

# TOWN OF ONONDAGA

## Planning Board

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Syracuse, NY 13215

DAVID C. BAKER  
5577 Bull Hill Road  
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TOWN HALL  
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MARC A. MALFITANO, Chairman  
5155 Jupiter Inlet Way  
Syracuse, NY 13215

LINDA M. CAMPBELL  
4929 MacGregor Lane  
Syracuse, NY 13215

PATRICK BRITT  
401 Broadview Drive  
Syracuse, NY 13215

### Meeting Conducted at 7:00 p.m. November 14, 2022

#### Present:

Marc Malfitano, Chairman  
Alfred Fuller  
David Baker  
Patrick Britt  
Nadine Bell, Attorney  
Bill Perrine, Engineer

Chairman Malfitano called the Planning Board to order at 7:00 p.m. noting that Ms. Campbell is excused.

#### **Isgar Tract, Lot C – Re-Subdivision**

Mr. Jay Holbrook presented a plan for the Isgar Tract Lot C Re-Subdivision which addressed most of the comments he received. He also stated that the note indicating that no further subdivision of Lot C9 will be allowed and adding Lot C9 to the title block were mistakenly left off the plan but will be added to the final plan.

Chairman Malfitano clarified that this proposed subdivision will add four (4) incremental lots. Mr. Holbrook agreed. Chairman Malfitano noted that fees have been paid and Mr. Perrine provided a comment letter dated November 11, 2022. He confirmed that there are a couple of items to clean up on the plan and noted that a Public Hearing will be held and a referral will be made to the County Planning Board. It was noted by Mr. Holbrook that the perimeter description was provided to Ms. Bell. A copy of the addresses for the Agricultural Data Statement will be provided to her as well.

The Short Environmental Assessment Form for the Isgar Tract Lot C Re-Subdivision, signed by Mr. Eric Gantley and dated October 18, 2022, was then reviewed and completed. A motion was made by Mr. Fuller and Seconded by Mr. Baker accepting the Short Environmental Assessment Form, declaring the matter an unlisted action and a negative declaration was issued. With all in favor the motion passed unanimously. A public hearing for this matter was scheduled for December 12, 2022.

It was noted that a SWPPP will need to be filed because there are 4 incremental lots. Additionally, percolation testing will now be completed.

#### **Re-subdivision of Lot 3 of the Shimp Tract**

Mr. and Mrs. Christopher and Tamara Lilly presented a plan for the re-subdivision of Lot 3 of the Shimp Tract located at 3127 Hogsback Road. It was noted that the subdivision application has not yet been filed. Chairman Malfitano noted that they should file the application during business hours with the Codes Office and pay the filing fees. Once that is done, the Town Engineer will review the proposed plan and provide a comment letter.

The applicant provided a letter indicating that perc testing was completed. Chairman Malfitano asked that the location of those tests need to be added and shown on the subdivision plan. He also noted that since Bailer Road is a Town Road, the approved driveway location needs to be shown on the map.

Chairman Malfitano explained that a Public Hearing will be required for this subdivision; however, it cannot be scheduled until the application is filed and fees are paid. Mrs. Lilly asked what will happen after the Public Hearing. Chairman Malfitano explained that there will be a legal notice published in the newspaper and a Public Hearing must legally be held prior to approval of any subdivision. It was noted that this matter will not require a referral to the County Planning Board.

Chairman Malfitano asked if the applicant has arranged for a septic plan. Mr. Lilly stated that they were not going to do a septic plan. Chairman Malfitano stated that a septic plan is required when creating a building lot. There was discussion regarding this requirement. Additionally it was noted that when the applicant appeared previously, he was unsure if the person purchasing the lot was going to combine it with their current property or have it remain a separate building lot.

Mr. Lilly noted that they have now decided that it will remain a separate building lot. Mrs. Lilly asked if a septic plan is required if no one is planning to build on the lot at this time. Chairman Malfitano explained that the requirement must be met for a building lot to be approved. The applicants asked if there is another way. If the lot was to be combined with an adjoining property owner's deed after they subdivide the property. Chairman Malfitano agreed that was an alternative that was discussed, selling the lot to a neighbor who will combine it with their lot so it would not be a separate building lot. Alternative two was to separate it and try to sell it as a building lot.

Mrs. Lilly asked if the purchaser was to add the lot to their existing property, then we don't need to do this? Chairman Malfitano clarified that there is a house on the existing property. He then agreed, if the neighbor wants to buy the lot and then it would be subdivided on the condition that it will be added to and become part of an adjoining lot that also has road frontage. The neighbor would be required as a condition of approval to file a recombined deed. He further explained if the lot is created as a separate building lot, the Planning Board is required to determine if there is adequate water and sewer. It was suggested that the applicants talk with the neighboring property owner. Mr. Lilly expressed that they are seeking to get the process done quickly.

Chairman Malfitano stated if the applicant is going to sell the lot to their neighbor and they are going to agree to make it a part of their lot, so that it is not a separate lot, then a note will be required on the plan and that would negate the need to do a septic design because it will not be a separate lot. Mr. Lilly noted that they understand the requirement but they are trying to make the process as easy as possible and avoid having the neighbor have to subdivide it again in the future if they decide to build on it. Mr. Fuller stated that if the applicant decides to sell it as a separate building lot they will have to incur the cost of a well and the design of a septic system. Mr. Lilly asked if they will have to put the well in. Chairman Malfitano indicated that the location of the approved septic needs to be on the plan and there will be a condition that the well is at least 100 feet away from the septic.

Mr. Lilly asked what they need to do to speed up the process. Chairman Malfitano explained that either way, a Public Hearing will need to be held and the Planning Board must follow the process that complies with the law. Before a final approval can be granted, if a separate lot is being created then a septic plan will be required; and if they are not creating a separate lot, then the Planning Board will need acknowledgement that the neighbor is going to purchase the lot and combine it with their property by filing a recombined deed.

Chairman Malfitano stated that the applicant should file the subdivision application and pay the required fees so the Town Engineer can write a comment letter. He noted that a public hearing will need to be

scheduled and before final approval, the applicant will need to determine if this will be a separate building lot or combined with the adjacent property. It was also noted that if the applicant decides to create a separate lot, there will be an additional park fee of \$600 for the creation of one new incremental lot. This matter will be placed on the November 28, 2022, Planning Board meeting agenda.

### **Cherry Valley Holdings Subdivision**

Mr. Mike Balestra of Hancock Estabrook appeared before the Planning Board presenting a plan for Cherry Valley Holdings Subdivision. He noted that there is a large lot on Cherry Valley Turnpike. On the far east side is Lot 1, which is where the Beak and Skiff distillery building is located and Lot 2 is where the hemp house is located and the remainder of that parcel is agricultural. The original plan showed Lot 4, which is a landlocked parcel owned by Sally Berry. On this revised plan, it provided for 225 feet of road frontage to make Lot 4 conforming.

Mr. Balestra explained that the critical part of the proposed plan is the creation of Lot 2, taking the hemp house out of Beak and Skiff to be transferred to a real estate holding company to keep the operation separate. There will be no building lots created. Lot 1 and Lot 2 presently are serviced by their own water and septic.

Chairman Malfitano asked if there is separate water and separate septic for each of them. Mr. Balestra confirmed that to be true. Chairman Malfitano noted that the location of the well and septic should be shown on the final plan. Mr. Balestra noted that Lot 4 also has its own septic and water and there is a single family home located on the lot and the location of the home will need to be added to the plan.

Mr. Balestra explained that in the late 1970's the Skiff family parceled out Lot 4 with a driveway easement and it was conveyed to the current owner, Sally Berry, in 1978. She has an easement over what is shown on the plan as Lot 3 to get to her parcel. The revised plan will provide her with deeded property rights around her driveway. A signed letter from Ms. Berry stating she has no objection to the proposed plan was provided for the record.

Mr. Fuller asked about the driveways for Lots 1 and 2. Mr. Balestra stated that there will have to be an agreement for Lots 1 and 2 and the driveway will be shared subject to the terms of an easement. Mr. Fuller noted there are no setback lines for the existing buildings or proposed lot lines. Mr. Balestra noted they can be added to the plan. Chairman Malfitano noted the building line itself is shown on the plan.

In summary Chairman Malfitano noted that the location for wells and septic on Lot 1 and Lot 2 need to be shown, as well as the well, septic and house location for Lot 4. He acknowledged the letter dated November 11, 2022, to the Planning Board signed by Sally Berry acknowledging participation approval for this application to get a conforming lot with 225 of road frontage. Chairman Malfitano asked if Lot 3 will be a farm lot. Mr. Balestra confirmed that it will be a farm lot.

Chairman Malfitano asked that there be a notation on the plan for a recorded easement for the driveway location serving Lots 1 and 2 as shown on the plan and that there is an easement for ingress and egress to provide access to and from the parcels from Cherry Valley Turnpike.

The Short Environmental Assessment Form for Cherry Valley Holdings Subdivision, signed by Mr. Tim Coyer and dated June 13, 2022, was then reviewed and completed. A motion was made by Mr. Britt and Seconded by Mr. Baker accepting the Short Environmental Assessment Form, declaring the matter an unlisted action and a negative declaration was issued. With all in favor the motion passed unanimously.

A public hearing for this matter was scheduled for December 12, 2022, and a referral to the County Planning Board will be submitted. A legal description of the perimeter should be provided to Ms. Bell as soon as possible to file the notice of public hearing.

### **Brittany Hills Subdivision Section 13 and Lands of DeMauro Subdivision**

Attorney Edward O'Hara appeared on behalf of Britthill Development LLC regarding Brittany Hills Subdivision Section 13 and Attorney Tom Valerino appeared on behalf of Mr. DeMauro regarding the Lands of DeMauro Subdivision.

Plans were presented for each subdivision concurrently. Mr. O'Hara explained that the purpose of the application is to permit the parties to conclude a resolution of a disputed .39 acre parcel situated between the DeMauro parcel and the Britthill parcel. He noted that the majority of the disputed parcel is now a part of the proposed Lot 243 and a corner section of Lot 242.

Chairman Malfitano explained that Lots 243 and 242 were combined as 242A and it is currently under construction because preliminary approval was granted under the alternate procedure. Based upon that plan, which was last revised June 14, 2021, we are now amending that preliminary plan to reflect Lot 242A is to be broken into Lots 242 and 243. He noted that there is also a change to the configuration of the DeMauro parcel and a separate application was submitted for that proposed subdivision.

Chairman Malfitano stated that the previous owner of the Britthill property conveyed land to Mr. DeMauro in 2009 and did not obtain subdivision approval for the conveyance. The purpose of these proposed subdivision applications is to correct the illegal subdivision.

Mr. O'Hara explained that the Brittany Hills plan shows land to be conveyed to Mr. DeMauro and the Lands of DeMauro plan shows a reverse subdivision and the remainder merged into the existing parcel of DeMauro. He also noted that this will be accomplished by doing reciprocal deeds one to the other.

Chairman Malfitano noted that the Land of DeMauro Subdivision should be completed first because they will be subdividing the improperly conveyed property into 2 lots, a piece of which will be conveyed to Britthill. That will become a portion of what is then revised Lot 242 and 243. Chairman Malfitano explained that Mr. O'Hara's client needs to acquire that piece of land by approved subdivision and then seek to amend the prior preliminary plan in the form of the reallocated lines of Lot 242A into two separate building lots, 242 and 243.

It was noted that the Brittany Hills Subdivision fees have been. The subdivision application for Brittany Hills Subdivision was received and signed by Mr. Shanahan.

Mr. Fuller asked what the application for Lands of DeMauro covers. Mr. O'Hara responded that it covers the entire parcel. There was further discussion regarding the purpose of these proposed subdivisions. Mr. O'Hara explained that the problem goes back some 20 years because the original property from McDonald, all the property north of the portion of Brittany Hills that Britthill bought, was conveyed with a description that related to neighboring properties, monuments for the course, and the distance was in links and chains. It was difficult to decipher and plot the description. He noted that there is a question as to the land itself and what was bought from McDonald versus what Vinciguerra bought from McDonald. Chairman Malfitano explained that Vinciguerra conveyed a piece by metes and bounds. Regardless of how good the chain of title was, he conveyed this piece to Mr. DeMauro who accepted it without doing the due diligence to say that conveyance of a piece of land is a subdivision. Between the two parties they are now correcting the problem.

Chairman Malfitano noted that we have a receipt from 2021 for fees being paid for Sections 13 and 14 of the Brittany Hills Subdivision and the Short Environmental Assessment Form was done as part of the prior approval and a new application will not be required. He explained that the Lands of DeMauro Subdivision should be done first because they have a deed for this property. Then a revised preliminary plan for Brittany Hills Section 13 can be done.

Chairman Malfitano found that there was a prior application from Mr. DeMauro and fees were paid. There is a receipt in the file signed by the Codes Officer. He explained that we should proceed with the Lands of DeMauro Subdivision application because we do not have a lot line adjustment provision. This will be processed as a subdivision and a Public Hearing will be required. At the conclusion, we will do a resolution to amend and substitute the new updated preliminary plan for this section and reflect in the resolution the change in lot numbers on the amended plan. It was determined that this matter will not require a referral to the County Planning Board because there are less than three lots in the re-subdivision.

The Short Environmental Assessment Form for the Lands of DeMauro Subdivision, signed by Mr. Tim Coyer, dated October 18, 2022, was then reviewed and completed. A motion was made by Mr. Fuller and Seconded by Mr. Britt accepting the Short Environmental Assessment Form, declaring the matter an unlisted action and a negative declaration was issued. With all in favor the motion passed unanimously. A public hearing for this matter was scheduled for November 28, 2022.

A perimeter metes and bounds description for the DeMauro property needs to be sent to Ms. Bell as soon as possible for the Notice of Public Hearing. Chairman Malfitano clarified that the description should be the existing Lot 234A of Brittany Hills Section 10A plus the perimeter legal description of the entire piece that Mr. DeMauro got from the Vinciguerras. Mr. O'Hara stated they will reference the original filed map for Lot 234 plus the additional parcel being conveyed (that was from Vinciguerra).

Chairman Malfitano stated that Mr. Perrine will provide a comment letter. He asked that the applicant label the two back pieces of property, the piece they are keeping and the piece that is being conveyed to Britthill, as 234B and 234C. Following the public hearing, the Lands of DeMauro Subdivision can be considered for approval and in a separate agenda item, the amendment to the Brittany Hills Subdivision Section 13 plan can be considered for approval. The DeMauro approval will be contingent upon the filing of a recombined deed on a metes and bounds description basis to eliminate the separate tax lot that is land locked.

Chairman Malfitano noted that there is a shed on the property that could possibly have a setback issue. He asked that the dimensions and the setback be added to the plan. Mr. Perrine will address the issue on the comment letter. Rear setback for R1 for an accessory building is 10 percent of the lot width. Additionally, if the shed is bigger than 12 x 12 it should have had a permit. There was discussion regarding labeling the lots for clarification.

### **Planning Board Minutes**

A motion was made by Mr. Fuller, seconded by Mr. Britt, that after minor changes, the Board approve and accept the meeting minutes of the October 24, 2022, meeting. The motion passed with Chairman Malfitano abstaining.

A motion was made by Mr. Fuller, seconded by Mr. Britt, that there being no further business to come before the Board the meeting be adjourned. The motion passed unanimously and the meeting was adjourned at approximately 8:54p.m.

Respectfully submitted,

Melinda L. Mayer  
Secretary