

**Town of Marcellus Planning Board**  
**24 East Main Street**  
**Marcellus, New York 13108**

**June 5, 2023**

**Present:** Chairperson Jerry Wickett, Chris Christensen, Mark Taylor,  
 Ron Schneider, Scott Stearns, Kathy Carroll

**Absent:** Holly Tufenkjian

**Town Counsel:** James Gascon of Costello, Cooney, and Fearon

**Town Engineer:** Joe Durand of TDK Engineering (Absent)

**Codes Officer:** John Houser

The Planning Board of the Town of Marcellus met in regular session in the Marcellus Town Hall for the Town of Marcellus, located at 22 East Main St. Marcellus, New York, on June 5, 2023.

### **Public Hearing – Subdivision**

#### **Ian Daly, 2900 Davis Grove – 1 lot Subdivision**

A public hearing was held for a one-lot subdivision and a special permit for a 12' x 28' accessory building located at 2900 Davis Grove. Refer to the ZBA minutes for the special permit. The secretary Joanna Clarke read the legal notice into the minutes. Mr. Daly explained that he purchased a piece of property from OCWA and wanted to combine that piece into one lot with the rest of his land. The following was discussed with Mr. Daly:

- Chris Christensen pointed out that Mr. Daly is combining two lots and this subdivision will correct all of the open issues on the lot.
- Mr. Christensen also advised that the piece purchased from OCWA came with conditions and/or restrictions on the land including a notice that it may flood above the calculations on the flood map. Flood repairs could potentially be the responsibility of Mr. Daly.
- Mr. Daly indicated he is aware that OCWA has easements on the property, and he cannot build a permanent enclosed structure on that part of the land.
- The map indicates a section of land adjacent to the part purchased from OCWA is in the critical environmental zone. If Mr. Daly plans to build in that area in the future, it may require a special permit.
- The Board will send notification to the neighbor Annmarie Clark as her property may not be in compliance with the subdivision regulations.

The Chair, Jerry Wickett, asked if there was anyone who would like to speak in favor or in opposition to the subdivision approval and there was none. Kathy Carroll made a motion to close the public hearing and Ron Schneider seconded. The motion carried with the following vote:

Jerry Wickett – aye	Holly Tufenkjian – absent
Chris Christensen – aye	Scott Stearns – aye
Mark Taylor – aye	Kathy Carroll – aye
Ron Schneider - aye	

Kathy Carroll made a motion to approve the subdivision as presented as no one spoke in favor or against. Chris Christensen seconded subject to having notes added to the map that list the restrictions and/or conditions for the added parcel from OCWA. The motion carried with the following vote:

Jerry Wickett – aye	Holly Tufenkjian – absent
Chris Christensen – aye	Scott Stearns – aye
Mark Taylor – aye	Kathy Carroll – aye
Ron Schneider – aye	

WHEREAS, an application for PRELIMINARY/FINAL PLAT APPROVAL has been duly filed by Ian Daly, on a one (1) lot subdivision located at 2900 Davis Grove. in a Residential 2 zone.

WHEREAS, the Planning Board duly called and held a public hearing thereon June 5, 2023, commencing at 6:30 PM, local time, to consider said application at which time and place all persons desiring to be heard were duly heard; and

WHEREAS, the Planning Board, as lead agency, determined an unlisted negative SEQR declaration; and

WHEREAS, the Planning Board duly considered the application, maps, data and supporting documents submitted by the applicant as well as all comments and suggestions received at the public hearing; and

WHEREAS, the final plat include the restrictions and/or conditions for the property purchased from OCWA listed as; 1) OCWA ingress and egress. 2) Existing riparian or flood rights. 3) Existing occupancies. 4) No permanent enclosed structures. 5) Right of access to inspect subsurface wastewater disposal systems on grantees' adjacent land; and

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Town of Marcellus hereby grants preliminary/final plat approval on the subdivision known as "Daly Subdivision ", such approval being based on a map made by CNY Land Surveying dated April 11, 2023.

BE IT FURTHER RESOLVED that such approval is contingent upon compliance with all regulations set forth in the Marcellus Subdivision Regulations adopted March 14, 1988, including, but not limited to:

1. Applicant complies with the Planning Board resolution of February 2, 1987 regarding runoff:
 

That in all developments in the Town of Marcellus, the peak runoff flow rate of the discharge from a proposed site after development shall not exceed the peak runoff flow rate that prevailed prior to development. In general, this requirement will necessitate the design and construction of detention/retention facilities of various types. The design frequency should be that of a twenty-five-year storm with an overflow facility to handle a one-hundred-year storm with no erosion.
2. Successful drainage plan approved by the Onondaga County Health Department.
3. Further subdivisions are prohibited and should be noted on the mylar map.
4. Submission of the final linen/mylar (2 copies) maps (final map-see subdivision regulations for specifications) which shows monuments, submitted within six (6) months after approval of the preliminary plat as outlined in Sec 205-10;A.
5. Timely filing of the approved map as outlined in Section 205-11, and submission of the receipt, or copy thereof, to the Town Clerk's office within sixty days of the Planning Board final approval.
6. No building permits are to be issued until maps are filed with the County and/or all contingencies are met.
7. The map includes the restrictions and/or conditions listed in the deed for the property purchased from OCWA.

**Craig Richards, 2748 Rose Hill Rd – Preliminary Subdivision 1 Lot**

Mr. Richards nor any other representative was present so the application will be moved to the July 6, 2023 meeting.

**Discussions:**

**Anthony Dubar, 2930 Marietta Rd – 2 Lot Subdivision**

Mr. Dubar was present to discuss subdividing his newly purchased lot into two lots. The

following was discussed with Mr. Dubar:

- Mr. Dubar stated he would like to divide the parcel, which is around 3.98 acres, into two equal lots. The parcel is zoned Residential-1 and each piece would contain around two acres. One lot contains a red barn that he is repairing and plans to keep. The second lot contains an existing wooden barn that he would like to sell as a building lot.
- It was noted that this lot is zoned Residential-1 and no businesses are allowed on these lots.
- Mr. Dubar proposed combining the lot with the red barn with his property he owns next to it (Precision Marine CNY) which housed the old sauerkraut factory.
- Mr. Dubar was informed that his property with the old sauerkraut factory had a use variance that was grandfathered in and that use variance will not carry over to the combined lot. The lot with the red barn is zoned residential and would be very difficult to prove the legal requirements for a use variance. Unless there is a grandfathered clause for the lot with red barn, it will stay as residential.

#### **Joe Welch, 2769 Slate Hill Rd – 4 Lot Subdivision**

Mr. Welch was present to discuss subdividing his 16-acre property into three lots (lots 1A, 2, and 4). Lot 3A on the submitted map owned by Kelly Goodsell includes a small piece of his land that will be added to her property. The following was discussed with Mr. Welch:

- Mr. Welch stated he created a one-lot subdivision that was approved in November of 2011. The barn on the lot remained in violation since there was not a primary residence. He now wants to subdivide with hopes to bring the barn into code.
- Proposed lot #2 with 2.212 acres is the lot with the barn. He would like to sell that lot along with proposed lot 1A as residential building lots. Perk tests were done on lots 1A and 2 and a septic plan was done for lot 2. The piece within lot 3A will be added to his neighbor Kelly Goodsell's property. Lot 4 at this time will be left as a vacant lot.
- Mr. Welch was informed that lots 1A and 2 include site distance for driveways, but lot 4 does not. Mr. Welch stated he does have driveway applications for lots 1A and 2.
- Mr. Welch does have existing trailers/dumpster on lot 1A and on lot 4. All of which are non-compliant with Town codes. There are also multiple cars/trailers being stored outside of the barn on lot 2.
- Mr. Welch stated he agrees he is in violation and will have the trailers/dumpster moved along with the items that are stored outside of the barn.
- Kelly Goodsell labeled Lot 3A will need to complete a subdivision application to add the piece that is shown on that lot. Both Mr. Welch's and Kelly Goodsell's applications need to be reviewed together.
- The maps should be updated to include an overlay of the US geological contours to show buildable locations. Also included on the map should be the site distance for a driveway on Lot 4.

Jerry Wickett informed Mr. Welch to return with the updated map and the application from Kelly Goodsell for the July meeting. The subdivision could go to public hearing for August.

### **Tim's Pumpkin Patch, Tim and Erica Leubner, Rose Hill Rd – PUD referral**

Attorney, Tom Blair, and Surveyor, Rudy Zona were present with Tim and Erica Leubner to discuss the PUD referral from the Marcellus Town Board. The following was discussed regarding the referral:

- Jerry Wickett noted that we were provided with information dated 5/26/23 which includes updated narrative application, updated project plans, and correspondence from Tim and Erica Leubner regarding NYS alcohol and beverage control and NYS Ag and Markets Laws.
- Germain & Aupperle Consulting Engineers have agreed to do the review and once the escrow account has been established, a review can be done. Town Counsel, James Gascon is working with Mr. Aupperle and hopes to have the escrow amount this week.
- Mr. Blair presented the Board with written responses to the ten questions that were presented to the Applicants in the May 1, 2023 meeting.
- A motion will be made to extend the Planning Boards 90-day decision deadline and the Town Boards 180-day deadline as the Planning Board cannot complete the review without the engineering report.
- Town Counsel, James Gascon, noted with regards to geographic parameters, that under Marcellus Town code a PUD zone once established may be enlarged to include other contiguous areas including the additional parking that is being leased by the Applicants. Mr. Gascon's recommendation if the PUD zone is expanded, is to do so only as long as the property is being leased by the Applicants.
- Mr. Gascon noted he disagrees with the Applicants letter dated May 18, 2023, which details their interpretation of the interplay between NYS liquor law and the Ag & Markets law. They have not been in compliance with the Ag & Markets law in the past, and, are not producing a sufficient amount of product that's required under Ag & Markets. Mr. Gascon will submit a written response to the May 18<sup>th</sup> letter with his legal opinion with respect to this issue.
- Mr. Blair indicated that the Applicants pay taxes on beer based off their production, so the Applicants are aware of their volume and are aware that the volume is not in compliance with the laws/regulations. The Applicants proposal of a new brew barn will allow space to increase volume.
- Mr. Gascon also disagrees with the Applicants written response to question #1 from the questions discussed in the May 1, 2023 Planning Board meeting - *What is the plan for bringing the main barn up to code?* *The Applicants responded they believe it's a codes issue and are working on the issue with the Codes Officer, John Houser. They wish to keep the matter with the Codes Officer and not the Planning Board. They*

*believe it has no bearing on the PUD application.* Mr. Gascon stated neither the Planning Board nor the Town Board should approve any PUD application that includes a barn that is in non-compliance.

- Mr. Wickett advised that all the information requested should be presented together in one complete packet for the Planning Board to review as a complete application.

Chris Christensen made a motion to request the Town Board to agree to a 60-day extension of time upon which the Planning Board will render a determination of recommendation with respect to the PUD application; and requests the Town Board also extend the 180-day period upon which to render a determination as to the application. Kathy Carroll seconded, and the motion carried as amended as follows:

Jerry Wickett – aye

Holly Tufenkjian – absent

Chris Christensen – aye

Scott Stearns – aye

Mark Taylor – aye

Kathy Carroll – aye

Ron Schneider - aye

### **Discussion:**

Jerry Wickett informed the Board there was a report from TDK in the packets regarding the Veit property on Otisco Valley Rd. The letter states they are waiting for more information from Mr. Veit's landscape architect.

Chris Christensen was absent from the May meeting and had a question on an older item. He asked if we received any information regarding the property next to the Sunset Ridge golf course. Mr. Christensen was informed that NYS approved the driveway, but we have not received any information with regards to other activity on that property.

Jerry Wickett noted he is aware of another subdivision that will be coming in from Dave Killian. Mr. Killian is looking to divide his lot on Howlett Hill Rd into two building lots.

### **Minutes**

The Chair, Jerry Wickett, made a motion to waive the reading of the May minutes and accept as distributed. Ron Schneider seconded, and the motion carried with the following vote:

Jerry Wickett – aye  
Chris Christensen – aye  
Mark Taylor – aye  
Ron Schneider - aye

Holly Tufenkjian – absent  
Scott Stearns – aye  
Kathy Carroll – aye

The Chair, Jerry Wickett, made a motion to adjourn the meeting and Ron Schneider seconded. The motion carried with the following vote:

Jerry Wickett – aye  
Chris Christensen – aye  
Mark Taylor – aye  
Ron Schneider - aye

Holly Tufenkjian – absent  
Scott Stearns – aye  
Kathy Carroll – aye

The meeting was adjourned at 7:45 PM.

Respectfully submitted,

Joanna Clarke  
Secretary