

# Minutes November 20, 2008

## *Town of Corinth Planning Board*

Meeting called to Order 7:08pm  
Pledge of Allegiance

Eric Butler, Chairman  
Edwin Eggleston,  
Louise Reed  
Althea Rivette  
Joan Beckwith -Excused  
Attorney Pozefsky  
Fred Mann, Building Inspector  
Cheri Sullivan, Secretary

### Public Present:

Sigrid Koch, Dave Barrass, Steven Smead, Cathy Reed, Laura Clute

After Roll Call the following business was conducted:

### \*MOTION TO APPROVE MINUTES FROM OCTOBER 23, 2008

Motion~ Rivette  
Seconded~ Eggleston  
Polled as follows:  
Butler-Yes, Eggleston-Yes, Reed-Yes, Rivette-Yes

### Public Hearings:

**1.Robert A. Miller/ Steve Smead:** Tax Map ID # 88.-  
1-4.Mr. Barrass reviewed the proposed application on behalf of Mr. Miller and Mr. Smead regarding the 2-lot Subdivision of land located on 4 Folts Road and County Route 24. Mr. Barrass said the property is Zoned RR, requiring a minimum of two acres to subdivide. Applicant is proposing to subdivide said parcel into two lots, first lot being 70+/- acres, the second lot being 2+/- acres. Mr. Barrass said the maps had been changed as mentioned at the last meeting regarding the driveway,

and the access strip to the river. There were no questions for Mr. Barrass from the board present. Chair Butler reviewed the rules for the public hearing and instructed secretary Sullivan to read the public hearing into record.

The Public hearing was read into record.

There was no opposition for or against this proposed 2-lot subdivision from the public present.

**\*Motion to close the Public Hearing** ~ Eggleston

SECONDED ~ Rivette

ALL IN FAVOR~ Eric, Edwin, Louise, Althea

Chair Butler explained that the application was sent to Saratoga County for their review because the property abuts county route 24. Chair Butler said the board received a reply from Saratoga County Planning Board this evening regarding the right of way with this proposed subdivision. Chair Butler explained that the County Planning Board was not fond of this proposed subdivision and asked Attorney Pozefsky to clarify the letter and explain to the board what options were available.

Attorney Pozefsky said the County Planning Board recommends disapproval because they feel that this parcel could be subdivided in such a way that the secondary lot could directly abut the highway and that would satisfy 280-a of the town law. The County Planning Board believes that any hardship existing here, is created by the applicant. The County Planning Board is relying in part on a letter from the Saratoga County Attorney who reviewed 280-a of the town law and was in consensus with what Jaime O'Neil said in that the County does not favor access via a right of way when the owner of the proposed lot does not own the land under the right of way. The County Attorney goes on in his letter to state there are two other options the applicant has one is to apply for a variance and the other is to go to the Town board and request that they adopt an open development area.

Attorney Pozefsky said the Planning Board could overrule the recommendation of the County Planning Board with a majority vote plus one.

Mr. Miller and Mr. Smead both had comments on the Counties

recommendation to disapprove. Mr. Smead said the right of way is going to be deeded in perpetuity, if he should sell the lot in the future the right of way would go with the property and having it in the deed as such eliminates any possibility of the parcel becoming landlocked. Mr. Barrass said that the legal easement described in the deed is permanent and that there is very little difference in deeded and ownership. There was further discussion regarding the easement and deeded property. Chair Butler asked if there was any other issue in the future that the board was not looking at tonight other than the obvious.

Attorney Pozefsky said that if the board were to grant this subdivision there should be some sort of maintenance understanding in the deed. Board member Reed asked if there should be a condition on the map. Attorney Pozefsky said either on the map or in the deed. Mr. Barrass suggested that it be in the deed simply because if there were to be a transfer of ownership in the future the deed is always available but the maps are not.

Chair Butler said he could see where the county does not like this type of subdivision. Chair Butler said that this board can over rule by majority and approve this subdivision however he wanted the board to be aware that they will have to live with this decision because it will set precedence for the future and he wanted the board to be in agreement as a group. Mr. Barrass said that precedent has already been set. This board approved subdivisions like this one on a routine basis. Mr. Barrass said that this was not an issue until the County drew attention to it. Board member Reed said she did not have a problem with this Right of Way but she would like to have something in writing. Attorney Pozefsky said it could be a condition of approval that he review the deed prior to signing the maps and that the Town of Corinth Planning board have a copy of said deed on file.

Board member Reed asked Code Enforcement Officer Mann if he was satisfied with this subdivision. Mr. Mann said he was.

Attorney Pozefsky read through the SEQRA part II impact assessment questions.

**\*MOTION FOR A NEGATIVE ENVIRONMENTAL IMPACT.**

Motion~ Eggleston

Seconded~ Rivette

Polled as follows:

Butler-Yes, Eggleston-Yes, Reed-Yes, Rivette-Yes

**\*MOTION TO APPROVE MINOR 2-LOT SUBDIVISION WITH THE FOLLOWING CONDITION.**

Motion~ Reed

Seconded~ Eggleston

Polled as follows:

Butler-Yes, Eggleston-Yes, Reed-Yes, Rivette-Yes

**\*\*Condition\*\***- Prior to the signing of maps, a copy of the deed must be submitted to the Planning Attorney for review to ensure perpetuity and maintenance of the Right of Way and a copy shall be submitted to the Planning Secretary.

Old Business: None

New Business: None

Other Business: None

**\*MOTION TO ADJOURN MEETING ~ Reed**

SECONDED ~ Butler

ALL IN FAVOR~ Eric, Edwin, Louise, Althea

Meeting Adjourned 7:34 pm.

Respectfully Submitted

Cheri Sullivan