITH ROAD – R-1 & A-G ZONING DISTRICTS
TM#85-1-003 PZ# 2021-015
FINAL SUBDIVISION & SITE PLAN REVIEW**

CONTINUATION RESOLUTION

WHEREAS, the Town of Hopewell Planning Board (hereinafter referred to as Planning Board) is considering subdivision plan approval creating fourteen (14) lots from an existing vacant parent parcel of 91.028 acres. Of the 14 lots, thirteen (13) lots will be residential lots with the development of single-family dwellings and lot 9 is to remain vacant as a conservation lot. The project is within the R-1 & A-G Zoning Districts and detailed on Subdivision Plan prepared by Marks Engineering dated April 26, 2021 and all other relevant information submitted as of August 23, 2021 (the current application); and

WHEREAS, the Planning Board has requested additional information to be provided including revising plans, elimination of the conservation easement, State Historic Preservation Office (SHPO) responses, and Town Attorney review; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby move to continue the Public Hearing and application to their **September 27, 2021** Planning Board Meeting.

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The above resolution was offered by Sylvia Moore and seconded by Allan Wesche at a meeting of the Planning Board held on Monday, August 23, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

| | | | |
|--------------------|------------------------|--------------------|---------------------|
| James Bator - AYE | James Carello - ABSENT | Phil Bassage - AYE | |
| Sylvia Moore - AYE | Allan M. Wesche – AYE | Ryan Bruzda - AYE | Nick Sergeant - AYE |

I, Shawn L. Cotter, Planning Board Secretary, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Hopewell Planning Board for the August 23, 2021 meeting.

Shawn L. Cotter L. S.

Shawn L. Cotter, Planning Board Secretary

Continued Public Hearing: Canandaigua Shores – County Road 18 – Subdivision PZ-2021-016 – TM #85.00-1-43.120

The Chairman stated Planning Board member Nick Sergeant has recused himself from application PZ-2021-016 and has left the meeting.

The Chairman asked for comments from the public. No one from the public spoke.

Sylvia Moore moved to continue the Public Hearing for application PZ-2021-016 to the September 27, 2021 Planning Board meeting, seconded and carried. (Resolution attached)

Board Business: Canandaigua Shores – County Road 18 – Subdivision PZ-2021-016 – TM #85.00-1-43.120

Logan Rockcastle (Marks engineering) – Stated the subdivision lots for Canandaigua Shores all conform to R-1 criteria, they are 1-acre lots located between County Road 18 and State Route 364. Bio-swales will be placed on the south side of the new proposed road to mitigate storm water created by impervious surfaces and pollution from the road, bio-swales are engineered to 100-year flood plain. No storm culverts from across the road will be necessary and all storm water will be mitigated from proposed residential sites.

The Planning Board received and has reviewed the Traffic Report Study submitted by Marks Engineering.

Discussion ensued concerning the proposed road-way from County Road 18 to State Route 364, and the additional traffic flowing from the Town of Canandaigua project through the Town of Hopewell's roads. The Board concurred that there is concern for an increase of traffic flow on State Route 364 and County Road 50 intersection, which already has bottle-neck issues, and the Traffic Study numbers seem to be low.

Lance Brabant stated MRB will look into when the Traffic Study was actually done. He will look into the following items concerning the submitted Traffic Study: the time of year, CMAC events, winter or summer, and if Study was done during the peak of COVID-19 when less travel was taking place.

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The Planning Board discussed the possibility of the new residential road having a hammerhead turn-around, or to have the roadway gated on the Hopewell side, (with a lockbox for emergency vehicles), ensuring the inability of traffic flowing from the Town of Canandaigua's proposed site of development, but also ensuring emergency vehicle access if necessary.

Brennan Marks stated the proposed projects for Hopewell and Canandaigua have a cut-through proposed road, however it will not be a straight-through road way, which will disallow and discourage a large amount of traffic originating from the Canandaigua side. He further added, Canandaigua is unable to move forward with their Canandaigua Shores plan until Hopewell grants preliminary or final approval on their subdivision plan, adding, emergency access and sewer connection are inter-dependent with Hopewell and Canandaigua townships.

Brennan Marks stated SHPO has been completed and there is no impact on the Hopewell or Canandaigua projects. A copy will be forthcoming to the Towns.

Lance Brabant stated the Town of Canandaigua has begun the SEQR process as a Type I action, which requires a Coordinated Review, the deadline response date for involved agencies for the Town of Canandaigua was July 12, 2021. No decisions have been made at this time. The Hopewell Planning Board has also begun the SEQR Coordinated Review Process which will not end until September 1, 2021, and therefore, is unable to move forward with Canandaigua Shores application PZ-202-016 until their September 27, 2021 meeting.

**TOWN OF HOPEWELL PLANNING BOARD RESOLUTION
MARKS ENGINEERING FOR CANANDAIGUA SHORES, LLC
CANANDAIGUA SHORES RESIDENTIAL DEVELOPMENT - SUBDIVISION
COUNTY ROAD 18 – R-1 ZONING DISTRICT
TM#99.00-1-43.120 PZ# 2021-016**

CONTINUATION RESOLUTION

WHEREAS, the Town of Hopewell Planning Board (hereinafter referred to as Planning Board) is considering subdivision plan approval creating nine (9) lots from an existing vacant parent parcel of 11.35 acres. The proposed nine (9) lots will be residential lots with the development of single-family dwellings. The project is within the R-1 Zoning District and detailed on Subdivision Plan prepared by Marks Engineering and dated April 7, 2021, last revised April 19, 2021, and all other relevant information submitted as of August 23, 2021 (the current application).

WHEREAS, the Planning Board at their July 26, 2021 meeting reviewed the completed State Environmental Quality Review (SEQR) Full Environmental Assessment Form (EAF), Part 1 prepared by Marks Engineering on the above referenced Subdivision Application (hereinafter referred to as Action); and

WHEREAS, the Planning Board determined that said Action is classified as a Type I Action and subject to a coordinated review and approval by other involved agencies under SEQR Regulations; and

WHEREAS, the Planning Board at their July 26, 2021 meeting began the coordinated review under the SEQR regulations which does not end until September 1, 2021; and

WHEREAS, no other action can be taken until the coordinated review and determination of significance is rendered by the Lead Agency under the SEQR regulations; and

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby move to continue the public hearing and the application to their **September 27, 2021** Planning Board Meeting.

The above resolution was offered by Sylvia Moore and seconded by Allan Wesche at a meeting of the Planning Board held on Monday, August 23, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

James Bator - AYE James Carello - ABSENT Phil Bassage - AYE
Sylvia Moore - AYE Allan M. Wesche – AYE Ryan Bruzda - AYE Nick Sergeant - RECUSED

I, Shawn L. Cotter, Planning Board Secretary, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Hopewell Planning Board for the August 23, 2021 meeting.

Shawn L. Cotter L. S. Shawn L. Cotter, Planning Board Secretary

Board Business: Block Motion Referrals

No new items slated for September 2021 Planning Board meeting at this time.

Sylvia Moore moved to adjourn, seconded and carried unanimously.

Submitted by: Shawn L. Cotter – September 28, 2021
PB Clerk